

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2772**

Chapter 265, Laws of 1996

54th Legislature  
1996 Regular Session

DOCK CONSTRUCTION UNDER SHORELINE MANAGEMENT  
ACT OF 1971--REVISIONS

EFFECTIVE DATE: 6/6/96

Passed by the House March 4, 1996  
Yeas 94 Nays 0

CLYDE BALLARD

**Speaker of the  
House of Representatives**

Passed by the Senate February 29, 1996  
Yeas 49 Nays 0

JOEL PRITCHARD

**President of the Senate**

Approved March 29, 1996

MIKE LOWRY

**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2772** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN

**Chief Clerk**

FILED

March 29, 1996 - 4:48 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2772**

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AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

**State of Washington                      54th Legislature                      1996 Regular Session**

**By** House Committee on Agriculture & Ecology (originally sponsored by Representatives Kessler and Buck)

Read first time 02/02/96.

1            AN ACT Relating to raising the amount that must be exceeded by the  
2 cost of construction of a dock, including a community dock, designed  
3 for pleasure craft only, for the private noncommercial use of the  
4 owner, lessee, or contract purchaser of single and multiple family  
5 residences for the construction to be considered substantial  
6 development under the Shoreline Management Act of 1971; and reenacting  
7 and amending RCW 90.58.030.

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

9            **Sec. 1.** RCW 90.58.030 and 1995 c 382 s 10, 1995 c 255 s 5, and  
10 1995 c 237 s 1 are each reenacted and amended to read as follows:

11            As used in this chapter, unless the context otherwise requires, the  
12 following definitions and concepts apply:

13            (1) Administration:

14            (a) "Department" means the department of ecology;

15            (b) "Director" means the director of the department of ecology;

16            (c) "Local government" means any county, incorporated city, or town  
17 which contains within its boundaries any lands or waters subject to  
18 this chapter;

1 (d) "Person" means an individual, partnership, corporation,  
2 association, organization, cooperative, public or municipal  
3 corporation, or agency of the state or local governmental unit however  
4 designated;

5 (e) "Hearing board" means the shoreline hearings board established  
6 by this chapter.

7 (2) Geographical:

8 (a) "Extreme low tide" means the lowest line on the land reached by  
9 a receding tide;

10 (b) "Ordinary high water mark" on all lakes, streams, and tidal  
11 water is that mark that will be found by examining the bed and banks  
12 and ascertaining where the presence and action of waters are so common  
13 and usual, and so long continued in all ordinary years, as to mark upon  
14 the soil a character distinct from that of the abutting upland, in  
15 respect to vegetation as that condition exists on June 1, 1971, as it  
16 may naturally change thereafter, or as it may change thereafter in  
17 accordance with permits issued by a local government or the department:  
18 PROVIDED, That in any area where the ordinary high water mark cannot be  
19 found, the ordinary high water mark adjoining salt water shall be the  
20 line of mean higher high tide and the ordinary high water mark  
21 adjoining fresh water shall be the line of mean high water;

22 (c) "Shorelines of the state" are the total of all "shorelines" and  
23 "shorelines of state-wide significance" within the state;

24 (d) "Shorelines" means all of the water areas of the state,  
25 including reservoirs, and their associated shorelands, together with  
26 the lands underlying them; except (i) shorelines of state-wide  
27 significance; (ii) shorelines on segments of streams upstream of a  
28 point where the mean annual flow is twenty cubic feet per second or  
29 less and the wetlands associated with such upstream segments; and (iii)  
30 shorelines on lakes less than twenty acres in size and wetlands  
31 associated with such small lakes;

32 (e) "Shorelines of state-wide significance" means the following  
33 shorelines of the state:

34 (i) The area between the ordinary high water mark and the western  
35 boundary of the state from Cape Disappointment on the south to Cape  
36 Flattery on the north, including harbors, bays, estuaries, and inlets;

37 (ii) Those areas of Puget Sound and adjacent salt waters and the  
38 Strait of Juan de Fuca between the ordinary high water mark and the  
39 line of extreme low tide as follows:

1 (A) Nisqually Delta«from DeWolf Bight to Tatsolo Point,  
2 (B) Birch Bay«from Point Whitehorn to Birch Point,  
3 (C) Hood Canal«from Tala Point to Foulweather Bluff,  
4 (D) Skagit Bay and adjacent area«from Brown Point to Yokeko Point,  
5 and  
6 (E) Padilla Bay«from March Point to William Point;  
7 (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and  
8 adjacent salt waters north to the Canadian line and lying seaward from  
9 the line of extreme low tide;  
10 (iv) Those lakes, whether natural, artificial, or a combination  
11 thereof, with a surface acreage of one thousand acres or more measured  
12 at the ordinary high water mark;  
13 (v) Those natural rivers or segments thereof as follows:  
14 (A) Any west of the crest of the Cascade range downstream of a  
15 point where the mean annual flow is measured at one thousand cubic feet  
16 per second or more,  
17 (B) Any east of the crest of the Cascade range downstream of a  
18 point where the annual flow is measured at two hundred cubic feet per  
19 second or more, or those portions of rivers east of the crest of the  
20 Cascade range downstream from the first three hundred square miles of  
21 drainage area, whichever is longer;  
22 (vi) Those shorelands associated with (i), (ii), (iv), and (v) of  
23 this subsection (2)(e);  
24 (f) "Shorelands" or "shoreland areas" means those lands extending  
25 landward for two hundred feet in all directions as measured on a  
26 horizontal plane from the ordinary high water mark; floodways and  
27 contiguous floodplain areas landward two hundred feet from such  
28 floodways; and all wetlands and river deltas associated with the  
29 streams, lakes, and tidal waters which are subject to the provisions of  
30 this chapter; the same to be designated as to location by the  
31 department of ecology. Any county or city may determine that portion  
32 of a one-hundred-year-flood plain to be included in its master program  
33 as long as such portion includes, as a minimum, the floodway and the  
34 adjacent land extending landward two hundred feet therefrom;  
35 (g) "Floodway" means those portions of the area of a river valley  
36 lying streamward from the outer limits of a watercourse upon which  
37 flood waters are carried during periods of flooding that occur with  
38 reasonable regularity, although not necessarily annually, said floodway  
39 being identified, under normal condition, by changes in surface soil

1 conditions or changes in types or quality of vegetative ground cover  
2 condition. The floodway shall not include those lands that can  
3 reasonably be expected to be protected from flood waters by flood  
4 control devices maintained by or maintained under license from the  
5 federal government, the state, or a political subdivision of the state;

6 (h) "Wetlands" means areas that are inundated or saturated by  
7 surface water or ground water at a frequency and duration sufficient to  
8 support, and that under normal circumstances do support, a prevalence  
9 of vegetation typically adapted for life in saturated soil conditions.  
10 Wetlands generally include swamps, marshes, bogs, and similar areas.  
11 Wetlands do not include those artificial wetlands intentionally created  
12 from nonwetland sites, including, but not limited to, irrigation and  
13 drainage ditches, grass-lined swales, canals, detention facilities,  
14 wastewater treatment facilities, farm ponds, and landscape amenities,  
15 or those wetlands created after July 1, 1990, that were unintentionally  
16 created as a result of the construction of a road, street, or highway.  
17 Wetlands may include those artificial wetlands intentionally created  
18 from nonwetland areas to mitigate the conversion of wetlands.

19 (3) Procedural terms:

20 (a) "Guidelines" means those standards adopted to implement the  
21 policy of this chapter for regulation of use of the shorelines of the  
22 state prior to adoption of master programs. Such standards shall also  
23 provide criteria to local governments and the department in developing  
24 master programs;

25 (b) "Master program" shall mean the comprehensive use plan for a  
26 described area, and the use regulations together with maps, diagrams,  
27 charts, or other descriptive material and text, a statement of desired  
28 goals, and standards developed in accordance with the policies  
29 enunciated in RCW 90.58.020;

30 (c) "State master program" is the cumulative total of all master  
31 programs approved or adopted by the department of ecology;

32 (d) "Development" means a use consisting of the construction or  
33 exterior alteration of structures; dredging; drilling; dumping;  
34 filling; removal of any sand, gravel, or minerals; bulkheading; driving  
35 of piling; placing of obstructions; or any project of a permanent or  
36 temporary nature which interferes with the normal public use of the  
37 surface of the waters overlying lands subject to this chapter at any  
38 state of water level;

1 (e) "Substantial development" shall mean any development of which  
2 the total cost or fair market value exceeds two thousand five hundred  
3 dollars, or any development which materially interferes with the normal  
4 public use of the water or shorelines of the state; except that the  
5 following shall not be considered substantial developments for the  
6 purpose of this chapter:

7 (i) Normal maintenance or repair of existing structures or  
8 developments, including damage by accident, fire, or elements;

9 (ii) Construction of the normal protective bulkhead common to  
10 single family residences;

11 (iii) Emergency construction necessary to protect property from  
12 damage by the elements;

13 (iv) Construction and practices normal or necessary for farming,  
14 irrigation, and ranching activities, including agricultural service  
15 roads and utilities on shorelands, and the construction and maintenance  
16 of irrigation structures including but not limited to head gates,  
17 pumping facilities, and irrigation channels. A feedlot of any size,  
18 all processing plants, other activities of a commercial nature,  
19 alteration of the contour of the shorelands by leveling or filling  
20 other than that which results from normal cultivation, shall not be  
21 considered normal or necessary farming or ranching activities. A  
22 feedlot shall be an enclosure or facility used or capable of being used  
23 for feeding livestock hay, grain, silage, or other livestock feed, but  
24 shall not include land for growing crops or vegetation for livestock  
25 feeding and/or grazing, nor shall it include normal livestock wintering  
26 operations;

27 (v) Construction or modification of navigational aids such as  
28 channel markers and anchor buoys;

29 (vi) Construction on shorelands by an owner, lessee, or contract  
30 purchaser of a single family residence for his own use or for the use  
31 of his family, which residence does not exceed a height of thirty-five  
32 feet above average grade level and which meets all requirements of the  
33 state agency or local government having jurisdiction thereof, other  
34 than requirements imposed pursuant to this chapter;

35 (vii) Construction of a dock, including a community dock, designed  
36 for pleasure craft only, for the private noncommercial use of the  
37 owner, lessee, or contract purchaser of single and multiple family  
38 residences. This exception applies if either: (A) In salt waters, the  
39 ((cost)) fair market value of ((which)) the dock does not exceed two

1 thousand five hundred dollars; or (B) in fresh waters, the fair market  
2 value of the dock does not exceed ten thousand dollars, but if  
3 subsequent construction having a fair market value exceeding two  
4 thousand five hundred dollars occurs within five years of completion of  
5 the prior construction, the subsequent construction shall be considered  
6 a substantial development for the purpose of this chapter;

7 (viii) Operation, maintenance, or construction of canals,  
8 waterways, drains, reservoirs, or other facilities that now exist or  
9 are hereafter created or developed as a part of an irrigation system  
10 for the primary purpose of making use of system waters, including  
11 return flow and artificially stored ground water for the irrigation of  
12 lands;

13 (ix) The marking of property lines or corners on state owned lands,  
14 when such marking does not significantly interfere with normal public  
15 use of the surface of the water;

16 (x) Operation and maintenance of any system of dikes, ditches,  
17 drains, or other facilities existing on September 8, 1975, which were  
18 created, developed, or utilized primarily as a part of an agricultural  
19 drainage or diking system;

20 (xi) Site exploration and investigation activities that are  
21 prerequisite to preparation of an application for development  
22 authorization under this chapter, if:

23 (A) The activity does not interfere with the normal public use of  
24 the surface waters;

25 (B) The activity will have no significant adverse impact on the  
26 environment including, but not limited to, fish, wildlife, fish or  
27 wildlife habitat, water quality, and aesthetic values;

28 (C) The activity does not involve the installation of a structure,  
29 and upon completion of the activity the vegetation and land  
30 configuration of the site are restored to conditions existing before  
31 the activity;

32 (D) A private entity seeking development authorization under this  
33 section first posts a performance bond or provides other evidence of  
34 financial responsibility to the local jurisdiction to ensure that the  
35 site is restored to preexisting conditions; and

36 (E) The activity is not subject to the permit requirements of RCW  
37 90.58.550;

38 (xii) The process of removing or controlling an aquatic noxious  
39 weed, as defined in RCW 17.26.020, through the use of an herbicide or

1 other treatment methods applicable to weed control that are recommended  
2 by a final environmental impact statement published by the department  
3 of agriculture or the department jointly with other state agencies  
4 under chapter 43.21C RCW.

Passed the House March 4, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 29, 1996.

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