

# HOUSE BILL REPORT

## HB 2400

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### As Reported by House Committee On:

Natural Resources

**Title:** An act relating to installing recreational docks and mooring buoys.

**Brief Description:** Allowing for the installation of recreational docks and mooring buoys by residential owners abutting state-owned aquatic lands.

**Sponsors:** Representatives Eickmeyer, Buck, Doumit, Sump, Jackley, Rockefeller, Dunn, McDermott and Haigh; by request of Department of Natural Resources.

### Brief History:

#### Committee Activity:

Natural Resources: 1/22/02, 1/25/02 [DPS].

#### Brief Summary of Substitute Bill

- Further specifies where docks and buoys can be installed at no cost.
- Authorizes disputes over buoy placement to be adjudicated through a superior court's settlement process.
- Authorizes the placement of a second buoy if necessary for safe moorage.
- Allows for the removal of docks or buoys that add to the decertification of shellfish beds.

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### HOUSE COMMITTEE ON NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Doumit, Chair; Rockefeller, Vice Chair; Sump, Ranking Minority Member; Buck, Eickmeyer, Ericksen, Jackley, McDermott, Orcutt, Pearson and Upthegrove.

**Staff:** Jason Callahan (786-7117).

### Background:

The Washington State Constitution declares that the beds and shores or all navigable waters in Washington are owned by the state. The Legislature subsequently designated

the Department of Natural Resources (DNR) as the steward of these lands. The DNR acts as a proprietor, subject to legislative direction, of all state-owned aquatic lands and holds these lands in trust for all current and future residents of the state.

If a person owns a residence abutting state-owned navigable aquatic land, he or she may install and maintain a dock at no charge on the state-owned aquatic land. This privilege is only allowed for docks used exclusively for private recreational purposes and on areas not subject to prior rights. Permission to build a dock is subject to applicable local regulations. The DNR may revoke permission to maintain a dock if it is necessary to protect the waterward access or ingress of other landowners or the public health and safety. If permission is revoked by the DNR, the affected landowner may appeal the decision through the Administrative Procedures Act.

In the 2001 session, the Legislature added the right to maintain a mooring buoy at no cost. No-cost buoys may not be used for commercial, transient, or residential purposes and cannot be sold or leased separately from the upland residence. One buoy may be installed at no cost for each 100 feet of shoreline property owned. Permission to maintain a buoy is contingent on the boat or buoy not posing a hazard or obstruction to navigation or fishing, and not causing habitat degradation. Revocation of buoy permission is accomplished the same way as it is for docks.

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### **Summary of Substitute Bill:**

Permission to construct a dock does not extend to docks used to moor commercial or residential boats. Docks and buoys may not be placed in areas that interfere with shorelands and tidelands leased by the Department of Natural Resources (DNR) to upland owners. Buoys may not be constructed in harbor areas. Buoys must be located as close as practical to the abutting upland residence, and must be relocated if necessary to accommodate lawfully installed buoys.

If more than one upland owner has a legitimate claim to a buoy site, the parties are authorized to seek a formal settlement through adjudication in a superior court. In this process, preference is given to the residential owner that first lawfully installed and maintained a buoy on that site, and then to the owners of the property nearest to that site. The DNR is not responsible for mediating or resolving disputes between upland owners.

If the DNR determines that a second buoy is necessary for secure moorage, it may authorize a second mooring buoy to be installed under the same conditions as the first, as long as it is used exclusively for a second mooring line for the boat attached to the first buoy.

Reasons that the DNR may seek removal of a buoy or dock are expanded to include avoidance of the decertification of shellfish beds.

**Substitute Bill Compared to Original Bill:**

The substitute makes some technical changes to reduce redundancy and increase consistency. The substitute also requires a buoy owner to continuously maintain and use his or her buoy in order to receive preference for a location in a dispute.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This bill leads to comprehensive standards for mooring buoys and clears up some ambiguities and implementation concerns of current law. It recognizes that the abutting upland landowner has preferential rights to the aquatic lands in front of his or her property. This bill also takes the Department of Natural Resources out of the dispute resolution business and places that process in the courts.

**Testimony Against:** None.

**Testified:** Representative Eickmeyer, prime sponsor; and Loren Stern, Department of Natural Resources.