

HOUSE BILL REPORT

HB 2690

As Reported by House Committee On:
Agriculture & Natural Resources
Appropriations

Title: An act relating to marina lease rates.

Brief Description: Modifying provisions concerning marina lease rates.

Sponsors: Representatives Eickmeyer, Sehlin, Haigh, Armstrong, Linville and Rockefeller.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/30/04, 2/6/04 [DP];
Appropriations: 2/9/04, 2/10/04 [DP].

Brief Summary of Bill

- Alters the formula applied to calculate the rent for Department of Natural Resources-leased marinas to be based on a percentage of a marina's income.
- Requires the Department of Natural Resources to recommend an appropriate formula for calculating marina rents to the 2005 Legislature.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 13 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Eickmeyer, Grant, Hunt, McDermott, Orcutt, Quall and Sump.

Staff: Jason Callahan (786-7117).

Background:

The Legislature has delegated the management of state-owned aquatic lands to the Department of Natural Resources (DNR), with directions to encourage public use and access, foster water-dependent uses, ensure environmental protection, and utilize renewable resources. The DNR is further instructed to charge a rent to the users of state-owned aquatic lands, with different standards applying to different use types.

Non-water dependent uses are charged the fair market value for the use of the land. Water dependent uses are charged rent according to a statutory formula.

Water dependent uses, defined as uses that cannot logically exist except on water, are assessed a rent that is associated with upland values. Generally, water dependent uses must pay a rent that is 30 percent of the assessed value of the adjacent upland parcel, plus a real capitalization rate. This formula is applied to calculate the rent for marinas who lease state-owned aquatic lands.

The 2003 Legislature passed SHB 1250, which created a possible mechanism for changing the marina rent formula to reflect a percentage of the annual gross revenue generated by a marina. The DNR was directed to develop a recommended formula for implementing this change in the rent formula. The DNR was asked to suggest a percentage, or range of percentages, to apply to a marina's gross revenue, a system for implementing the percentages, and a designation of the revenue sources that should be considered for rent calculation purposes. Within the 2003 legislation was a statement of intent for the 2004 Legislature to pass a second bill that would set the percentage of gross revenue in statute.

The 2003 legislation also required all marina lessees to return an income reporting form to the DNR. The reporting form was to be designed by the DNR, and could include information about the marina's income that would aid the DNR in satisfying its statutory directive. The legislation also included a provision that required the DNR to have returned to them income reporting forms from at least 75 percent of all marinas representing at least 90 percent of all marina revenues by July 1, 2003. If this threshold was not met, then the income-based model would not be applied and marinas would continue to be assessed rent based on a percentage of the value of the adjacent upland parcel.

The DNR has reported that the number of marinas returning the income reporting form to the DNR was far below the required threshold for changing the rent formula. Therefore, according to the 2003 legislation, the income-based model for rent calculation will not take effect and the DNR is relieved from their duty to recommend a proper percentage of income to set as a marina's rent.

Summary of Bill:

Lease Rate Changes

The DNR lease rates for marinas will be calculated based on a percentage of their annual gross revenue as of July 1, 2005. Marinas are required to submit annual income reporting reports to the DNR that are certified by an accountant. The DNR may not require the income reporting forms to include information about restaurant or bar income,

but may include information about other marina income streams. If a marina fails to submit an income reporting form, the DNR is authorized to conduct an audit. The initial rent calculation will be based on a marina's 2004 income data, and recalculated annually. At no time may the DNR charge a rent of less than \$500.

DNR Recommendations

The DNR is responsible for developing a set of recommendations to be delivered to the 2005 Legislature. These recommendations include an identification of a percentage, or range of percentages, that would adequately maintain 2004 state proceeds from marina rents. The recommendations must also identify the appropriate marina revenue sources to which the percentage applies. When preparing the recommendations for the 2005 Legislature, the DNR is required to work with stakeholders, and rely on the marina income data collected pursuant to the legislation passed in 2003.

The Legislature intends to adopt legislation in 2005 that will establish in statute the percentage of a marina's income that will represent its lease, and the portions of a marina's income stream to which the percentage will be applied. If the 2005 Legislature fails to enact legislation, the DNR will be responsible for determining the marina lease formula.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: (Original bill) The sample of marina revenues calculated last year may not have been enough to trigger the change in the rent formula, but it was sufficient to calculate a statistical formula.

The bill keeps income to the state revenue neutral. As the economy increases, a marina's revenues will increase. This increases profits to the state. When the economy is down, a marina's revenues will be down, and so will the state's revenue. This is the most fair way to manage marina leases. All other properties are assessed on 100 percent of their value. The users of state-owned aquatic lands should not see a discount from the land's full value.

Testimony Against: (Original bill) The DNR has been working on this issue for many years, and has yet to find a complete solution. The DNR may have some solutions that it can do administratively. Only 38 percent of the marinas participated in the study that was required last year. This low compliance rate indicates that many marinas will not be willing to submit income forms to the DNR, meaning that audits will have to be

conducted. This adds expense and complexity.

Calculating rents based on a gross revenue is a labor intensive and expensive undertaking. Some marinas will see a lower rent, while others will see a much higher rent with the new formula.

Persons Testifying: (In support) Michelle Hagan, Washington Association of County Assessors.

(Opposed) Fran McNair, Washington State Department of Natural Resources.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 27 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Anderson, Boldt, Buck, Chandler, Clements, Cody, Conway, Cox, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McDonald, McIntire, Miloscia, Ruderman, Schual-Berke, Sump and Talcott.

Staff: Alicia Paatsch (786-7178).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Agriculture & Natural Resources:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: The only thing different between this year's bill and the one passed last year is a date change and the requirement that a certain percentage of marinas turn in their income reporting forms-this requirement was a mistake. The 37 percent of forms received last year was an adequate sample in which to determine the appropriate formula for calculating marina rents based on a percentage of income. Counties and cities are in support because they will not have to do land assessments to set rates. This bill was well received last year in both houses.

Testimony Against: In a survey conducted in 2003, marinas on state-owned aquatic lands were sent income reporting forms. The response by marinas was only 38 percent.

Administrative costs are too expensive for the Department of Natural Resources. A number of marinas are opposed to the bill due to the need to have their income forms certified by a public accountant, and they have concerns about opening up their books.

Persons Testifying: (In support) Representative Eickmeyer, prime sponsor.

(Opposed) Loren Stern, Department of Natural Resources.

Persons Signed In To Testify But Not Testifying: None.