
SUBSTITUTE HOUSE BILL 1005

State of Washington

57th Legislature

2002 Regular Session

By House Committee on Technology, Telecommunications & Energy
(originally sponsored by Representatives Morris and Lantz)

Read first time 02/05/2002. Referred to Committee on .

1 AN ACT Relating to public utility rights of way on aquatic lands;
2 amending RCW 79.90.470; adding a new section to chapter 79.90 RCW; and
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that local public
6 utilities provide essential services to all of the residents of the
7 state and that the construction and improvement of local utility
8 infrastructure is critical to the public health, safety, and welfare,
9 community and economic development, and installation of modern and
10 reliable communication and energy technology. The legislature further
11 finds that local utility lines must cross state-owned aquatic lands in
12 order to reach all state residents and that, for the benefit of such
13 residents, the state should permit the crossings, consistent with all
14 applicable state environmental laws, in a nondiscriminatory, economic,
15 and timely manner.

16 **Sec. 2.** RCW 79.90.470 and 1984 c 221 s 5 are each amended to read
17 as follows:

1 (1) The use of state-owned aquatic lands for public utility lines
2 owned by a governmental entity shall be granted (~~without charge~~) by
3 an agreement, permit, or other instrument if the use is consistent with
4 the purposes of RCW 79.90.450 through 79.90.460 and does not obstruct
5 navigation or other public uses. The department may recover only its
6 reasonable direct administrative costs incurred in processing and
7 approving the request or application, and reviewing plans for
8 construction of public utility lines. For purposes of this section,
9 "direct administrative costs" means the cost of hours worked directly
10 on an application or request, based on salaries and benefits, plus
11 travel reimbursement and other actual out-of-pocket costs. Direct
12 administrative costs recovered by the department must be deposited into
13 the resource management cost account. Use for public parks or public
14 recreation purposes shall be granted without charge if the aquatic
15 lands and improvements are available to the general public on a first-
16 come, first-served basis and are not managed to produce a profit for
17 the operator or a concessionaire. The department may lease state-owned
18 tidelands that are in front of state parks only with the approval of
19 the state parks and recreation commission. The department may lease
20 bedlands in front of state parks only after the department has
21 consulted with the state parks and recreation commission.

22 (2) The use of state-owned aquatic lands for local public utility
23 lines owned by a nongovernmental entity will be granted by easement if
24 the use is consistent with the purpose of RCW 79.90.450 through
25 79.90.460 and does not obstruct navigation or other public uses. The
26 total charge for the easement will be determined under section 3 of
27 this act.

28 (3) Nothing in this section limits the ability of the department to
29 obtain payment for commodity costs, such as lost revenue from renewable
30 resources, resulting from the granted use of state-owned aquatic lands
31 for public utility lines.

32 NEW SECTION. Sec. 3. A new section is added to chapter 79.90 RCW
33 to read as follows:

34 (1) The charge for the term of an easement granted under RCW
35 79.90.470(2) will be determined as follows and will be paid in advance
36 upon grant of the easement:

37 (a) Five thousand dollars for individual easement crossings that
38 are no longer than one mile in length;

1 (b) Ten thousand dollars for individual easement crossings that are
2 more than one mile but less than five miles in length;

3 (c) Fifteen thousand dollars for individual easement crossings that
4 are at least five miles but less than fifteen miles in length; or

5 (d) Twenty thousand dollars for individual easement crossings that
6 are fifteen miles or more in length.

7 (2) The charge for easements under subsection (1) of this section
8 must be adjusted annually by the rate of yearly increase in the most
9 recently published consumer price index, all urban consumers, for the
10 Seattle-Everett SMSA, over the consumer price index for the preceding
11 year, as compiled by the bureau of labor statistics, United States
12 department of labor for the state of Washington rounded up to the
13 nearest fifty dollars.

14 (3) The term of the easement is thirty years.

15 (4) In addition to the charge for the easement under subsection (1)
16 of this section, the department may recover its reasonable direct
17 administrative costs incurred in receiving an application for the
18 easement, approving the easement, and reviewing plans for and
19 construction of the public utility lines. For the purposes of this
20 subsection, "direct administrative costs" means the cost of hours
21 worked directly on an application, based on salaries and benefits, plus
22 travel reimbursement and other actual out-of-pocket costs. Direct
23 administrative costs recovered by the department must be deposited into
24 the resource management cost account.

25 (5) Applicants under RCW 79.90.470(2) providing a residence with an
26 individual service connection for electrical or telecommunications
27 service are not required to pay the charge for the easement under
28 subsection (1) of this section but shall pay administrative costs under
29 subsection (4) of this section.

30 (6) A final decision on applications for an easement must be made
31 within one hundred twenty days. This subsection applies to
32 applications submitted before the effective date of this section, as
33 well as to applications submitted on or after the effective date of
34 this section. Upon request of the applicant, the department may reach
35 a decision on an application within sixty days and charge an additional
36 fee for an expedited processing in the amount of ten percent of the
37 total charge.

1 NEW SECTION. **Sec. 4.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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