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SENATE BILL 5171

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State of Washington

65th Legislature

2017 Regular Session

By Senator Ericksen

Read first time 01/16/17. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to certain uses of state-owned aquatic lands;  
2 amending RCW 79.105.210 and 79.110.240; and creating a new section.

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

4 **Sec. 1.** RCW 79.105.210 and 2005 c 155 s 143 are each amended to  
5 read as follows:

6 (1) The management of state-owned aquatic lands shall preserve  
7 and enhance water-dependent uses. Water-dependent uses shall be  
8 favored over other uses in state-owned aquatic land planning and in  
9 resolving conflicts between competing lease applications. In cases of  
10 conflict between water-dependent uses, priority shall be given to  
11 uses which enhance renewable resources, waterborne commerce, and the  
12 navigational and biological capacity of the waters, and to statewide  
13 interests as distinguished from local interests.

14 (2) Nonwater-dependent use of state-owned aquatic lands is a low-  
15 priority use providing minimal public benefits and shall not be  
16 permitted to expand or be established in new areas except in  
17 exceptional circumstances where it is compatible with water-dependent  
18 uses occurring in or planned for the area.

19 (3) The department shall consider the natural values of state-  
20 owned aquatic lands as wildlife habitat, natural area preserve,  
21 representative ecosystem, or spawning area prior to issuing any

1 initial lease or authorizing any change in use. The department may  
2 withhold from leasing lands which it finds to have significant  
3 natural values, or may provide within any lease for the protection of  
4 such values. However, the department may not designate, establish, or  
5 enlarge any aquatic reserve unless expressly authorized by the  
6 legislature in a bill enacted pursuant to the state Constitution.

7 (4) The power to lease state-owned aquatic lands is vested in the  
8 department, which has the authority to make leases upon terms,  
9 conditions, and length of time in conformance with the state  
10 Constitution and chapters 79.105 through 79.140 RCW.

11 (5) State-owned aquatic lands shall not be leased to persons or  
12 organizations which discriminate on the basis of race, color, creed,  
13 religion, sex, age, or physical or mental handicap.

14 **Sec. 2.** RCW 79.110.240 and 2008 c 55 s 2 are each amended to  
15 read as follows:

16 (1) (~~Until July 1, 2017,~~) The charge for the term of an  
17 easement granted under RCW 79.110.230(2) will be determined as  
18 follows and will be paid in advance upon grant of the easement:

19 (a) (~~Five~~) One thousand dollars for individual easement  
20 crossings that are no longer than one mile in length;

21 (b) (~~Twelve~~) Two thousand five hundred dollars for individual  
22 easement crossings that are more than one mile but less than five  
23 miles in length; or

24 (c) (~~Twenty~~) Four thousand dollars for individual easement  
25 crossings that are five miles or more in length.

26 (2) (~~The charge for easements under subsection (1) of this~~  
27 ~~section must be adjusted annually by the rate of yearly increase in~~  
28 ~~the most recently published consumer price index, all urban~~  
29 ~~consumers, for the Seattle Everett SMSA, over the consumer price~~  
30 ~~index for the preceding year, as compiled by the bureau of labor~~  
31 ~~statistics, United States department of labor for the state of~~  
32 ~~Washington rounded up to the nearest fifty dollars.~~

33 (~~3~~) The term of the easement is thirty years (~~or~~) unless  
34 a period of less than thirty years (~~if~~) is requested by the person or  
35 entity seeking the easement.

36 (~~4~~) (3) In addition to the charge for the easement under  
37 subsection (1) of this section, the department may recover its  
38 administrative costs incurred in receiving an application for the  
39 easement, approving the easement, and reviewing plans for and

1 construction of the public utility lines. For the purposes of this  
2 subsection, "administrative costs" is equivalent to twenty percent of  
3 the fee for the easement as determined under subsection (1) of this  
4 section (~~(and adjusted under subsection (2) of this section)~~). For  
5 public utility lines owned by a governmental entity, the  
6 administrative costs will be calculated based on the length of the  
7 easement and the fee that it would be charged if it were subject to  
8 the easement charges in this section. When multiple public utility  
9 lines are owned by the same entity and are authorized under the same  
10 easement, the administrative (~~(fee)~~) cost for the easement shall be  
11 equal to twenty percent of the easement fee for the single longest  
12 public utility line. Administrative costs recovered by the department  
13 must be deposited into the resource management cost account.

14 ~~((+5))~~ (4) Applicants under RCW 79.110.230(2) providing a  
15 residence with an individual service connection for electrical,  
16 natural gas, cable television, or telecommunications service are not  
17 required to pay the charge for the easement under subsection (1) of  
18 this section but shall pay administrative costs under subsection  
19 ~~((+4))~~ (3) of this section.

20 ~~((+6))~~ (5) A final decision on applications for an easement must  
21 be made within ~~((one hundred twenty))~~ sixty days after the department  
22 receives the completed application and after all applicable  
23 regulatory permits for the aquatic easement have been acquired.  
24 ~~((This subsection applies to applications submitted before June 13,~~  
25 ~~2002, as well as to applications submitted on or after June 13,~~  
26 ~~2002.))~~ Upon request of the applicant, the department may reach a  
27 decision on an application within ~~((sixty))~~ thirty days and charge an  
28 additional fee for an expedited processing. The fee for an expedited  
29 processing is ten percent of the combined total of the easement  
30 charge and administrative costs.

31 ~~((+7) By December 31, 2016, the legislature shall review the~~  
32 ~~granting of easements on state-owned aquatic lands under this chapter~~  
33 ~~and determine whether all applications for easements are processed~~  
34 ~~within one hundred twenty days for normal processing of applications~~  
35 ~~and sixty days for expedited processing of applications, and whether~~  
36 ~~the granting of easements on state-owned aquatic lands generates~~  
37 ~~reasonable income for the aquatic lands enhancement account.))~~

1        NEW SECTION.    **Sec. 3.**    The commissioner of public lands shall  
2    rescind the January 3, 2017, commissioner's order: Amended withdrawal  
3    and designation order for the Cherry Point aquatic reserve.

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