

HOUSE BILL REPORT

SSB 6011

As Reported by House Committee On:
Puget Sound, Select

Title: An act relating to protecting Puget Sound water quality by creating an aquatic reserve near Maury Island.

Brief Description: Creating the Maury Island aquatic reserve.

Sponsors: Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators Poulsen, Eide, Brown, Rockefeller, Spanel, Fraser, Weinstein, Murray, Pridemore and Keiser).

Brief History:

Committee Activity:

Select Committee on Puget Sound: 3/21/07, 3/28/07 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Creates an aquatic reserve around Maury Island and Quartermaster Harbor.
- Prohibits, until a certain date and until certain findings are made by the Commissioner of Public Lands, the authorization of industrial uses and material transport from a surface mine or mining operation within the Maury Island Aquatic Reserve, as well as the construction of docks or other improvements associated with these uses.
- Requires the Department of Natural Resources to identify and transfer the ownership of a parcel of state-owned lands with a comparable mineral resource to the uplands adjacent to the Maury Island Aquatic Reserve.

HOUSE SELECT COMMITTEE ON PUGET SOUND

Majority Report: Do pass as amended. Signed by 8 members: Representatives Uptegrove, Chair; Eickmeyer, Vice Chair; Rolfes, Vice Chair; Sump, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; O'Brien, Pearson and Springer.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Jason Callahan (786-7117).

Background:

Maury Island is a small island located in southwestern King County and within the Puget Sound. It is connected to Vashon Island by an isthmus, and is primarily rural with large tracts of farmland and forest, with some residential development, gravel mining, and undeveloped shoreline.

State-owned aquatic lands include all tidelands, shorelands, harbor areas, the beds of navigable waters, and waterways owned by the state, except for aquatic lands owned in fee. The Department of Natural Resources (DNR) manages state-owned aquatic lands. Management may include identifying and withdrawing public lands from conflicting uses for the benefit of the public. Benefits include environmental observation, study, enjoyment, and other ecological utilization.

Summary of Amended Bill:

The Maury Island Aquatic Reserve (Reserve) is created to encompass state-owned tidelands and bedlands around Maury Island and Quartermaster Harbor. The Reserve is managed by the DNR, and the Commissioner of Public Lands (Commissioner) may extend its boundaries by designating contiguous aquatic lands with certain characteristics as part of the Reserve.

The Reserve is to be administered under a management plan in accordance with established goals. These include the conservation of native habitats, the protection and restoration of natural functions and processes, the promotion of riparian and aquatic habitat stewardship, and the provision of low-impact public uses. The management plan must also identify the resources that are to be conserved, the areas where low-impact uses will be allowed, and the types of activities that will be allowed.

Until November 1, 2007, the DNR is prohibited from allowing dock construction, industrial uses, or mineral transportation in the Reserve. After that date, the Commissioner may, after a public hearing, allow these uses if they are fully permitted and the Commissioner publishes a finding in the Washington State Register that there is a market demand for the minerals located adjacent to the reserve that can only be reasonably accessed with a dock, and that there is not a parcel of state-owned land elsewhere with a mineral resource that can satisfy the market demand and be mined in a way that causes less of a risk to the environment.

The DNR is required, by August 1, 2007, to identify a portion of state-owned uplands with a mineral resource comparable to the uplands adjacent to the Reserve. If the minerals on those lands can be accessed and transported in a manner that poses less risk to the environment than accessing and transporting the minerals contained on the upland adjacent to the Reserve, then the DNR must exchange ownership of the state lands to the owner of uplands adjacent to the reserve in exchange for the state assuming ownership of the uplands adjacent to the Reserve.

Once the ownership of the land formally owned by the state is transferred to the current owners of the upland adjacent to the Reserve, the Office of Regulatory Assistance must coordinate and streamline the permitting process for mineral extraction.

Amended Bill Compared to Substitute Bill:

The amendment permits the Commissioner to allow industrial uses and dock construction on the Reserve after February 1, 2009; requires the DNR to identify state-owned lands with a mineral value comparable to that of the uplands adjacent to the Reserve and exchange title of those lands to the owner or owners of land affected by the creation of the Reserve; and requires the Office of Regulatory Assistance to oversee a coordinated and expedited permitting process for the new location.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: This bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This bill is not about Maury Island but about the health of Puget Sound, which is a public resource. However, the area around Maury Island deserves particular attention. The bill is not about business interests versus environmental interests. It's about saving Puget Sound and maximizing the return on the Legislature's financial investment in its recovery.

Establishing aquatic reserves is a critical step towards protecting our waters, and establishing the Reserve is particularly critical to the endangered southern orca. The bill restores the integrity to the aquatic reserve program. The current aquatic reserve near Maury Island is a reserve in name only, as currently a barging facility is proposed to exist within it.

This bill does not stop existing mining on Maury Island. Just because a project has most of the permits doesn't mean that the project should be realized. Often times the most difficult permits are obtained last. Among the most critical permits is the one from the Army Corps of Engineers, and the Corps has not issued the permit yet. Property rights give you the right to ownership, not the rights to profit. Buying property for profit is a risk that an investor assumes.

The recreational diving community around Puget Sound is under a great deal of pressure to find adequate diving grounds. The community dives at this location, and the businesses that rely on diving want to continue this.

(In support with concerns) Statutorily, this bill creates discrepancies between regulated activities, as well as among aquatic reserves. Furthermore, it requires the DNR to create a new management plan for the Reserve. Creating such a management plan is a lengthy and expensive process.

(Neutral) The uplands adjacent to the proposed Reserve is a geologically complex site, and we do not have all of the information that we need.

(Opposed) Population growth in Puget Sound is increasing and the area has a lot of development coming in the near future. This development requires building materials, including concrete. The gravel found on Maury Island is an exceptionally clean, high-quality material, unlike that which is found in other parts of the state. Developers can either barge in materials from Maury Island, or import them from Canada. A shortage of local building materials will delay future and necessary development. For these reasons, the Growth Management Act recognizes the need for mineral resources.

Environmentally, numerous agencies and studies have reviewed and concluded that the mining and gravel transport from Maury Island will not have significant environmental impacts, including to endangered and threatened species, water quality, water quantity, or water flows.

Noise measures are in place, a 15-foot buffer between the operation and the groundwater is in place, eelgrass beds have been extensively surveyed, no eelgrass will be removed, and many measures are in place to avoid eelgrass impacts. There is a similar site in DuPont for barging, and it has not had problems. Mining is a clean activity as it does not involve chemicals. The worst that can happen is a spill, which would be quickly cleaned up under the direction of the Department of Ecology.

Persons Testifying: (In support) Senator Poulsen, prime sponsor; Clifford Traisman, Washington Environmental Council; Kathy Fletcher, People for Puget Sound; Dow Constantine and Sharon Nelson, King County Council; Chuck Williams, King County; Miguel Perez-Gibson, David Mann, John Richards, Moria Robinson, and Tom Herring, Preserve Our Islands; Susie Kalhorn, Dockton Water Association; Tim Robinson; and Mike Racine, Washington SCUBA Alliance.

(In support with concerns) Rich Doenges, Department of Natural Resources.

(Neutral) Patrick Christie, University of Washington.

(Opposed) Steve Gano, Allen Hamblen, and Peter Stoltz, Glacier Northwest; Steve Fisher, Kiewit-General; Matthew Boyle, Grette Associates; Lori Herman, Aspect Consulting; and Jerry Trudeau, Miles Sand & Gravel.

Persons Signed In To Testify But Not Testifying: Peggy Bruton, League of Women Voters.