

SENATE BILL REPORT

SB 5171

As of January 24, 2017

Title: An act relating to certain uses of state-owned aquatic lands.

Brief Description: Concerning certain uses of state-owned aquatic lands.

Sponsors: Senator Ericksen.

Brief History:

Committee Activity: Natural Resources & Parks: 1/24/17.

Brief Summary of Bill

- Requires specific legislative approval before the Department of Natural Resources (DNR) may designate, establish, or enlarge an aquatic reserve.
- Directs the Commissioner of Public Lands to rescind a January 3, 2017, action relating to the Cherry Point aquatic reserve.
- Makes permanent and reduces the current statutory schedule for certain public utility easements across aquatic lands.

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Staff: Curt Gavigan (786-7437)

Background: (DNR) Aquatic Lands Management In General. The Legislature has designated DNR as manager of state-owned aquatic lands. In managing these lands, DNR must support a balance of statutory goals including encouraging public access, fostering water-dependent uses, utilizing renewable resources, protecting the environment, and generating revenue.

DNR Aquatic Reserves. Statute provides DNR with general authority to identify and withdraw public lands from conflicting uses for purposes including observation and to utilize the natural ecosystem of the land. DNR has administratively established an aquatic reserve program for the stated purpose of promoting conservation of state-owned aquatic lands to benefit the health of native aquatic habitats and species. Under this program, DNR has established eight aquatic reserves.

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.

Specifically, the Cherry Point aquatic reserve was originally established by DNR in 2000. On January 3, 2017, the Commissioner of Public Lands signed a Commissioner's Order expanding the size of the reserve by approximately 45 acres.

Charges for Public Utility Line Crossings on Aquatic Lands. A statutory schedule sets the charges for public utility line crossings on aquatic lands. For public utility lines owned by a nongovernmental entity, the charges are as follows:

- \$5,000 for easement crossings of one mile or less;
- \$12,500 for easement crossings between one and five miles;
- \$20,000 for easement crossings of five or more miles; and
- a charge for administrative cost recovery, generally totaling 20 percent of the cost of the easement crossing.

These statutory charges are adjusted annually based on changes in the consumer price index. DNR has 120 days to make a final decision on an application, and 60 days if the applicant requests expedited processing.

The statutory fee schedule expires July 1, 2017.

Summary of Bill: Addresses DNR's Aquatic Reserve Authority. DNR may not designate, establish, or enlarge an aquatic reserve without express authorization in an enacted bill.

The Commissioner of Public Lands must rescind the order issued on January 3, 2017, relating to the Cherry Point aquatic reserve.

Modifies the Statutory Charge for Public Utility Line Crossings on Aquatic Lands. The statute establishing charges for easement crossings on aquatic lands is made permanent, and rates are reduced as follows:

- from \$5,000 to \$1,000 for easement crossings of one mile or less;
- from \$12,500 to \$2,500 for easement crossings between one and five miles; and
- from \$20,000 to \$4,000 for easement crossings of five or more miles.

Charges are no longer annually adjusted based on changes in the consumer price index. DNR has 60 days, instead of the current 120 days, to make a final decision on an easement application and 30 days, instead of the current 60 days, if the applicant requests expedited processing.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: CON: The bill puts tribal fishing rights at risk and threatens habitat. Cherry Point is an important area for tribal fisheries. The aquatic reserve

boundary decision on Cherry Point went through significant public process, and is consistent under current DNR authority. Tribes support economic development but do not want to sacrifice habitat for short term profits. Utility line easement rates were negotiated with industry and DNR has not heard any complaints.

Persons Testifying: CON: Mel Tonasket, Confederated Tribes of the Colville Reservation; Timothy Ballew II, Chairman, Lummi Nation; Melvin Sheldon, Chairman, Tulalip Tribes; Mel Tonasket, Vice Chair, Confederated Tribes of the Colville Reservation; Willie Frank III, Councilman, Nisqually Indian Tribe; Dave Browneagle, Vice Chairman, Spokane Tribe of Indians; Bill Iyall, Chairman, Cowlitz Indian Tribe; Greig Arnold, Vice Chairman, Makah Tribe; Wendy Steffensen, citizen; Bronwen Walters, citizen; JutsKadim Nickolaus Lewis, Councilmember, Lummi Nation; David Gill, citizen; Kristin Swenddal, Department of Natural Resources; Irene Hinkle, citizen; Justin Parker, Northwest Indian Fisheries Commission; Peggy Bruton, League of Women Voters of Washington; Daniel Hull, Executive Director, Nisqually Reach Nature Center .

Persons Signed In To Testify But Not Testifying: No one.