

2 **ESHB 1005** - S COMM AMD
3 By Committee on Ways & Means

4 NOT ADOPTED 03/08/02

5 Strike everything after the enacting clause and insert the
6 following:

7 **"NEW SECTION.** **Sec. 1.** The legislature finds that local public
8 utilities provide essential services to all of the residents of the
9 state and that the construction and improvement of local utility
10 infrastructure is critical to the public health, safety, and welfare,
11 community and economic development, and installation of modern and
12 reliable communication and energy technology. The legislature further
13 finds that local utility lines must cross state-owned aquatic lands in
14 order to reach all state residents and that, for the benefit of such
15 residents, the state should permit the crossings, consistent with all
16 applicable state environmental laws, in a nondiscriminatory, economic,
17 and timely manner. The legislature further finds that this act and the
18 valuation methodology in section 3 of this act applies only to the uses
19 listed in section 2 of this act, and does not establish a precedent for
20 valuation for any other uses on state-owned aquatic lands.

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

23 (1) The use of state-owned aquatic lands for public utility lines
24 owned by a governmental entity shall be granted ((without charge)) by
25 an agreement, permit, or other instrument if the use is consistent with
26 the purposes of RCW 79.90.450 through 79.90.460 and does not obstruct
27 navigation or other public uses. The department may recover only its
28 reasonable direct administrative costs incurred in processing and
29 approving the request or application, and reviewing plans for
30 construction of public utility lines. For purposes of this section,
31 "direct administrative costs" means the cost of hours worked directly
32 on an application or request, based on salaries and benefits, plus
33 travel reimbursement and other actual out-of-pocket costs. Direct
34 administrative costs recovered by the department must be deposited into
35 the resource management cost account. Use for public parks or public

1 recreation purposes shall be granted without charge if the aquatic
2 lands and improvements are available to the general public on a first-
3 come, first-served basis and are not managed to produce a profit for
4 the operator or a concessionaire. The department may lease state-owned
5 tidelands that are in front of state parks only with the approval of
6 the state parks and recreation commission. The department may lease
7 bedlands in front of state parks only after the department has
8 consulted with the state parks and recreation commission.

9 (2) The use of state-owned aquatic lands for local public utility
10 lines owned by a nongovernmental entity will be granted by easement if
11 the use is consistent with the purpose of RCW 79.90.450 through
12 79.90.460 and does not obstruct navigation or other public uses. The
13 total charge for the easement will be determined under section 3 of
14 this act.

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

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 79.90 RCW
20 to read as follows:

21 (1) Until July 1, 2006, the charge for the term of an easement
22 granted under RCW 79.90.470(2) will be determined as follows and will
23 be paid in advance upon grant of the easement:

24 (a) One hundred twenty-five dollars per quarter mile per year for
25 each individual easement crossing, except that the total charge for any
26 single easement shall be at least five thousand dollars and shall not
27 exceed seventy-five thousand dollars for the term of the easement. The
28 term of the easement shall be for thirty years unless the applicant
29 requests and the department agrees to a shorter duration. For purposes
30 of calculating easement lengths, distances shall be rounded upward to
31 the nearest quarter mile. For purposes of determining easement
32 charges, where a facility makes multiple crossings of a single river or
33 stream and where each crossing is no longer than one-half mile in
34 length, up to five crossings shall be deemed a single easement crossing
35 of one-half mile.

36 (b) Charges for electric cooperatives or associations organized
37 under chapter 23.86 or 24.06 RCW shall be seventy-five percent of the
38 total charges calculated under (a) of this subsection.

1 (2) In addition to the charge for the easement under subsection (1)
2 of this section, the department may recover its reasonable direct
3 administrative costs incurred in receiving an application for the
4 easement, approving the easement, and reviewing plans for and
5 construction of the public utility lines. For the purposes of this
6 subsection, "direct administrative costs" means the cost of hours
7 worked directly on an application, based on salaries and benefits, plus
8 travel reimbursement and other actual out-of-pocket costs. Direct
9 administrative costs recovered by the department must be deposited into
10 the resource management cost account.

11 (3) Applicants under RCW 79.90.470(2) providing a residence with an
12 individual service connection for electrical, natural gas, cable
13 television, or telecommunications service are not required to pay the
14 charge for the easement under subsection (1) of this section but shall
15 pay administrative costs under subsection (2) of this section.

16 (4) A final decision on applications for an easement must be made
17 within one hundred twenty days after the department receives the
18 completed application and after all applicable regulatory permits for
19 the aquatic easement have been acquired. This subsection applies to
20 applications submitted before the effective date of this section, as
21 well as to applications submitted on or after the effective date of
22 this section. Upon request of the applicant, the department may reach
23 a decision on an application within sixty days and charge an additional
24 fee for an expedited processing. The fee for an expedited processing
25 is the greater of: (a) Ten percent of the combined total of the
26 easement charge and direct administrative costs; or (b) the cost of
27 staff overtime, calculated at time and one-half, associated with the
28 expedited processing.

29 NEW SECTION. **Sec. 4.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected."

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4 On page 1, line 1 of the title, after "lands;" strike the remainder
5 of the title and insert "amending RCW 79.90.470; adding a new section
6 to chapter 79.90 RCW; and creating a new section."

EFFECT: Changes the sunset from July 1, 2008, to July 1, 2006. Sets the term for an individual easement at \$125 per quarter mile, except that an easement will be at least \$5,000 and will not exceed \$75,000 for the term of the easement. Where a facility crosses a stream or river multiple times and each crossing is no longer than one-half mile, up to 5 crossings count as one-half mile. The charges for electric cooperatives and associations will be 75% of the total charges.

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