

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1491**

Chapter 155, Laws of 2005

(partial veto)

59th Legislature  
2005 Regular Session

AQUATIC LANDS STATUTES--RECODIFICATION

EFFECTIVE DATE: 7/24/05

Passed by the House March 8, 2005  
Yeas 98 Nays 0

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Passed by the Senate April 6, 2005  
Yeas 46 Nays 0

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Approved April 22, 2005, with the  
exception of section 210, which is  
vetoed.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Richard Nafziger, Chief Clerk  
of the House of Representatives of  
the State of Washington, do hereby  
certify that the attached is  
certify that the attached is  
**SUBSTITUTE HOUSE BILL 1491** as  
passed by the House of  
Representatives and the Senate on  
the dates hereon set forth.

RICHARD NAFZIGER

\_\_\_\_\_  
**Chief Clerk**

FILED

April 22, 2005 - 3:59 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1491**

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Passed Legislature - 2005 Regular Session

**State of Washington                      59th Legislature                      2005 Regular Session**

**By** House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives B. Sullivan, Kretz, Upthegrove, Orcutt, Eickmeyer and Buck; by request of Commissioner of Public Lands)

READ FIRST TIME 02/17/05.

1            AN ACT Relating to recodification of aquatic lands statutes;  
2 amending RCW 79.90.080, 79.90.090, 79.90.100, 79.90.105, 79.90.110,  
3 79.90.120, 79.90.130, 79.90.150, 79.90.160, 79.90.170, 79.90.180,  
4 79.90.190, 79.90.200, 79.90.210, 79.90.215, 79.90.220, 79.90.230,  
5 79.90.240, 79.90.245, 79.90.250, 79.90.260, 79.90.270, 79.90.280,  
6 79.90.290, 79.90.300, 79.90.310, 79.90.320, 79.90.325, 79.90.330,  
7 79.90.340, 79.90.350, 79.90.360, 79.90.370, 79.90.390, 79.90.400,  
8 79.90.410, 79.90.450, 79.90.455, 79.90.456, 79.90.457, 79.90.460,  
9 79.90.470, 79.90.475, 79.90.480, 79.90.485, 79.90.490, 79.90.500,  
10 79.90.505, 79.90.515, 79.90.520, 79.90.535, 79.90.540, 79.90.545,  
11 79.90.550, 79.90.555, 79.90.560, 79.90.565, 79.90.575, 79.90.580,  
12 79.91.010, 79.91.020, 79.91.030, 79.91.040, 79.91.050, 79.91.060,  
13 79.91.070, 79.91.080, 79.91.090, 79.91.100, 79.91.110, 79.91.120,  
14 79.91.130, 79.91.140, 79.91.150, 79.91.160, 79.91.170, 79.91.180,  
15 79.91.190, 79.91.200, 79.91.210, 79.92.010, 79.92.020, 79.92.030,  
16 79.92.035, 79.92.060, 79.92.070, 79.92.080, 79.92.090, 79.92.100,  
17 79.92.110, 79.93.010, 79.93.020, 79.93.030, 79.93.040, 79.93.050,  
18 79.93.060, 79.94.020, 79.94.030, 79.94.040, 79.94.050, 79.94.060,  
19 79.94.070, 79.94.080, 79.94.090, 79.94.100, 79.94.110, 79.94.120,  
20 79.94.130, 79.94.140, 79.94.150, 79.94.160, 79.94.170, 79.94.175,  
21 79.94.181, 79.94.185, 79.94.220, 79.94.230, 79.94.240, 79.94.250,

1 79.94.260, 79.94.270, 79.94.280, 79.94.290, 79.94.300, 79.94.310,  
2 79.94.320, 79.94.330, 79.94.390, 79.94.400, 79.94.410, 79.94.420,  
3 79.94.430, 79.94.440, 79.95.010, 79.95.020, 79.95.030, 79.95.040,  
4 79.95.050, 79.95.060, 79.96.010, 79.96.020, 79.96.030, 79.96.040,  
5 79.96.050, 79.96.060, 79.96.070, 79.96.080, 79.96.085, 79.96.090,  
6 79.96.100, 79.96.110, 79.96.120, 79.96.130, 79.96.210, 79.96.230,  
7 79.96.906, 79.97.010, 79.97.020, 79.97.030, 79.97.050, and 79.97.060;  
8 reenacting and amending RCW 79.94.210 and 79.96.220; adding a new  
9 section to chapter 43.30 RCW; adding new chapters to Title 79 RCW;  
10 creating new sections; recodifying RCW 79.90.450, 79.90.455, 79.90.545,  
11 79.90.546, 79.90.090, 79.90.100, 79.90.120, 79.90.410, 79.90.370,  
12 79.90.245, 79.90.400, 79.94.170, 79.90.460, 79.90.470, 79.90.480,  
13 79.90.485, 79.90.490, 79.90.500, 79.90.505, 79.90.510, 79.90.515,  
14 79.90.520, 79.90.525, 79.90.530, 79.90.535, 79.90.540, 79.90.457,  
15 79.90.580, 79.90.475, 79.90.105, 79.90.550, 79.90.555, 79.90.560,  
16 79.90.565, 79.90.900, 79.90.901, 79.90.902, 79.90.080, 79.91.010,  
17 79.91.020, 79.91.030, 79.91.040, 79.91.050, 79.91.060, 79.91.070,  
18 79.91.080, 79.91.090, 79.91.100, 79.91.110, 79.91.120, 79.91.130,  
19 79.91.140, 79.91.150, 79.90.575, 79.91.160, 79.91.170, 79.91.180,  
20 79.91.190, 79.91.200, 79.91.210, 79.91.900, 79.92.010, 79.92.020,  
21 79.92.030, 79.92.035, 79.90.390, 79.92.060, 79.92.070, 79.92.080,  
22 79.92.090, 79.92.100, 79.92.110, 79.92.900, 79.93.010, 79.93.020,  
23 79.93.030, 79.93.040, 79.93.050, 79.93.060, 79.93.900, 79.94.330,  
24 79.94.020, 79.94.030, 79.94.040, 79.90.110, 79.94.050, 79.94.060,  
25 79.94.100, 79.94.110, 79.94.130, 79.94.140, 79.94.150, 79.94.090,  
26 79.94.290, 79.94.270, 79.90.250, 79.90.260, 79.90.270, 79.90.280,  
27 79.90.350, 79.94.080, 79.94.320, 79.90.360, 79.94.070, 79.94.280,  
28 79.94.120, 79.94.300, 79.94.310, 79.94.210, 79.94.260, 79.94.220,  
29 79.94.230, 79.94.240, 79.94.250, 79.90.170, 79.90.180, 79.90.190,  
30 79.90.200, 79.90.210, 79.90.215, 79.90.220, 79.90.230, 79.90.240,  
31 79.94.160, 79.94.175, 79.94.181, 79.94.185, 79.94.390, 79.94.400,  
32 79.94.410, 79.94.420, 79.94.430, 79.94.440, 79.94.450, 79.94.900,  
33 79.95.010, 79.95.020, 79.95.030, 79.95.040, 79.95.050, 79.95.060,  
34 79.90.458, 79.95.900, 79.90.570, 79.96.120, 79.96.130, 79.90.495,  
35 79.96.010, 79.96.020, 79.96.030, 79.96.040, 79.96.050, 79.96.060,  
36 79.96.070, 79.96.140, 79.96.080, 79.96.085, 79.96.906, 79.96.090,  
37 79.96.100, 79.96.110, 79.96.200, 79.96.210, 79.96.220, 79.96.230,  
38 79.96.901, 79.96.902, 79.96.903, 79.96.904, 79.96.905, 79.90.130,

1 79.90.150, 79.90.160, 79.90.290, 79.90.300, 79.90.310, 79.90.320,  
2 79.90.325, 79.90.330, 79.90.340, 79.97.010, 79.97.020, 79.97.030,  
3 79.97.040, 79.97.050, 79.97.060, and 79.97.900; and repealing RCW  
4 79.90.010, 79.90.015, 79.90.020, 79.90.025, 79.90.030, 79.90.035,  
5 79.90.040, 79.90.045, 79.90.050, 79.90.055, 79.90.060, 79.90.065,  
6 79.90.070, 79.90.380, 79.90.465, 79.93.070, and 79.94.010.

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

8 **PART 1**

9 **AQUATIC LANDS--GENERAL PROVISIONS**

10 NEW SECTION. **Sec. 101.** The purpose of sections 102, 144, and 151  
11 of this act and RCW 79.90.450 through 79.90.545 (as recodified by this  
12 act) is to articulate a management philosophy to guide the exercise of  
13 the state's ownership interest and the exercise of the department's  
14 management authority, and to establish standards for determining  
15 equitable and predictable lease rates for users of state-owned aquatic  
16 lands.

17 NEW SECTION. **Sec. 102.** The definitions in this section apply  
18 throughout chapters 79.90 through 79.97 RCW (as recodified by this act)  
19 unless the context clearly requires otherwise.

20 (1) "Aquatic lands" means all tidelands, shorelands, harbor areas,  
21 and the beds of navigable waters.

22 (2) "Beds of navigable waters" means those lands lying waterward of  
23 and below the line of navigability on rivers and lakes not subject to  
24 tidal flow, or extreme low tide mark in navigable tidal waters, or the  
25 outer harbor line where harbor area has been created.

26 (3) "First-class shorelands" means the shores of a navigable lake  
27 or river belonging to the state, not subject to tidal flow, lying  
28 between the line of ordinary high water and the line of navigability,  
29 or inner harbor line where established and within or in front of the  
30 corporate limits of any city or within two miles of either side.

31 (4) "First-class tidelands" means the shores of navigable tidal  
32 waters belonging to the state, lying within or in front of the  
33 corporate limits of any city, or within one mile of either side and

1 between the line of ordinary high tide and the inner harbor line; and  
2 within two miles of the corporate limits on either side and between the  
3 line of ordinary high tide and the line of extreme low tide.

4 (5) "Harbor area" means the area of navigable waters determined as  
5 provided in Article XV, section 1 of the state Constitution, which  
6 shall be forever reserved for landings, wharves, streets, and other  
7 conveniences of navigation and commerce.

8 (6) "Improvements" when referring to state-owned aquatic lands  
9 means anything considered a fixture in law placed within, upon, or  
10 attached to aquatic lands that has changed the value of those lands, or  
11 any changes in the previous condition of the fixtures that changes the  
12 value of the land.

13 (7) "Inflation rate" means for a given year the percentage rate of  
14 change in the previous calendar year's all commodity producer price  
15 index of the bureau of labor statistics of the United States department  
16 of commerce. If the index ceases to be published, the department shall  
17 designate by rule a comparable substitute index.

18 (8) "Inner harbor line" means a line located and established in  
19 navigable waters between the line of ordinary high tide or ordinary  
20 high water and the outer harbor line, constituting the inner boundary  
21 of the harbor area.

22 (9) "Log booming" means placing logs into and taking them out of  
23 the water, assembling and disassembling log rafts before or after their  
24 movement in water-borne commerce, related handling and sorting  
25 activities taking place in the water, and the temporary holding of logs  
26 to be taken directly into a processing facility. "Log booming" does  
27 not include the temporary holding of logs to be taken directly into a  
28 vessel.

29 (10) "Log storage" means the water storage of logs in rafts or  
30 otherwise prepared for shipment in water-borne commerce, but does not  
31 include the temporary holding of logs to be taken directly into a  
32 vessel or processing facility.

33 (11) "Nonwater-dependent use" means a use that can operate in a  
34 location other than on the waterfront. Examples include, but are not  
35 limited to, hotels, condominiums, apartments, restaurants, retail  
36 stores, and warehouses not part of a marine terminal or transfer  
37 facility.

1 (12) "Outer harbor line" means a line located and established in  
2 navigable waters as provided in Article XV, section 1 of the state  
3 Constitution, beyond which the state shall never sell or lease any  
4 rights whatever to private persons.

5 (13) "Person" means any private individual, partnership,  
6 association, organization, cooperative, firm, corporation, the state or  
7 any agency or political subdivision thereof, any public or municipal  
8 corporation, or any unit of government, however designated.

9 (14) "Port district" means a port district created under Title 53  
10 RCW.

11 (15) "Public utility lines" means pipes, conduits, and similar  
12 facilities for distribution of water, electricity, natural gas,  
13 telephone, other electronic communication, and sewers, including sewer  
14 outfall lines.

15 (16) "Real rate of return" means the average for the most recent  
16 ten calendar years of the average rate of return on conventional real  
17 property mortgages as reported by the federal home loan bank board or  
18 any successor agency, minus the average inflation rate for the most  
19 recent ten calendar years.

20 (17) "Second-class shorelands" means the shores of a navigable lake  
21 or river belonging to the state, not subject to tidal flow, lying  
22 between the line of ordinary high water and the line of navigability,  
23 and more than two miles from the corporate limits of any city.

24 (18) "Second-class tidelands" means the shores of navigable tidal  
25 waters belonging to the state, lying outside of and more than two miles  
26 from the corporate limits of any city, and between the line of ordinary  
27 high tide and the line of extreme low tide.

28 (19) "Shorelands," where not preceded by "first-class" or  
29 "second-class," means both first-class shorelands and second-class  
30 shorelands.

31 (20) "State-owned aquatic lands" means all tidelands, shorelands,  
32 harbor areas, the beds of navigable waters, and waterways owned by the  
33 state and administered by the department or managed under RCW 79.90.475  
34 (as recodified by this act) by a port district. "State-owned aquatic  
35 lands" does not include aquatic lands owned in fee by, or withdrawn for  
36 the use of, state agencies other than the department.

37 (21) "Terminal" means a point of interchange between land and water

1 carriers, such as a pier, wharf, or group of such, equipped with  
2 facilities for care and handling of either cargo or passengers, or  
3 both.

4 (22) "Tidelands," where not preceded by "first-class" or  
5 "second-class," means both first-class tidelands and second-class  
6 tidelands.

7 (23) "Valuable materials" when referring to state-owned aquatic  
8 lands means any product or material within or upon lands, such as  
9 forest products, forage, stone, gravel, sand, peat, agricultural crops,  
10 and all other materials of value except mineral, coal, petroleum, and  
11 gas as provided for under chapter 79.14 RCW. However, RCW 79.90.330  
12 and 79.90.340 (as recodified by this act) also apply to materials  
13 provided for under chapter 79.14 RCW.

14 (24) "Water-dependent use" means a use that cannot logically exist  
15 in any location but on the water. Examples include, but are not  
16 limited to: Water-borne commerce; terminal and transfer facilities;  
17 ferry terminals; watercraft sales in conjunction with other  
18 water-dependent uses; watercraft construction, repair, and maintenance;  
19 moorage and launching facilities; aquaculture; log booming; and public  
20 fishing piers and parks.

21 (25) "Water-oriented use" means a use that historically has been  
22 dependent on a waterfront location, but with existing technology could  
23 be located away from the waterfront. Examples include, but are not  
24 limited to, wood products manufacturing, watercraft sales, fish  
25 processing, petroleum refining, sand and gravel processing, log  
26 storage, and house boats. For the purposes of determining rent under  
27 this chapter, water-oriented uses shall be classified as  
28 water-dependent uses if the activity either is conducted on state-owned  
29 aquatic lands leased on October 1, 1984, or was actually conducted on  
30 the state-owned aquatic lands for at least three years before October  
31 1, 1984. If, after October 1, 1984, the activity is changed to a use  
32 other than a water-dependent use, the activity shall be classified as  
33 a nonwater-dependent use. If continuation of the existing use requires  
34 leasing additional state-owned aquatic lands and is permitted under the  
35 shoreline management act of 1971, chapter 90.58 RCW, the department may  
36 allow reasonable expansion of the water-oriented use.

1       **Sec. 103.** RCW 79.90.080 and 1982 1st ex.s. c 21 s 14 are each  
2 amended to read as follows:

3       The board (~~((of natural resources))~~) acting as the harbor line  
4 commission shall keep a full and complete record of its proceedings  
5 relating to the establishment of harbor lines and the determination of  
6 harbor areas. The board shall have the power from time to time to make  
7 and enforce rules (~~((and regulations))~~) for the carrying out of the  
8 provisions of chapters 79.90 through 79.96 RCW (as recodified by this  
9 act) relating to its duties not inconsistent with law.

10       **Sec. 104.** RCW 79.90.090 and 1982 1st ex.s. c 21 s 15 are each  
11 amended to read as follows:

12       The department (~~((of natural resources))~~) shall prepare, and furnish  
13 to applicants, blank forms of applications for the purchase of state-  
14 owned tidelands or shorelands (~~((belonging to the state))~~), otherwise  
15 permitted by RCW 79.94.150 (as recodified by this act) to be sold, and  
16 the purchase of valuable material situated thereon, and the lease of  
17 state-owned tidelands, shorelands, and harbor areas (~~((belonging to the~~  
18 ~~state))~~), which forms shall contain such instructions as will inform and  
19 aid the applicants.

20       **Sec. 105.** RCW 79.90.100 and 1982 1st ex.s. c 21 s 16 are each  
21 amended to read as follows:

22       Any person desiring to purchase any (~~((tide or shore lands belonging~~  
23 ~~to the))~~) state-owned tidelands or shorelands, otherwise permitted under  
24 RCW 79.94.150 (as recodified by this act) to be sold, or to purchase  
25 any valuable material situated thereon, or to lease any state-owned  
26 aquatic lands, shall file with the department (~~((of natural resources))~~)  
27 an application, on the proper form which shall be accompanied by  
28 reasonable fees to be prescribed by the board (~~((of natural resources))~~)  
29 in its rules (~~((and regulations))~~), in an amount sufficient to defray the  
30 cost of performing or otherwise providing for the processing, review,  
31 or inspection of the applications or activities permitted pursuant to  
32 the applications for each category of services performed. These fees  
33 shall be credited to the resource management cost account (~~((RMCA))~~)  
34 fund in the general fund.



1           **Sec. 106.** RCW 79.90.105 and 2002 c 304 s 1 are each amended to  
2 read as follows:

3           (1) The abutting residential owner to state-owned shorelands,  
4 tidelands, or related beds of navigable waters, other than harbor  
5 areas, may install and maintain without charge a dock on (~~such~~) the  
6 areas if used exclusively for private recreational purposes and the  
7 area is not subject to prior rights, including any rights of upland,  
8 tideland, or shoreland owners as provided in RCW 79.94.070, 79.94.260,  
9 79.94.280, and 79.95.010 (as recodified by this act). The dock cannot  
10 be sold or leased separately from the upland residence. The dock  
11 cannot be used to moor boats for commercial or residential use. This  
12 permission is subject to applicable local, state, and federal rules and  
13 regulations governing location, design, construction, size, and length  
14 of the dock. Nothing in this subsection (1) prevents the abutting  
15 owner from obtaining a lease if otherwise provided by law.

16           (2) The abutting residential owner to state-owned shorelands,  
17 tidelands, or related beds of navigable waters, other than harbor  
18 areas, may install and maintain a mooring buoy without charge if the  
19 boat that is moored to the buoy is used for private recreational  
20 purposes, the area is not subject to prior rights, including any rights  
21 of upland, tideland, or shoreland owners as provided in RCW 79.94.070,  
22 79.94.260, 79.94.280, and 79.95.010 (as recodified by this act), and  
23 the buoy will not obstruct the use of mooring buoys previously  
24 authorized by the department.

25           (a) The buoy must be located as near to the upland residence as  
26 practical, consistent with applicable rules and regulations and the  
27 provisions of this section. The buoy must be located, or relocated if  
28 necessary, to accommodate the use of lawfully installed and maintained  
29 buoys.

30           (b) If two or more residential owners, who otherwise qualify for  
31 free use under the provisions of this section, are in dispute over  
32 assertion of rights to install and maintain a mooring buoy in the same  
33 location, they may seek formal settlement through adjudication in  
34 superior court for the county in which the buoy site is located. In  
35 the adjudication, preference must be given to the residential owner  
36 that first installed and continually maintained and used a buoy on that  
37 site, if it meets all applicable rules, regulations, and provisions of  
38 this section, and then to the owner of the residential property nearest

1 the site. Nothing in this section requires the department to mediate  
2 or otherwise resolve disputes between residential owners over the use  
3 of the same site for a mooring buoy.

4 (c) The buoy cannot be sold or leased separately from the abutting  
5 residential property. The buoy cannot be used to moor boats for  
6 commercial or residential use, nor to moor boats over sixty feet in  
7 length.

8 (d) If the department determines that it is necessary for secure  
9 moorage, the abutting residential owner may install and maintain a  
10 second mooring buoy, under the same provisions as the first, the use of  
11 which is limited to a second mooring line to the boat moored at the  
12 first buoy.

13 (e) The permission granted in this subsection (2) is subject to  
14 applicable local, state, and federal rules and regulations governing  
15 location, design, installation, maintenance, and operation of the  
16 mooring buoy, anchoring system, and moored boat. Nothing in this  
17 subsection (2) prevents a boat owner from obtaining a lease if  
18 otherwise provided by law. This subsection (2) also applies to areas  
19 that have been designated by the commissioner (~~(of public lands)~~) or  
20 the fish and wildlife commission as aquatic reserves.

21 (3) This permission to install and maintain a recreational dock or  
22 mooring buoy may be revoked by the department, or the department may  
23 direct the owner of a recreational dock or mooring buoy to relocate  
24 their dock or buoy, if the department makes a finding of public  
25 necessity to protect waterward access, ingress rights of other  
26 landowners, public health or safety, or public resources.  
27 Circumstances prompting a finding of public necessity may include, but  
28 are not limited to, the dock, buoy, anchoring system, or boat posing a  
29 hazard or obstruction to navigation or fishing, contributing to  
30 degradation of aquatic habitat, or contributing to decertification of  
31 shellfish beds otherwise suitable for commercial or recreational  
32 harvest. The revocation may be appealed as provided for under RCW  
33 79.90.400 (as recodified by this act).

34 (4) Nothing in this section authorizes a boat owner to abandon a  
35 vessel at a recreational dock, mooring buoy, or elsewhere.

36 **Sec. 107.** RCW 79.90.110 and 1982 1st ex.s. c 21 s 17 are each  
37 amended to read as follows:

1 In no case shall any state-owned tidelands or shorelands  
2 (~~belonging to the state~~), otherwise permitted under RCW 79.94.150 (as  
3 recodified by this act) to be sold, (~~or any valuable materials~~  
4 ~~situated within or upon any tidelands, shorelands or beds of navigable~~  
5 ~~waters belonging to the state,~~) be offered for sale unless the (~~same~~  
6 ~~shall~~) lands have been appraised by the department (~~of natural~~  
7 ~~resources~~) within ninety days prior to the date fixed for the sale.

8 **Sec. 108.** RCW 79.90.120 and 1982 1st ex.s. c 21 s 18 are each  
9 amended to read as follows:

10 The department (~~of natural resources~~) may cause any state-owned  
11 aquatic lands to be surveyed for the purpose of ascertaining and  
12 determining the area subject to sale or lease.

13 **Sec. 109.** RCW 79.90.130 and 1991 c 322 s 24 are each amended to  
14 read as follows:

15 The department is authorized and empowered to confer with and enter  
16 into any agreements with the public authorities of the state of Oregon,  
17 which in the judgment of the department will assist the state of  
18 Washington and the state of Oregon in securing the maximum revenues for  
19 sand, gravel, or other valuable materials taken from the bed of the  
20 Columbia river where (~~said~~) the river forms the boundary line between  
21 (~~said~~) the states.

22 **Sec. 110.** RCW 79.90.150 and 2003 c 39 s 41 are each amended to  
23 read as follows:

24 When gravel, rock, sand, silt, or other material from any state-  
25 owned aquatic lands is removed by any public agency or under public  
26 contract for channel or harbor improvement, or flood control, use of  
27 (~~such~~) the material may be authorized by the department (~~of natural~~  
28 ~~resources~~) for a public purpose on land owned or leased by the state  
29 or any municipality, county, or public corporation(~~PROVIDED,~~  
30 ~~That~~). However, when no public land site is available for deposit of  
31 (~~such~~) the material, its deposit on private land with the landowner's  
32 permission is authorized and may be designated by the department (~~of~~  
33 ~~natural resources~~) to be for a public purpose. Prior to removal and  
34 use, the state agency, municipality, county, or public corporation  
35 contemplating or arranging (~~such~~) the use shall first obtain written

1 permission from the department (~~(of natural resources)~~). No payment of  
2 royalty shall be required for (~~(such)~~) the gravel, rock, sand, silt, or  
3 other material used for (~~(such)~~) the public purpose, but a charge will  
4 be made if (~~(such)~~) the material is subsequently sold or used for some  
5 other purpose(~~(:—PROVIDED, That)~~). Further, the department may  
6 authorize (~~(such)~~) the public agency or private landowner to dispose of  
7 (~~(such)~~) the material without charge when necessary to implement  
8 disposal of material. No charge shall be required for any use of the  
9 material obtained under the provisions of this chapter when used solely  
10 on an authorized site. No charge shall be required for any use of the  
11 material obtained under the provisions of this chapter if the material  
12 is used for public purposes by local governments. Public purposes  
13 include, but are not limited to, construction and maintenance of roads,  
14 dikes, and levies. Nothing in this section shall repeal or modify the  
15 provisions of RCW 77.55.100 or eliminate the necessity of obtaining a  
16 permit for (~~(such)~~) the removal from other state or federal agencies as  
17 otherwise required by law.

18 **Sec. 111.** RCW 79.90.160 and 2000 c 13 s 2 are each amended to read  
19 as follows:

20 (1) The legislature finds and declares that, due to the  
21 extraordinary volume of material washed down onto (~~(state-owned)~~) beds  
22 of navigable waters and shorelands in the Toutle river, Coweeman river,  
23 and portions of the Cowlitz river, the dredge spoils placed upon  
24 adjacent publicly and privately owned property in (~~(such)~~) the areas,  
25 if further disposed, will be of nominal value to the state and that it  
26 is in the best interests of the state to allow further disposal without  
27 charge.

28 (2) All dredge spoil or materials removed from the state-owned beds  
29 and shores of the Toutle river, Coweeman river, and that portion of the  
30 Cowlitz river from two miles above the confluence of the Toutle river  
31 to its mouth deposited on adjacent public and private lands during the  
32 years 1980 through December 31, 1995, as a result of dredging of these  
33 rivers for navigation and flood control purposes may be sold,  
34 transferred, or otherwise disposed of by owners of (~~(such)~~) the lands  
35 without the necessity of any charge by the department (~~(of natural~~  
36 ~~resources)~~) and free and clear of any interest of the department (~~(of~~  
37 ~~natural resources)~~) of the state of Washington.

1           **Sec. 112.** RCW 79.90.170 and 1982 1st ex.s. c 21 s 23 are each  
2 amended to read as follows:

3           (1) When the department (~~(of natural resources shall have decided))~~  
4 decides to sell any state-owned tidelands or shorelands (~~(belonging to~~  
5 ~~the state))~~, otherwise permitted by RCW 79.94.150 (as recodified by  
6 this act) to be sold, (~~(or any valuable materials situated within or~~  
7 ~~upon any aquatic lands,~~) it shall be the duty of the department to  
8 (~~forthwith~~) fix the date, place, and the time of sale, and no sale  
9 shall be had on any day which is a legal holiday.

10           (2) The department shall give notice of the sale by advertisement  
11 published once a week for four consecutive weeks immediately preceding  
12 the date fixed for sale in (~~said~~) the notice, in at least one  
13 newspaper published and of general circulation in the county in which  
14 the whole or any part of any lot, block, or tract of land to be sold  
15 (~~(or the valuable materials thereon) is to be sold~~) is situated, and  
16 by causing a copy of (~~said~~) the notice to be posted in a conspicuous  
17 place in the department's Olympia office and the (~~area~~) region  
18 headquarters administering (~~such~~) the sale(~~(, and in the office of~~  
19 ~~the county auditor of such county; which))~~).

20           (3) The notice shall: (a) Specify the place and time of sale(~~(,)~~);  
21 (b) specify the appraised value (~~(thereof, and)~~); (c) describe with  
22 particularity each parcel of land to be sold(~~(, or from which valuable~~  
23 ~~materials are to be sold, and in the case of material sales the~~  
24 ~~estimated volume thereof,~~); and (d) specify that the terms of sale  
25 will be posted in the (~~area~~) region headquarters and the department's  
26 Olympia office(~~(: PROVIDED, That any sale of valuable material of an~~  
27 ~~appraised value of one thousand dollars or less may be sold directly to~~  
28 ~~the applicant for cash at the appraised value without notice or~~  
29 ~~advertising))~~).

30           **Sec. 113.** RCW 79.90.180 and 1982 1st ex.s. c 21 s 24 are each  
31 amended to read as follows:

32           The department (~~(of natural resources))~~ shall (~~(cause to be~~  
33 ~~printed))~~ print a list of all state-owned tidelands and shorelands  
34 (~~(belonging to the state,~~) otherwise permitted by RCW 79.94.150 (as  
35 recodified by this act) to be sold, (~~(or valuable materials contained~~  
36 ~~within or upon aquatic lands, and the appraised value thereof, that are~~  
37 ~~to be sold in the several counties of the state, said))~~ giving

1 appraised value, character of the land, and other information as may be  
2 of interest to prospective buyers. The lists (~~((to))~~) must be issued at  
3 least four weeks prior to the date of any sale (~~((of the lands and~~  
4 ~~materials enumerated thereon, such materials to be listed under the~~  
5 ~~name of the county wherein located, in alphabetical order giving the~~  
6 ~~appraised values, the character of the same and such other information~~  
7 ~~as may be of interest to prospective buyers. Said department shall~~  
8 ~~cause to be distributed to the auditor of each county in the state a~~  
9 ~~sufficient number of such lists to supply the demands made upon them~~  
10 ~~respectively as reported by such auditors. And said county auditors~~  
11 ~~shall keep the list so furnished in a conspicuous place or receptacle~~  
12 ~~on the counter of the public office of their respective departments,~~  
13 ~~and, when requested so to do, shall mail copies of such lists to~~  
14 ~~residents of their counties)).~~ The department shall retain for free  
15 distribution in its office in Olympia and the (~~(area))~~ regional offices  
16 sufficient copies of (~~(said))~~ the lists, to be kept in a conspicuous  
17 place or receptacle on the counter of the general and regional office  
18 of the department (~~((of natural resources, and the areas))~~), and, when  
19 requested (~~((so do))~~) to do so, shall mail copies of (~~(said))~~ the list as  
20 issued to any applicant (~~((therefor. Proof of publication of the notice~~  
21 ~~of sale shall be made by affidavit of the publisher, or person in~~  
22 ~~charge, of the newspaper publishing the same and proof of posting the~~  
23 ~~notice of sale and the receipt of the lists shall be made by~~  
24 ~~certificate of the county auditor which shall forthwith be sent to and~~  
25 ~~filed with the department of natural resources))~~).

26 **Sec. 114.** RCW 79.90.190 and 1982 1st ex.s. c 21 s 25 are each  
27 amended to read as follows:

28 The department (~~((of natural resources))~~) is authorized to expend any  
29 sum in additional advertising of (~~(such))~~ the sale as shall be  
30 determined to be in the best interests of the state.

31 **Sec. 115.** RCW 79.90.200 and 1982 1st ex.s. c 21 s 26 are each  
32 amended to read as follows:

33 (~~(When sales are made by the county auditor, they shall take place~~  
34 ~~at such place on county property as the county legislative authority~~  
35 ~~may direct in the county in which the whole, or the greater part, of~~  
36 ~~each lot, block, or tract of land, or the material thereon, to be sold,~~

1 ~~is situated. All other sales shall be held at the departmental area~~  
2 ~~offices having jurisdiction over the respective sales. All sales shall~~  
3 ~~be conducted between the hours of ten o'clock a.m. and four o'clock~~  
4 ~~p.m.)~~

5 Any sale ((which)) that has been offered, and for which there are  
6 no bids received shall not be reoffered until it has been readvertised  
7 as specified in RCW 79.90.170, 79.90.180, and 79.90.190 (as recodified  
8 by this act). If all sales cannot be offered within the specified time  
9 on the advertised date, the sale shall continue on the following day  
10 between the hours of ten o'clock a.m. and four o'clock p.m.

11 **Sec. 116.** RCW 79.90.210 and 1990 c 163 s 1 are each amended to  
12 read as follows:

13 All sales of state-owned tidelands and shorelands ((~~belonging to~~  
14 ~~the state,~~) otherwise permitted by RCW 79.94.150 (as recodified by  
15 this act) to be sold, shall be sold at public auction ((~~and all sales~~  
16 ~~of valuable materials shall be at public auction or by sealed bid~~) to  
17 the highest responsible bidder, on the terms prescribed by law and as  
18 specified in the notice provided, and no land ((~~or materials~~)) shall be  
19 sold for less than ((~~their~~)) the appraised value((~~— PROVIDED, That~~  
20 ~~when valuable material has been appraised at an amount not exceeding~~  
21 ~~one hundred thousand dollars, the department of natural resources, when~~  
22 ~~authorized by the board of natural resources, may arrange for the sale~~  
23 ~~at public auction of said valuable material and for its removal under~~  
24 ~~such terms and conditions as the department may prescribe, after the~~  
25 ~~department shall have caused to be published not less than ten days~~  
26 ~~prior to sale a notice of such sale in a newspaper of general~~  
27 ~~circulation located nearest to the property to be sold. However, any~~  
28 ~~sale of valuable material on aquatic lands of an appraised value of ten~~  
29 ~~thousand dollars or less may be sold directly to the applicant for cash~~  
30 ~~without notice or advertising~~)).

31 **Sec. 117.** RCW 79.90.215 and 2003 c 28 s 1 are each amended to read  
32 as follows:

33 (1) To determine the "highest responsible bidder" under RCW  
34 79.90.210 (as recodified by this act), the department ((~~of natural~~  
35 ~~resources~~)) shall be entitled to consider, in addition to price, the  
36 following:

1 (a) The financial and technical ability of the bidder to perform  
2 the contract;

3 (b) Whether the bid contains material defects;

4 (c) Whether the bidder has previously or is currently complying  
5 with terms and conditions of any other contracts with the state or  
6 relevant contracts with entities other than the state;

7 (d) Whether the bidder was the "highest responsible bidder" for a  
8 sale within the previous five years but failed to complete the sale,  
9 such as by not entering into a resulting contract or by not paying the  
10 difference between the deposit and the total amount due. However,  
11 sales that were bid prior to January 1, 2003, may not be considered for  
12 the purposes of this subsection (1)(d);

13 (e) Whether the bidder has been convicted of a crime relating to  
14 the public lands or natural resources of the state of Washington, the  
15 United States, or any other state, tribe, or country, where  
16 "conviction" shall include a guilty plea, or unvacated forfeiture of  
17 bail;

18 (f) Whether the bidder is owned, controlled, or managed by any  
19 person, partnership, or corporation that is not responsible under this  
20 statute; and

21 (g) Whether the subcontractors of the bidder, if any, are  
22 responsible under this statute.

23 (2) Whenever the department has reason to believe that the apparent  
24 high bidder is not a responsible bidder, the department may award the  
25 sale to the next responsible bidder or the department may reject all  
26 bids pursuant to RCW 79.90.240 (as recodified by this act).

27 **Sec. 118.** RCW 79.90.220 and 1982 1st ex.s. c 21 s 28 are each  
28 amended to read as follows:

29 (1) Sales by public auction under this chapter shall be conducted  
30 under the direction of the department ~~((of natural resources,))~~ or by  
31 its authorized representative ~~((or by the county auditor of the county  
32 in which the sale is held))~~. The department's representatives ~~((and  
33 the county auditor))~~ are ~~((hereinafter))~~ referred to as auctioneers.

34 (2) On or before the time specified in the notice of sale each  
35 bidder shall deposit with the auctioneer, in cash or by certified  
36 check, cashier's check, or postal money order payable to the order of  
37 the department ~~((of natural resources))~~, or by bid guarantee in the



1 form of bid bond acceptable to the department, an amount equal to the  
2 deposit specified in the notice of sale. The deposit shall include a  
3 specified amount of the appraised price for the valuable materials  
4 offered for sale, together with any fee required by law for the  
5 issuance of contracts or bills of sale. ~~((Said))~~ The deposit may, when  
6 prescribed in the notice of sale, be considered an opening bid of an  
7 amount not less than the minimum appraised price established in the  
8 notice of sale. The successful bidder's deposit will be retained by  
9 the auctioneer and the difference, if any, between the deposit and the  
10 total amount due shall on the day of the sale be paid in cash,  
11 certified check, cashier's check, draft, postal money order, or by  
12 personal check made payable to the department. If a bid bond is used,  
13 the share of the total deposit due guaranteed by the bid bond shall,  
14 within ten days of the day of sale, be paid in cash, certified check,  
15 cashier's check, draft, or postal money order payable to the  
16 department. Other deposits, if any, shall be returned to the  
17 respective bidders at the conclusion of each sale.

18 (3) The auctioneer shall deliver to the purchaser a memorandum of  
19 ~~((his))~~ the purchase containing a description of the land or materials  
20 purchased, the price bid, and the terms of the sale.

21 (4) The auctioneer shall at once send to the department the cash,  
22 certified check, cashier's check, draft, postal money order, or bid  
23 guarantee received from the purchaser, and a copy of the memorandum  
24 delivered to the purchaser, together with such additional report of  
25 ~~((his))~~ the auctioneer's proceedings with reference to ~~((such))~~ the  
26 sales as may be required by the department.

27 **Sec. 119.** RCW 79.90.230 and 1982 1st ex.s. c 21 s 29 are each  
28 amended to read as follows:

29 If any tideland or shoreland, when otherwise permitted under RCW  
30 79.94.150 ~~((to be sold))~~ (as recodified by this act), ~~((so))~~ offered  
31 for sale ~~((be))~~ is not sold, ~~((the same))~~ it may again be advertised  
32 for sale, as provided in this chapter, whenever in the opinion of the  
33 department ~~((of natural resources))~~ it ~~((shall be))~~ is expedient ~~((so))~~  
34 to do ~~((, and such land shall be again advertised and offered for sale~~  
35 ~~as herein provided,))~~ so. Whenever any person ~~((shall apply))~~ applies  
36 to the ~~((commissioner))~~ department in writing to have ~~((such))~~ the land  
37 offered for sale and ~~((shall))~~ agrees to pay ~~((,))~~ at least the

1 appraised value (~~thereof~~) of the land and (~~shall~~) deposits with the  
2 department at the time of making (~~such~~) the application a sufficient  
3 sum of money to pay the cost of advertising (~~such~~) the sale, the land  
4 may be advertised again and offered for sale as provided in this  
5 chapter.

6 **Sec. 120.** RCW 79.90.240 and 1990 c 163 s 3 are each amended to  
7 read as follows:

8 (1) A sale of (~~valuable materials or~~) tidelands or shorelands  
9 otherwise permitted by RCW 79.94.150 (as recodified by this act) to be  
10 sold shall be confirmed if:

11 (a) No affidavit showing that the interest of the state in such  
12 sale was injuriously affected by fraud or collusion, is filed with the  
13 (~~commissioner of public lands~~) department's Olympia office within ten  
14 days from the receipt of the report of the auctioneer conducting the  
15 sale;

16 (b) It (~~shall~~) appears from (~~such~~) the report that the sale was  
17 fairly conducted, that the purchaser was the highest responsible bidder  
18 at (~~such~~) the sale, and that the sale price is not less than the  
19 appraised value of the property sold;

20 (c) The (~~commissioner~~) department is satisfied that the lands  
21 (~~or material~~) sold would not, upon being readvertised and offered for  
22 sale, sell for a substantially higher price; and

23 (d) The payment required by law to be made at the time of making  
24 the sale has been made, and that the best interests of the state (~~may~~  
25 ~~be subserved thereby~~) are being served.

26 (2) Upon confirming a sale, the (~~commissioner~~) department shall  
27 enter upon (~~his~~) its records the confirmation of sale and  
28 (~~thereupon~~) issue to the purchaser a contract of sale or bill of sale  
29 as the case may be, as is provided for in this chapter.

30 **Sec. 121.** RCW 79.90.245 and 2004 c 276 s 914 are each amended to  
31 read as follows:

32 (1) After deduction for management costs as provided in RCW  
33 79.64.040 and payments to towns under RCW 79.92.110(2) (as recodified  
34 by this act), all moneys received by the state from the sale or lease  
35 of state-owned aquatic lands and from the sale of valuable material  
36 from state-owned aquatic lands shall be deposited in the aquatic lands

1 enhancement account which is hereby created in the state treasury.  
2 After appropriation, these funds shall be used solely for aquatic lands  
3 enhancement projects; for the purchase, improvement, or protection of  
4 aquatic lands for public purposes; for providing and improving access  
5 to ~~((such))~~ the lands; and for volunteer cooperative fish and game  
6 projects.

7 (2) In providing grants for aquatic lands enhancement projects, the  
8 department shall require grant recipients to incorporate the  
9 environmental benefits of the project into their grant applications,  
10 and the department shall utilize the statement of environmental  
11 benefits in its prioritization and selection process. The department  
12 shall also develop appropriate outcome-focused performance measures to  
13 be used both for management and performance assessment of the grants.  
14 To the extent possible, the department should coordinate its  
15 performance measure system with other natural resource-related agencies  
16 as defined in RCW 43.41.270. The department shall consult with  
17 affected interest groups in implementing this section.

18 (3) During the fiscal biennium ending June 30, 2005, the funds may  
19 be appropriated for boating safety, settlement costs for aquatic lands  
20 cleanup, and shellfish management, enforcement, and enhancement.

21 **Sec. 122.** RCW 79.90.250 and 1982 1st ex.s. c 21 s 31 are each  
22 amended to read as follows:

23 All state-owned tidelands and shorelands ~~((belonging to the~~  
24 ~~state))~~, otherwise permitted under RCW 79.94.150 (as recodified by this  
25 act) to be sold, shall be sold on the following terms: One-tenth to be  
26 paid on the date of sale; one-tenth to be paid one year from the date  
27 of the issuance of the contract of sale; and one-tenth annually  
28 thereafter until the full purchase price has been made; but any  
29 purchaser may make full payment at any time. All deferred payments  
30 shall draw interest at ~~((such))~~ the rate as may be fixed~~((, from time~~  
31 ~~to time,))~~ by rule adopted by the board ~~((of natural resources))~~, and  
32 the rate of interest, as so fixed at the date of each sale, shall be  
33 stated in all advertising for and notice of ~~((said))~~ the sale and in  
34 the contract of sale. The first installment of interest shall become  
35 due and payable one year after the date of the contract of sale and  
36 ~~((thereafter))~~ all interest shall become due and payable annually on

1 ((said)) that date, and all remittances for payment of either principal  
2 or interest shall be forwarded to the department ((~~of natural~~  
3 ~~resources~~)).

4 **Sec. 123.** RCW 79.90.260 and 1982 1st ex.s. c 21 s 32 are each  
5 amended to read as follows:

6 When the entire purchase price of any state-owned tidelands or  
7 shorelands ((~~belonging to the state~~)), otherwise permitted under RCW  
8 79.94.150 (as recodified by this act) to be sold, shall have been fully  
9 paid, the department ((~~of natural resources~~)) shall certify ((~~such~~))  
10 the fact to the governor, and shall cause a deed signed by the governor  
11 and attested by the secretary of state, with the seal of the state  
12 attached ((~~thereto~~)), to be issued to the purchaser and to be recorded  
13 in the ((~~office of the commissioner of public lands~~)) department, and  
14 no fee shall be required for any deed issued by the governor other than  
15 the fee provided for in this chapter.

16 **Sec. 124.** RCW 79.90.270 and 2003 c 334 s 601 are each amended to  
17 read as follows:

18 Each and every contract for the sale of ((+)), and each deed  
19 to((+)), state-owned tidelands or shorelands ((~~belonging to the~~  
20 ~~state~~)), otherwise permitted under RCW 79.94.150 (as recodified by this  
21 act) to be sold, shall contain the reservation contained in RCW  
22 79.11.210.

23 **Sec. 125.** RCW 79.90.280 and 1982 1st ex.s. c 21 s 34 are each  
24 amended to read as follows:

25 The purchaser of state-owned tidelands or shorelands ((~~belonging to~~  
26 ~~the state~~)), otherwise permitted under RCW 79.94.150 (as recodified by  
27 this act) to be sold, except in cases where the full purchase price is  
28 paid at the time of the purchase, shall enter into and sign a contract  
29 with the state to be signed by the commissioner ((~~of public lands~~)) on  
30 behalf of the state, with ((~~his~~)) the seal of the commissioner's office  
31 attached, and in a form to be prescribed by the attorney general, and  
32 under those terms and conditions provided in RCW ((~~79.01.228~~))  
33 79.11.200.

1           **Sec. 126.** RCW 79.90.290 and 1982 1st ex.s. c 21 s 35 are each  
2 amended to read as follows:

3           When valuable materials (~~((shall have been))~~) are sold separate from  
4 state-owned aquatic lands and the purchase price is paid in full, the  
5 department (~~((of natural resources))~~) shall cause a bill of sale, signed  
6 by the commissioner (~~((of public lands))~~) and attested by the seal of  
7 (~~((his))~~) the commissioner's office, setting forth the time within which  
8 (~~((such))~~) the material shall be removed. The bill of sale shall be  
9 issued to the purchaser and shall be recorded in the department's  
10 Olympia office (~~((of the commissioner of public lands))~~), upon the  
11 payment of the fee provided for in this chapter.

12           **Sec. 127.** RCW 79.90.300 and 1991 c 322 s 26 are each amended to  
13 read as follows:

14           The department (~~((of natural resources))~~), upon application by any  
15 person or when determined by the department to be in the best interest  
16 of the state, may enter into a contract or lease providing for the  
17 removal and sale of rock, gravel, sand, and silt, or other valuable  
18 materials located within or upon beds of navigable waters, or upon any  
19 state-owned tidelands or shorelands (~~((belonging to the state))~~) and  
20 providing for payment to be made (~~((therefor))~~) by such royalty as the  
21 department may fix, by negotiation, by sealed bid, or at public  
22 auction. If application is made for the purchase of any valuable  
23 material situated within or upon state-owned aquatic lands the  
24 department shall inspect and appraise the value of the material in the  
25 application.

26           **Sec. 128.** RCW 79.90.310 and 1982 1st ex.s. c 21 s 37 are each  
27 amended to read as follows:

28           Each application made pursuant to RCW 79.90.300 (as recodified by  
29 this act) shall set forth the estimated quantity and kind of materials  
30 desired to be removed and shall be accompanied by a map or plat showing  
31 the area from which the applicant wishes to remove (~~((such))~~) the  
32 materials. The department (~~((of natural resources))~~) may in its  
33 discretion include in any lease or contract entered into pursuant to  
34 RCW 79.90.300 through 79.90.320 (as recodified by this act), (~~((such))~~)  
35 terms and conditions deemed necessary by the department to protect the  
36 interests of the state. In each (~~((such))~~) lease or contract the

1 department shall provide for a right of forfeiture by the state, upon  
2 a failure to operate under the lease or contract or pay royalties or  
3 rent for periods therein stipulated, and the department shall require  
4 a bond with a surety company authorized to transact a surety business  
5 in this state, as surety to secure the performance of the terms and  
6 conditions of ((such)) the contract or lease including the payment of  
7 royalties. The right of forfeiture shall be exercised by entry of a  
8 declaration of forfeiture in the records of the department. The amount  
9 of rock, gravel, sand, or silt taken under the contract or lease shall  
10 be reported monthly by the purchaser to the department and payment  
11 ((therefor)) made on the basis of the royalty provided in the lease or  
12 contract.

13 **Sec. 129.** RCW 79.90.320 and 1982 1st ex.s. c 21 s 38 are each  
14 amended to read as follows:

15 The department ((of natural resources)) may inspect and audit  
16 books, contracts, and accounts of each person removing rock, gravel,  
17 sand, or silt pursuant to any ((such)) lease or contract under RCW  
18 79.90.300 and 79.90.310 (as recodified by this act) and make such other  
19 investigation and secure or receive any other evidence necessary to  
20 determine whether or not the state is being paid the full amount  
21 payable to it for the removal of ((such)) the materials.

22 **Sec. 130.** RCW 79.90.325 and 2003 c 334 s 602 are each amended to  
23 read as follows:

24 Whenever, pursuant to RCW 79.15.300, the ((commissioner))  
25 department enters into a contract for the sale and removal of rock,  
26 gravel, sand, or silt out of a riverbed, the ((commissioner))  
27 department shall, when establishing a royalty, take into consideration  
28 flood protection value to the public that will arise as a result of  
29 ((such)) the removal.

30 **Sec. 131.** RCW 79.90.330 and 2003 c 334 s 603 are each amended to  
31 read as follows:

32 The department may issue permits and leases for prospecting, placer  
33 mining contracts, and contracts for the mining of valuable minerals and  
34 specific materials, except rock, gravel, sand, silt, coal, or  
35 hydrocarbons, upon and from any state-owned aquatic lands ((belonging

1 ~~to the state~~)), or which have been sold and the minerals (~~thereon~~)  
2 reserved by the state in tracts not to exceed six hundred forty acres  
3 or an entire government-surveyed section. The procedures contained at  
4 RCW 79.14.300 through 79.14.450, inclusive, shall apply (~~thereto~~)).

5 **Sec. 132.** RCW 79.90.340 and 2003 c 334 s 604 are each amended to  
6 read as follows:

7 The department is authorized to execute option contracts for  
8 prospecting purposes and leases for the mining and extraction of coal  
9 from any state-owned aquatic lands (~~owned by the state~~) or from which  
10 it may (~~hereafter~~) acquire title, or from any aquatic lands sold or  
11 leased by the state the minerals of which have been reserved by the  
12 state. The procedures contained at RCW 79.14.470 through 79.14.580,  
13 inclusive, shall apply (~~thereto~~)).

14 **Sec. 133.** RCW 79.90.350 and 1982 1st ex.s. c 21 s 41 are each  
15 amended to read as follows:

16 Whenever the holder of any contract to purchase any state-owned  
17 tidelands or shorelands (~~belonging to the state~~), otherwise permitted  
18 under RCW 79.94.150 (as recodified by this act) to be sold, or the  
19 holder of any lease of any (~~such~~) lands, except for mining of  
20 valuable minerals, or coal, or extraction of petroleum or gas, shall  
21 surrender the (~~same~~) contract or lease to the department (~~of natural~~  
22 ~~resources~~) with the request to have it divided into two or more  
23 contracts or leases, the department may divide the (~~same~~) contract or  
24 lease and issue new contracts(~~(τ)~~) or leases(~~(τ)~~ ~~PROVIDED, That~~).  
25 However, no new contract or lease shall issue while there is due and  
26 unpaid any rental, taxes, or assessments on the land held under  
27 (~~such~~) the contract or lease, nor in any case where the department is  
28 of the opinion that the state's security would be impaired or  
29 endangered by the proposed division. For all (~~such~~) new  
30 contracts(~~(τ)~~) or leases(~~(τ)~~) a fee as determined by the board (~~of~~  
31 ~~natural resources~~) for each new contract or lease issued, shall be  
32 paid by the applicant and (~~such~~) the fee shall be paid into the state  
33 treasury to the resource management cost account in the general fund,  
34 pursuant to RCW 79.64.020.

1       **Sec. 134.** RCW 79.90.360 and 1982 1st ex.s. c 21 s 42 are each  
2 amended to read as follows:

3       Any sale or lease of state-owned tidelands or shorelands  
4 (~~belonging to the state~~), otherwise permitted under RCW 79.94.150 (as  
5 recodified by this act) to be sold, made by mistake, or not in  
6 accordance with law, or obtained by fraud or misrepresentation, shall  
7 be void, and the contract of purchase(~~(τ)~~) or lease, issued (~~thereon~~)  
8 shall be of no effect, and the holder of (~~such~~) the contract(~~(τ)~~) or  
9 lease, shall be required to surrender the (~~same~~) contract or lease to  
10 the department (~~of natural resources~~), which, except in the case of  
11 fraud on the part of the purchaser, or lessee, shall cause the money  
12 paid on account of (~~such~~) the surrendered contract(~~(τ)~~) or lease(~~(τ)~~)  
13 to be refunded to the holder (~~thereof~~), provided the (~~same~~) money  
14 has not been paid into the state treasury.

15       **Sec. 135.** RCW 79.90.370 and 1982 1st ex.s. c 21 s 43 are each  
16 amended to read as follows:

17       All contracts of purchase of state-owned tidelands or shorelands  
18 (~~belonging to the state~~), otherwise permitted under RCW 79.94.150 (as  
19 recodified by this act) to be sold, and all leases of state-owned  
20 tidelands, shorelands, or beds of navigable waters (~~belonging to the~~  
21 ~~state~~) issued by the department (~~of natural resources~~) shall be  
22 assignable in writing by the contract holder or lessee. The assignee  
23 shall be subject to the provisions of law applicable to the  
24 purchaser(~~(τ)~~) or lessee(~~(τ)~~) of whom (~~he is~~) they are the assignee,  
25 and shall have the same rights in all respects as the original  
26 purchaser(~~(τ)~~) or lessee(~~(τ)~~) of the lands, but only if the assignment  
27 is first approved by the department and entered upon the records in the  
28 (~~office of the commissioner of public lands~~) department.

29       **Sec. 136.** RCW 79.90.390 and 1982 1st ex.s. c 21 s 45 are each  
30 amended to read as follows:

31       Whenever improvements have been made on state-owned tidelands,  
32 shorelands, or beds of navigable waters, in front of cities or towns,  
33 prior to the location of harbor lines in front of (~~such~~) the cities  
34 or towns, and the reserved harbor area as located include (~~such~~) the  
35 improvements, no (~~distrain~~) seizure or sale of (~~such~~) the  
36 improvements for taxes shall be had until six months after (~~said~~) the



1 lands have been leased or offered for lease(~~(:—PROVIDED, That)~~).  
2 However, this section shall not affect or impair the lien for taxes on  
3 (~~said~~) the improvements.

4 **Sec. 137.** RCW 79.90.400 and 2003 c 334 s 606 are each amended to  
5 read as follows:

6 Any applicant to purchase(~~(r)~~) or lease(~~(r)~~) any state-owned  
7 aquatic lands (~~(of the state)~~), or any valuable materials (~~(thereon)~~)  
8 on state-owned aquatic lands, and any person whose property rights or  
9 interest will be affected by (~~(such)~~) the sale or lease, feeling  
10 himself or herself aggrieved by any order or decision of the board, or  
11 the commissioner, concerning the (~~(same)~~) order or decision, may appeal  
12 (~~(therefrom)~~) in the manner provided in RCW 79.02.030.

13 **Sec. 138.** RCW 79.90.410 and 1982 1st ex.s. c 21 s 47 are each  
14 amended to read as follows:

15 The department (~~(of natural resources)~~) may review and reconsider  
16 any of its official acts relating to (~~(the)~~) state-owned aquatic lands  
17 (~~(of the state)~~) until such time as a lease, contract, or deed (~~(shall~~  
18 ~~have been)~~) is made, executed, and finally issued, and the department  
19 may recall any lease, contract, or deed issued for the purpose of  
20 correcting mistakes or errors, or supplying omissions.

21 **Sec. 139.** RCW 79.90.450 and 1984 c 221 s 1 are each amended to  
22 read as follows:

23 The legislature finds that state-owned aquatic lands are a finite  
24 natural resource of great value and an irreplaceable public heritage.  
25 The legislature recognizes that the state owns these aquatic lands in  
26 fee and has delegated to the department (~~(of natural resources)~~) the  
27 responsibility to manage these lands for the benefit of the public.  
28 The legislature finds that water-dependent industries and activities  
29 have played a major role in the history of the state and will continue  
30 to be important in the future. The legislature finds that revenues  
31 derived from leases of state-owned aquatic lands should be used to  
32 enhance opportunities for public recreation, shoreline access,  
33 environmental protection, and other public benefits associated with the  
34 aquatic lands of the state. The legislature further finds that aquatic  
35 lands are faced with conflicting use demands. (~~(The purpose of RCW~~

1 ~~79.90.450 through 79.90.545 is to articulate a management philosophy to~~  
2 ~~guide the exercise of the state's ownership interest and the exercise~~  
3 ~~of the department's management authority, and to establish standards~~  
4 ~~for determining equitable and predictable lease rates for users of~~  
5 ~~state-owned aquatic lands.))~~

6 **Sec. 140.** RCW 79.90.455 and 1984 c 221 s 2 are each amended to  
7 read as follows:

8 The management of state-owned aquatic lands shall be in conformance  
9 with constitutional and statutory requirements. The manager of state-  
10 owned aquatic lands shall strive to provide a balance of public  
11 benefits for all citizens of the state. The public benefits provided  
12 by state-owned aquatic lands are varied and include:

- 13 (1) Encouraging direct public use and access;
- 14 (2) Fostering water-dependent uses;
- 15 (3) Ensuring environmental protection;
- 16 (4) Utilizing renewable resources.

17 Generating revenue in a manner consistent with subsections (1)  
18 through (4) of this section is a public benefit.

19 **Sec. 141.** RCW 79.90.456 and 2003 c 334 s 541 are each amended to  
20 read as follows:

21 The department shall foster the commercial and recreational use of  
22 the aquatic environment for production of food, fibre, income, and  
23 public enjoyment from state-owned aquatic lands (~~under its~~  
24 ~~jurisdiction~~) and from associated waters, and to this end the  
25 department may develop and improve production and harvesting of  
26 seaweeds and sealife attached to or growing on aquatic land or  
27 contained in aquaculture containers, but nothing in this section  
28 (~~shall~~) alters the responsibility of other state agencies for their  
29 normal management of fish, shellfish, game, and water.

30 **Sec. 142.** RCW 79.90.457 and 1995 c 357 s 1 are each amended to  
31 read as follows:

32 The department (~~of natural resources~~) may exchange state-owned  
33 tidelands and shorelands with private and other public landowners if  
34 the exchange is in the public interest and will actively contribute to  
35 the public benefits established in RCW 79.90.455 (as recodified by this

1 act). The board (~~(of natural resources)~~) shall adopt rules which  
2 establish criteria for determining when a proposed exchange is in the  
3 public interest and actively contributes to the public benefits  
4 established in RCW 79.90.455 (as recodified by this act). The  
5 department may not exchange state-owned harbor areas or waterways.

6 **Sec. 143.** RCW 79.90.460 and 1984 c 221 s 3 are each amended to  
7 read as follows:

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

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

21 (3) The department shall consider the natural values of state-owned  
22 aquatic lands as wildlife habitat, natural area preserve,  
23 representative ecosystem, or spawning area prior to issuing any initial  
24 lease or authorizing any change in use. The department may withhold  
25 from leasing lands which it finds to have significant natural values,  
26 or may provide within any lease for the protection of such values.

27 (4) The power to lease state-owned aquatic lands is vested in the  
28 department (~~(of natural resources)~~), which has the authority to make  
29 leases upon terms, conditions, and length of time in conformance with  
30 the state Constitution and chapters 79.90 through 79.96 RCW (as  
31 recodified by this act).

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

35 NEW SECTION. **Sec. 144.** Use for public parks or public recreation  
36 purposes shall be granted without charge if the state-owned aquatic

1 lands and improvements are available to the general public on a  
2 first-come, first-served basis and are not managed to produce a profit  
3 for the operator or a concessionaire.

4 **Sec. 145.** RCW 79.90.470 and 2002 c 152 s 2 are each amended to  
5 read as follows:

6 ~~((1) The use of state-owned aquatic lands for public utility lines  
7 owned by a governmental entity shall be granted by an agreement,  
8 permit, or other instrument if the use is consistent with the purposes  
9 of RCW 79.90.450 through 79.90.460 and does not obstruct navigation or  
10 other public uses. The department may recover only its reasonable  
11 direct administrative costs incurred in processing and approving the  
12 request or application, and reviewing plans for construction of public  
13 utility lines. For purposes of this section, "direct administrative  
14 costs" means the cost of hours worked directly on an application or  
15 request, based on salaries and benefits, plus travel reimbursement and  
16 other actual out-of-pocket costs. Direct administrative costs  
17 recovered by the department must be deposited into the resource  
18 management cost account. Use for public parks or public recreation  
19 purposes shall be granted without charge if the aquatic lands and  
20 improvements are available to the general public on a first-come,  
21 first-served basis and are not managed to produce a profit for the  
22 operator or a concessionaire.))~~ The department may lease state-owned  
23 tidelands that are in front of state parks only with the approval of  
24 the state parks and recreation commission. The department may lease  
25 bedlands in front of state parks only after the department has  
26 consulted with the state parks and recreation commission.

27 ~~((2) The use of state-owned aquatic lands for local public utility  
28 lines owned by a nongovernmental entity will be granted by easement if  
29 the use is consistent with the purpose of RCW 79.90.450 through  
30 79.90.460 and does not obstruct navigation or other public uses. The  
31 total charge for the easement will be determined under RCW 79.90.575.~~

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

1       **Sec. 146.** RCW 79.90.475 and 1984 c 221 s 6 are each amended to  
2 read as follows:

3       (1) Upon request of a port district, the department and port  
4 district may enter into an agreement authorizing the port district to  
5 manage state-owned aquatic lands abutting or used in conjunction with  
6 and contiguous to uplands owned, leased, or otherwise managed by a port  
7 district, for port purposes as provided in Title 53 RCW. ~~((Such))~~ The  
8 agreement shall include, but not be limited to, provisions defining the  
9 specific area to be managed, the term, conditions of occupancy,  
10 reservations, periodic review, and other conditions to ensure  
11 consistency with the state Constitution and the policies of this  
12 chapter. If a port district acquires operating management, lease, or  
13 ownership of real property which abuts state-owned aquatic lands  
14 currently under lease from the state to a person other than the port  
15 district, the port district shall manage ~~((such))~~ state-owned aquatic  
16 lands if: ~~((+1))~~ (a) The port district acquires the leasehold  
17 interest in accordance with state law, or ~~((+2))~~ (b) the current  
18 lessee and the department agree to termination of the current lease to  
19 accommodate management by the port. The administration of state-owned  
20 aquatic lands covered by a management agreement shall be consistent  
21 with the aquatic land policies of chapters 79.90 through 79.96 RCW (as  
22 recodified by this act) and the implementing ~~((regulations))~~ rules  
23 adopted by the department. The administrative procedures for  
24 management of the lands shall be those of Title 53 RCW.

25       (2) No rent ~~((shall be))~~ is due the state for the use of state-  
26 owned aquatic lands managed under this section for water-dependent or  
27 water-oriented uses. If a port district manages state-owned aquatic  
28 lands under this section and either leases or otherwise permits any  
29 person to use ~~((such))~~ the lands, the rental fee attributable to  
30 ~~((such))~~ the state-owned aquatic land only shall be comparable to the  
31 rent charged lessees for the same or similar uses by the department~~((+~~  
32 ~~PROVIDED, That))~~. However, a port district need not itemize for the  
33 lessee any charges for state-owned aquatic lands improved by the port  
34 district for use by carriers by water. If a port leases state-owned  
35 aquatic lands to any person for nonwater-dependent use, eighty-five  
36 percent of the revenue attributable to the rent of the state-owned  
37 aquatic land only shall be paid to the state.

1       (3) Upon application for a management agreement, and so long as the  
2 application is pending and being diligently pursued, no rent (~~shall~~  
3 ~~be~~) is due the department for the lease by the port district of state-  
4 owned aquatic lands included within the application for water-dependent  
5 or water-oriented uses.

6       (4) The department and representatives of the port industry shall  
7 develop a proposed model management agreement which shall be used as  
8 the basis for negotiating the management agreements required by this  
9 section. The model management agreement shall be reviewed and approved  
10 by the board (~~of natural resources~~).

11       **Sec. 147.** RCW 79.90.480 and 2003 c 310 s 1 are each amended to  
12 read as follows:

13       Except as otherwise provided by this chapter, annual rent rates for  
14 the lease of state-owned aquatic lands for water-dependent uses shall  
15 be determined as follows:

16       (1)(a) The assessed land value, exclusive of improvements, as  
17 determined by the county assessor, of the upland tax parcel used in  
18 conjunction with the leased area or, if there are no such uplands, of  
19 the nearest upland tax parcel used for water-dependent purposes divided  
20 by the parcel area equals the upland value.

21       (b) The upland value times the area of leased aquatic lands times  
22 thirty percent equals the aquatic land value.

23       (2) As of July 1, 1989, and each July 1<sup>st</sup> thereafter, the  
24 department shall determine the real capitalization rate to be applied  
25 to water-dependent aquatic land leases commencing or being adjusted  
26 under subsection (3)(a) of this section in that fiscal year. The real  
27 capitalization rate shall be the real rate of return, except that until  
28 June 30, 1989, the real capitalization rate shall be five percent and  
29 thereafter it shall not change by more than one percentage point in any  
30 one year or be more than seven percent or less than three percent.

31       (3) The annual rent shall be:

32       (a) Determined initially, and redetermined every four years or as  
33 otherwise provided in the lease, by multiplying the aquatic land value  
34 times the real capitalization rate; and

35       (b) Adjusted by the inflation rate each year in which the rent is  
36 not determined under (~~subsection (3)~~) (a) of this (~~section~~)  
37 subsection.

1 (4) If the upland parcel used in conjunction with the leased area  
2 is not assessed or has an assessed value inconsistent with the purposes  
3 of the lease, the nearest comparable upland parcel used for similar  
4 purposes shall be substituted and the lease payment determined in the  
5 same manner as provided in this section.

6 (5) For the purposes of this section, "upland tax parcel" is a tax  
7 parcel, some portion of which has upland characteristics. Filled  
8 tidelands or shorelands with upland characteristics which abut state-  
9 owned aquatic land shall be considered as uplands in determining  
10 aquatic land values.

11 (6) The annual rent for filled state-owned aquatic lands that have  
12 the characteristics of uplands shall be determined in accordance with  
13 RCW 79.90.500 (as recodified by this act) in those cases in which the  
14 state owns the fill and has a right to charge for the fill.

15 ~~(7)((a) For leases for marina uses only, as of July 1, 2004, lease~~  
16 ~~rates will be a percentage of the annual gross revenues generated by~~  
17 ~~that marina. It is the intent of the legislature that additional~~  
18 ~~legislation be enacted prior to July 1, 2004, to establish the~~  
19 ~~percentage of gross revenues that will serve as the basis for a~~  
20 ~~marina's rent and a definition of gross revenues. Annual rent must be~~  
21 ~~recalculated each year based upon the marina's gross revenues from the~~  
22 ~~previous year, as reported to the department consistent with this~~  
23 ~~subsection (7).~~

24 ~~(b) By December 31, 2003, the department will develop a recommended~~  
25 ~~formula for calculating marina rents consistent with this subsection~~  
26 ~~(7) and report the recommendation to the legislature. The formula~~  
27 ~~recommended by the department must include a percentage or a range of~~  
28 ~~percentages of gross revenues, a system for implementing such~~  
29 ~~percentages, and the designation of revenue sources to be considered~~  
30 ~~for rent calculation purposes. The department must also ensure, given~~  
31 ~~the available information, that the rent formula recommended by the~~  
32 ~~department is initially calculated to maintain state proceeds from~~  
33 ~~marina rents as of July 1, 2003, and that if the department does not~~  
34 ~~receive income reporting forms representing at least ninety percent of~~  
35 ~~the projected annual marina revenue and at least seventy five percent~~  
36 ~~of all marinas, the current model for calculating marina rents, as~~  
37 ~~described in subsections (1) through (6) of this section, will continue~~  
38 ~~to be the method used to calculate marina rents, and the income method,~~

1 as described in (a) of this subsection, will not be applied. In  
2 addition to the percent of marina income, the department shall  
3 determine its direct administrative costs (cost of hours worked  
4 directly on applications and leases, based on salaries and benefits,  
5 plus travel reimbursement and other actual out-of-pocket costs) to  
6 calculate, audit, execute, and monitor marina leases, and shall recover  
7 these costs from lessees. All administrative costs recovered by the  
8 department must be deposited into the resource management cost account  
9 created in RCW 79.64.020. Prior to making recommendations to the  
10 legislature, a work session consisting of the department, marina  
11 owners, and stakeholders must be convened to discuss the rate setting  
12 criteria. The legislature directs the department to deliver  
13 recommendations to the legislature by December 2003, including any  
14 minority reports by the participating parties.

15 (c) When developing its recommendation for a marina lease formula  
16 consistent with this subsection (7), the department shall ensure that  
17 the percentage of revenue established is applied to the income of the  
18 direct lessee, as well as to the income of any person or entity that  
19 subleases, or contracts to operate the marina, with the direct lessee,  
20 less the amount paid by the sublease to the direct lessee.

21 (d) All marina operators under lease with the department must  
22 return to the department an income reporting form, provided by the  
23 department, and certified by a licensed certified public accountant,  
24 before July 1, 2003, and again annually on a date set by the  
25 department. On the income reporting form, the department may require  
26 a marina to disclose to the department any information about income  
27 from all marina-related sources, excluding restaurants and bars. All  
28 income reports submitted to the department are subject to either audit  
29 or verification, or both, by the department, and the department may  
30 inspect all of the lessee's books, records, and documents, including  
31 state and federal income tax returns relating to the operation of the  
32 marina and leased aquatic lands at all reasonable times. If the lessee  
33 fails to submit the required income reporting form once the new method  
34 for calculating marina rents is effective, the department may conduct  
35 an audit at the lessee's expense or cancel the lease.

36 (e) Initially, the marina rent formula developed by the department  
37 pursuant to (b) of this subsection will be applied to each marina on  
38 its anniversary date, beginning on July 1, 2004, and will be based on



1 that marina's 2003 income information. Thereafter, rents will be  
2 recalculated each year, based on the marina's gross revenue from the  
3 previous year.

4 ~~(f) No marina lease may be for less than five hundred dollars plus~~  
5 ~~direct administrative costs.~~

6 (+8)) For all new leases for other water-dependent uses, issued  
7 after December 31, 1997, the initial annual water-dependent rent shall  
8 be determined by the methods in subsections (1) through (6) of this  
9 section.

10 **Sec. 148.** RCW 79.90.485 and 1984 c 221 s 8 are each amended to  
11 read as follows:

12 (1) Until June 30, 1989, the log storage rents per acre shall be  
13 the average rents the log storage leases in effect on July 1, 1984,  
14 would have had under the formula for water-dependent leases as set out  
15 in RCW 79.90.480 (as recodified by this act), except that the aquatic  
16 land values shall be thirty percent of the assessed value of the  
17 abutting upland parcels exclusive of improvements, if they are  
18 assessed. If the abutting upland parcel is not assessed, the nearest  
19 assessed upland parcel shall be used.

20 (2) On July 1, 1989, and every four years thereafter, the base log  
21 storage rents established under subsection (1) of this section shall be  
22 adjusted in proportion to the change in average water-dependent lease  
23 rates per acre since the date the log storage rates were last  
24 established under this section.

25 (3) The annual rent shall be adjusted by the inflation rate each  
26 year in which the rent is not determined under subsection (1) or (2) of  
27 this section.

28 (4) If the lease provides for seasonal use so that portions of the  
29 leased area are available for public use without charge part of the  
30 year, the annual rent may be discounted to reflect such public use in  
31 accordance with rules adopted by the board (~~(of natural resources)~~).

32 **Sec. 149.** RCW 79.90.490 and 1984 c 221 s 9 are each amended to  
33 read as follows:

34 (1) For leases in effect on October 1, 1984, the rent shall remain  
35 at the annual rate in effect on September 30, 1984, until the next  
36 lease anniversary date, at which time rent established under RCW

1 79.90.480 or 79.90.485 (as recodified by this act) shall become  
2 effective. If the first rent amount established is an increase of more  
3 than one hundred dollars and is more than thirty-three percent above  
4 the rent in effect on September 30, 1984, the annual rent shall not  
5 increase in any year by more than thirty-three percent of the  
6 difference between the previous rent and the rent established under RCW  
7 79.90.480 or 79.90.485 (as recodified by this act). If the first rent  
8 amount established under RCW 79.90.480 or 79.90.485 (as recodified by  
9 this act) is more than thirty-three percent below the rent in effect on  
10 September 30, 1984, the annual rent shall not decrease in any year by  
11 more than thirty-three percent of the difference between the previous  
12 rent and the rent established under RCW 79.90.480 or 79.90.485 (as  
13 recodified by this act). Thereafter, notwithstanding any other  
14 provision of this title, the annual rental established under RCW  
15 79.90.480 or 79.90.485 (as recodified by this act) shall not increase  
16 more than fifty percent in any year.

17 (2) This section applies only to leases of state-owned aquatic  
18 lands subject to RCW 79.90.480 or 79.90.485 (as recodified by this  
19 act).

20 **Sec. 150.** RCW 79.90.500 and 1984 c 221 s 11 are each amended to  
21 read as follows:

22 Leases for nonwater-dependent uses of state-owned aquatic lands  
23 shall be charged the fair market rental value of the leased lands,  
24 determined in accordance with appraisal techniques specified by rule.  
25 However, rents for nonwater-dependent uses shall always be more than  
26 the amount that would be charged as rent for a water-dependent use of  
27 the same parcel. (~~(Rents and fees for the mining or other recovery of~~  
28 ~~mineral or geothermal resources shall be established through~~  
29 ~~competitive bidding, negotiations, or as otherwise provided by~~  
30 ~~statute.))~~

31 NEW SECTION. **Sec. 151.** Rents and fees for the mining or other  
32 recovery of mineral or geothermal resources shall be established  
33 through competitive bidding, negotiations, or as otherwise provided by  
34 statute.

1       **Sec. 152.** RCW 79.90.505 and 1984 c 221 s 12 are each amended to  
2 read as follows:

3       If water-dependent and nonwater-dependent uses occupy separate  
4 portions of the same leased parcel of state-owned aquatic land, the  
5 rental rate for each use shall be that established for (~~such~~) the use  
6 by this chapter, prorated in accordance with the proportion of the  
7 whole parcel that each use occupies. If water-dependent and nonwater-  
8 dependent uses occupy the same portion of a leased parcel of state-  
9 owned aquatic land, the rental rate for (~~such~~) the parcel shall be  
10 subject to negotiation with the department taking into account the  
11 proportion of the improvements each use occupies.

12       **Sec. 153.** RCW 79.90.515 and 1984 c 221 s 14 are each amended to  
13 read as follows:

14       (1) Except as agreed between the department and the lessee prior to  
15 construction of the improvements, rent shall not be charged under any  
16 lease of state-owned aquatic lands for improvements, including fills,  
17 authorized by the department or installed by the lessee or its  
18 predecessor before June 1, 1971, so long as the lands remain under a  
19 lease or succession of leases without a period of three years in which  
20 no lease is in effect or a bona fide application for a lease is  
21 pending.

22       (2) If improvements were installed under a good faith belief that  
23 a state-owned aquatic lands lease was not necessary, rent shall not be  
24 charged for the improvements if, within ninety days after specific  
25 written notification by the department that a lease is required, the  
26 owner either applies for a lease or files suit to determine if a lease  
27 is required.

28       **Sec. 154.** RCW 79.90.520 and 1991 c 64 s 1 are each amended to read  
29 as follows:

30       The manager shall, by rule, provide for an administrative review of  
31 any state-owned aquatic land rent proposed to be charged. The rules  
32 shall require that the lessee or applicant for release file a request  
33 for review within thirty days after the manager has notified the lessee  
34 or applicant of the rent due. For leases issued by the department, the  
35 final authority for the review rests with the board (~~of natural~~  
36 ~~resources~~). For leases managed under RCW 79.90.475 (as recodified by

1 this act), the final authority for the review rests with the  
2 appropriate port commission. If the request for review is made within  
3 thirty days after the manager's final determination as to the rental,  
4 the lessee may pay rent at the preceding year's rate pending completion  
5 of the review, and shall pay any additional rent or be entitled to a  
6 refund, with interest thirty days after announcement of the decision.  
7 The interest rate shall be fixed(~~(, from time to time,)~~) by rule  
8 adopted by the board (~~(of natural resources)~~) and shall not be less  
9 than six percent per annum. Nothing in this section abrogates the  
10 right of an aggrieved party to pursue legal remedies. For purposes of  
11 this section, "manager" is the department except where state-owned  
12 aquatic lands are managed by a port district, in which case "manager"  
13 is the port district.

14 **Sec. 155.** RCW 79.90.535 and 1991 c 64 s 2 are each amended to read  
15 as follows:

16 The interest rate and all interest rate guidelines shall be  
17 fixed(~~(, from time to time,)~~) by rule adopted by the board (~~(of natural~~  
18 ~~resources)~~) and shall not be less than six percent per annum.

19 **Sec. 156.** RCW 79.90.540 and 1984 c 221 s 19 are each amended to  
20 read as follows:

21 The department shall adopt such rules as are necessary to carry out  
22 the purposes of RCW 79.90.450 through 79.90.535 (as recodified by this  
23 act), specifically including criteria for determining under RCW  
24 79.90.480(4) (as recodified by this act) when an abutting upland parcel  
25 has been inappropriately assessed and for determining the nearest  
26 comparable upland parcel used for water-dependent uses.

27 **Sec. 157.** RCW 79.90.545 and 1984 c 221 s 20 are each amended to  
28 read as follows:

29 Nothing in this chapter or RCW 79.93.040 or 79.93.060 (as  
30 recodified by this act) shall modify or affect any existing legal  
31 rights involving the boundaries of, title to, or vested property rights  
32 in aquatic lands or waterways. Nothing in this chapter shall modify,  
33 alter, or otherwise affect the applicability of chapter 90.58 RCW.

1       **Sec. 158.** RCW 79.90.550 and 1987 c 259 s 1 are each amended to  
2 read as follows:

3       The legislature finds that the department (~~((of natural resources))~~)  
4 provides, manages, and monitors aquatic land dredged material disposal  
5 sites on state-owned aquatic lands for materials dredged from rivers,  
6 harbors, and shipping lanes. These disposal sites are approved through  
7 a cooperative planning process by the departments of natural resources  
8 and ecology, the United States army corps of engineers, and the United  
9 States environmental protection agency in cooperation with the Puget  
10 Sound (~~((water quality authority))~~) action team. These disposal sites  
11 are essential to the commerce and well-being of the citizens of the  
12 state of Washington. Management and environmental monitoring of these  
13 sites are necessary to protect environmental quality and to assure  
14 appropriate use of state-owned aquatic lands. The creation of an  
15 aquatic land dredged material disposal site account is a reasonable  
16 means to enable and facilitate proper management and environmental  
17 monitoring of these disposal sites.

18       **Sec. 159.** RCW 79.90.555 and 1991 sp.s. c 13 s 63 are each amended  
19 to read as follows:

20       The aquatic land dredged material disposal site account is  
21 (~~((hereby))~~) established in the state treasury. The account shall  
22 consist of funds appropriated to the account; funds transferred or paid  
23 to the account pursuant to settlements; court or administrative agency  
24 orders or judgments; gifts and grants to the account; and all funds  
25 received by the department (~~((of natural resources))~~) from users of  
26 aquatic land dredged material disposal sites. After appropriation,  
27 moneys in the fund may be spent only for the management and  
28 environmental monitoring of aquatic land dredged material disposal  
29 sites. The account is subject to the allotment procedure provided  
30 under chapter 43.88 RCW.

31       **Sec. 160.** RCW 79.90.560 and 1987 c 259 s 3 are each amended to  
32 read as follows:

33       The department (~~((of natural resources))~~) shall(~~((, from time to~~  
34 ~~time,))~~) estimate the costs of site management and environmental  
35 monitoring at aquatic land dredged material disposal sites and may, by  
36 rule, establish fees for use of (~~((such))~~) the sites in amounts no

1 greater than necessary to cover the estimated costs. All such revenues  
2 shall be placed in the aquatic land dredged material disposal site  
3 account under RCW 79.90.555 (as recodified by this act).

4 **Sec. 161.** RCW 79.90.565 and 1995 c 399 s 210 are each amended to  
5 read as follows:

6 After consultation with the director of community, trade, and  
7 economic development, the department (~~(of natural resources)~~) may enter  
8 into agreements, leases, or other conveyances for archaeological  
9 activities on state-owned aquatic lands. (~~(Such)~~) The agreements,  
10 leases, or other conveyances may contain (~~(such)~~) those conditions as  
11 are required for the department (~~(of natural resources)~~) to comply with  
12 its legal rights and duties. All (~~(such)~~) agreements, leases, or other  
13 conveyances, shall be issued in accordance with the terms of chapters  
14 79.90 through 79.96 RCW (as recodified by this act).

15 **Sec. 162.** RCW 79.90.575 and 2002 c 152 s 3 are each amended to  
16 read as follows:

17 (1) Until July 1, 2008, the charge for the term of an easement  
18 granted under RCW 79.90.470(2) (as recodified by this act) will be  
19 determined as follows and will be paid in advance upon grant of the  
20 easement:

21 (a) Five thousand dollars for individual easement crossings that  
22 are no longer than one mile in length;

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

26 (c) Twenty thousand dollars for individual easement crossings that  
27 are five miles or more in length.

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

35 (3) The term of the easement is thirty years.

1 (4) 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 (5) Applicants under RCW 79.90.470(2) (as recodified by this act)  
12 providing a residence with an individual service connection for  
13 electrical, natural gas, cable television, or telecommunications  
14 service are not required to pay the charge for the easement under  
15 subsection (1) of this section but shall pay administrative costs under  
16 subsection (4) of this section.

17 (6) A final decision on applications for an easement must be made  
18 within one hundred twenty days after the department receives the  
19 completed application and after all applicable regulatory permits for  
20 the aquatic easement have been acquired. This subsection applies to  
21 applications submitted before June 13, 2002, as well as to applications  
22 submitted on or after June 13, 2002. Upon request of the applicant,  
23 the department may reach a decision on an application within sixty days  
24 and charge an additional fee for an expedited processing. The fee for  
25 an expedited processing is the greater of: (a) Ten percent of the  
26 combined total of the easement charge and direct administrative costs;  
27 or (b) the cost of staff overtime, calculated at time and one-half,  
28 associated with the expedited processing.

29 **Sec. 163.** RCW 79.90.580 and 2003 c 176 s 1 are each amended to  
30 read as follows:

31 (1) The department is authorized to accept gifts of aquatic land  
32 within the state, including tidelands, shorelands, harbor areas, and  
33 the beds of navigable waters, which shall become part of the state-  
34 owned aquatic land base. Consistent with RCW 79.90.455 (as recodified  
35 by this act), the department must develop procedures and criteria that  
36 state the manner in which gifts of aquatic land, received after July  
37 27, 2003, may occur. No gift of aquatic land may be accepted until:

1 (a) An appraisal of the value of the land has been prepared; (b) an  
2 environmental site assessment has been conducted; and (c) the title  
3 property report has been examined and approved by the attorney general  
4 of the state. The results of the appraisal, the site assessment, and  
5 the examination of the title property report must be submitted to the  
6 board (~~(of natural resources)~~) before the department may accept a gift  
7 of aquatic land.

8 (2) The authorization to accept gifts of aquatic land within the  
9 state extends to aquatic land accepted as gifts prior to July 27, 2003.

10 **PART 2**

11 **AQUATIC LANDS--EASEMENTS AND RIGHTS OF WAY**

12 **Sec. 201.** RCW 79.91.010 and 2003 c 334 s 607 are each amended to  
13 read as follows:

14 All tidelands and shorelands originally belonging to the state, and  
15 which were granted, sold, or leased at any time after June 15, 1911,  
16 and which contain any valuable materials or are contiguous to or in  
17 proximity of state lands or other tidelands or shorelands which contain  
18 any valuable materials, shall be subject to the right of the state or  
19 any grantee or lessee (~~(thereof)~~) who has acquired (~~(such)~~) the other  
20 lands, or any valuable materials thereon, after June 15, 1911, to  
21 acquire the right of way over (~~(such)~~) the lands so granted, sold, or  
22 leased, for private railroads, skid roads, flumes, canals,  
23 watercourses, or other easements for the purpose of, and to be used in,  
24 transporting and moving (~~(such)~~) valuable materials from (~~(such)~~) the  
25 other lands, over and across the lands so granted or leased in  
26 accordance with the provisions of RCW 79.36.370.

27 **Sec. 202.** RCW 79.91.020 and 1982 1st ex.s. c 21 s 49 are each  
28 amended to read as follows:

29 Every right of way for a private railroad, skid road, canal, flume,  
30 or watercourse, or other easement, over and across any state-owned  
31 tidelands or shorelands (~~(belonging to the state)~~), for the purpose of,  
32 and to be used in, transporting and moving valuable materials of the  
33 land, granted after June 15, 1911, shall be subject to joint and common  
34 use in accordance with the provisions of RCW (~~(79.01.316)~~) 79.36.380.



1       **Sec. 203.** RCW 79.91.030 and 2003 c 334 s 608 are each amended to  
2 read as follows:

3       Any person having acquired a right of way or easement as provided  
4 in RCW 79.91.010 and 79.91.020 (as recodified by this act) over any  
5 state-owned tidelands or shorelands (~~((belonging to the state))~~) or over  
6 or across beds of any navigable water or stream for the purpose of  
7 transporting or moving valuable materials and being engaged in such  
8 business, or any grantee or lessee thereof acquiring after June 15,  
9 1911, state lands or tidelands or shorelands containing valuable  
10 materials, where (~~((said))~~) the land is contiguous to or in proximity of  
11 (~~((such))~~) the right of way or easement, shall accord to the state or any  
12 person acquiring after June 15, 1911, valuable materials upon any such  
13 lands, proper and reasonable facilities and service for transporting  
14 and moving (~~((such))~~) valuable materials under reasonable rules and upon  
15 payment of just and reasonable charges (~~((thereof))~~) in accordance with  
16 the provisions of RCW 79.36.390.

17       **Sec. 204.** RCW 79.91.040 and 2003 c 334 s 609 are each amended to  
18 read as follows:

19       Should the owner or operator of any private railroad, skid road,  
20 flume, canal, watercourse, or other right of way or easement provided  
21 for in RCW 79.91.020 and 79.91.030 (as recodified by this act) fail to  
22 agree with the state or any grantee or lessee (~~((thereof))~~), as to the  
23 reasonable and proper rules and charges, concerning the transportation  
24 and movement of valuable materials from those lands contiguous to or in  
25 proximity to the lands over which (~~((such))~~) the private right of way or  
26 easement is operated, the state or any grantee or lessee (~~((thereof))~~),  
27 owning and desiring to have (~~((such))~~) the valuable materials transported  
28 or moved, may apply to the Washington state utilities and  
29 transportation commission for an inquiry into the reasonableness of the  
30 rules, investigate the (~~((same))~~) rules, and make (~~((such))~~) binding  
31 reasonable, proper, and just rates and regulations in accordance with  
32 the provisions of RCW 79.36.400.

33       **Sec. 205.** RCW 79.91.050 and 2003 c 334 s 610 are each amended to  
34 read as follows:

35       Any person owning or operating any right of way or easement subject  
36 to the provisions of RCW 79.91.020 through 79.91.040 (as recodified by

1 this act), over and across any state-owned tidelands or shorelands  
2 (~~belonging to the state~~) or across any beds of navigable waters, and  
3 violating or failing to comply with any rule or order made by the  
4 utilities and transportation commission, after inquiry, investigation,  
5 and a hearing as provided in RCW 79.91.040 (as recodified by this act),  
6 shall be subject to the same penalties provided in RCW 79.36.410.

7 **Sec. 206.** RCW 79.91.060 and 2003 c 334 s 611 are each amended to  
8 read as follows:

9 Any person engaged in the business of logging or lumbering,  
10 quarrying, mining, or removing sand, gravel, or other valuable  
11 materials from land, and desirous of obtaining a right of way or  
12 easement provided for in RCW 79.91.010 through 79.91.030 (as recodified  
13 by this act) over and across any state-owned tidelands or shorelands  
14 (~~belonging to the state~~), or beds of navigable waters or any (~~such~~)  
15 lands sold or leased by the state since June 15, 1911, shall file with  
16 the department upon a form to be furnished for that purpose, a written  
17 application for (~~such~~) the right of way in accordance with the  
18 provisions of RCW 79.36.350.

19 **Sec. 207.** RCW 79.91.070 and 1982 1st ex.s. c 21 s 54 are each  
20 amended to read as follows:

21 Any (~~such~~) right of way or easement granted under the provisions  
22 of RCW 79.91.010 through 79.91.030 (as recodified by this act) which  
23 has never been used, or for a period of two years has ceased to be used  
24 for the purpose for which it was granted, shall be deemed forfeited.  
25 The forfeiture of any such right of way (~~heretofore~~) previously  
26 granted or granted under the provisions of RCW 79.91.010 through  
27 79.91.030 (as recodified by this act), shall be rendered effective by  
28 the mailing of a notice of (~~such~~) the forfeiture to the grantee  
29 (~~thereof~~) at (~~his~~) the grantee's last known post office address and  
30 by posting a copy of (~~such~~) the certificate, or other record of the  
31 grant, in the department's Olympia office (~~of the commissioner of~~  
32 ~~public lands~~) with the word "canceled" and the date of (~~such~~) the  
33 cancellation.

34 **Sec. 208.** RCW 79.91.080 and 2003 c 334 s 612 are each amended to  
35 read as follows:

1 Any county or city or the United States of America or any state  
2 agency desiring to locate, establish, and construct a road or street  
3 over and across any aquatic lands, or wharf over any state-owned  
4 tidelands or shorelands, (~~belonging to the state,~~) shall by  
5 resolution of the legislative body of (~~such~~) the county, or city  
6 council or other governing body of (~~such~~) the city, or proper agency  
7 of the United States of America or state agency, (~~cause to be filed~~)  
8 file a petition with the department (~~a petition~~) for a right of way  
9 for (~~such~~) the road or street or wharf in accordance with the  
10 provisions of RCW 79.36.440.

11 The department may grant the petition if it deems it in the best  
12 interest of the state and upon payment for (~~such~~) the right of way  
13 and any damages to the affected aquatic lands.

14 **Sec. 209.** RCW 79.91.090 and 1982 1st ex.s. c 21 s 56 are each  
15 amended to read as follows:

16 Any railroad company (~~heretofore or hereafter~~) organized under  
17 the laws of the territory or state of Washington, or under any other  
18 state or territory of the United States, or under any act of the  
19 congress of the United States, and authorized to do business in the  
20 state and to construct and operate railroads (~~therein~~), shall have  
21 the right to construct bridges across the navigable streams within this  
22 state over which the line or lines of its railway shall run for the  
23 purpose of being made a part of (~~said~~) the railway line, or for the  
24 more convenient use thereof, if (~~said~~) the bridges are (~~so~~)  
25 constructed so as not to interfere with, impede, or obstruct navigation  
26 on (~~such~~) the streams(~~:- PROVIDED, That~~). However, payment for any  
27 (~~such~~) right of way and any damages to those aquatic lands affected  
28 must be paid first (~~paid~~).

29 **\*Sec. 210.** RCW 79.91.100 and 1982 1st ex.s. c 21 s 57 are each  
30 amended to read as follows:

31 *Counties, cities, towns, and other municipalities shall have the*  
32 *right to construct bridges and trestles across waterways (~~heretofore~~*  
33 *or hereafter)) laid out under the authority of the state of Washington,*  
34 *and over and across any tidelands or shorelands and harbor areas of the*  
35 *state adjacent thereto over which the projected line or lines of*  
36 *highway will run, if (~~such~~) the bridges or trestles are constructed*

1 *in good faith for the purpose of being made a part of the constructed*  
2 *line of such a highway, upon payment for any ((such)) right of way and*  
3 *upon payment for any damages to those aquatic lands affected.*

*\*Sec. 210 was vetoed. See message at end of chapter.*

4 **Sec. 211.** RCW 79.91.110 and 1982 1st ex.s. c 21 s 58 are each  
5 amended to read as follows:

6 Any person authorized by any state or municipal law or ordinance to  
7 construct and operate railroads, interurban railroads, or street  
8 railroads as common carriers within this state, shall have the right to  
9 construct bridges or trestles across waterways laid out under the  
10 authority of the state of Washington, over which the projected line or  
11 lines of railroad will run. The bridges or trestles shall be  
12 constructed in good faith for the purpose of being made a part of the  
13 constructed line of ((such)) the railroad, and may also include a  
14 roadway for the accommodation of vehicles and foot passengers. Full  
15 payment for any ((such)) right of way and any damages to those aquatic  
16 lands affected by the right of way shall first be made.

17 **Sec. 212.** RCW 79.91.120 and 1982 1st ex.s. c 21 s 59 are each  
18 amended to read as follows:

19 The location and plans of any bridge, draw bridge, or trestle  
20 proposed to be constructed under RCW 79.91.090 through 79.91.110 (as  
21 recodified by this act) shall be submitted to and approved by the  
22 department ~~((of natural resources))~~ before construction is commenced~~((~~  
23 ~~PROVIDED, That))~~. However, in case the portion of ((such)) the  
24 waterway, river, stream, or watercourse, at the place to be ((se))  
25 crossed is navigable water of the United States, or otherwise within  
26 the jurisdiction of the United States, ((such)) the location and plans  
27 shall also be submitted to and approved by the United States army corps  
28 of engineers before construction is commenced. When plans for any  
29 bridge or trestle have been approved by the department ~~((of natural~~  
30 ~~resources))~~ and the United States army corps of engineers, it ~~((shall~~  
31 ~~be))~~ is unlawful to deviate from ((such)) the plans either before or  
32 after the completion of ((such)) the structure, unless the modification  
33 of ((such)) the plans has previously been submitted to, and received  
34 the approval of the department ~~((of natural resources))~~ and the United  
35 States army corps of engineers, as the case may be. Any structure  
36 ~~((hereby))~~ authorized and approved as indicated in this section shall

1 remain within the jurisdiction of the respective officer or officers  
2 approving the ((same)) structure, and shall be altered or changed from  
3 time to time at the expense of the municipality owning the highway, or  
4 at the expense of the common carriers, at the time owning the railway  
5 or road using ((such)) the structure, to meet the necessities of  
6 navigation and commerce in such a manner as may be from time to time  
7 ordered by the respective officer or officers at ((such)) the time  
8 having jurisdiction of the ((same)) structure, and ((such)) the orders  
9 may be enforced by appropriate action at law or in equity at the suit  
10 of the state.

11 **Sec. 213.** RCW 79.91.130 and 1982 1st ex.s. c 21 s 60 are each  
12 amended to read as follows:

13 A right of way through, over, and across any tidelands, shorelands,  
14 beds of navigable waters, oyster reserves belonging to the state, or  
15 the reversionary interest of the state in oyster lands may be granted  
16 to any person or the United States of America, constructing or  
17 proposing to construct, or which has ((heretofore)) constructed, any  
18 telephone line, ditch, flume, or pipeline for the domestic water supply  
19 of any municipal corporation or transmission line for the purpose of  
20 generating or transmitting electricity for light, heat, or power.

21 **Sec. 214.** RCW 79.91.140 and 1982 1st ex.s. c 21 s 61 are each  
22 amended to read as follows:

23 In order to obtain the benefits of the grant made in RCW 79.91.130  
24 (as recodified by this act), the person or the United States of America  
25 constructing or proposing to construct, or which has ((heretofore))  
26 constructed, ((such)) a telephone line, ditch, flume, pipeline, or  
27 transmission line, shall file, with the department ((of natural  
28 resources)), a map accompanied by the field notes of the survey and  
29 location of ((such)) the telephone line, ditch, flume, pipeline, or  
30 transmission line, and shall make payment ((therefor)) as provided in  
31 RCW 79.91.150 (as recodified by this act). The land within the right  
32 of way shall be limited to an amount necessary for the construction of  
33 ((said)) the telephone line, ditch, flume, pipeline, or transmission  
34 line sufficient for the purposes required, together with sufficient  
35 land on either side thereof for ingress and egress to maintain and  
36 repair the ((same)) telephone line, ditch, flume, pipeline, or

1 transmission line. The grant shall also include the right to cut all  
2 standing timber outside the right of way marked as danger trees located  
3 on public lands upon full payment of the appraised value (~~((thereof))~~).

4 **Sec. 215.** RCW 79.91.150 and 1982 1st ex.s. c 21 s 62 are each  
5 amended to read as follows:

6 On the filing of the plat and field notes, as provided in RCW  
7 79.91.140 (as recodified by this act), the land applied for and any  
8 improvements included in the right of way applied for, if any, shall be  
9 appraised as in the case of an application to purchase state lands.  
10 Upon full payment of the appraised value of the state-owned aquatic  
11 land applied for, or upon payment of an annual rental when the  
12 department (~~((of natural resources))~~) deems a rental to be in the best  
13 interests of the state, and upon full payment of the appraised value of  
14 any danger trees and improvements, if any, the department shall issue  
15 to the applicant a certificate of the grant of (~~((such))~~) right of way  
16 stating the terms and conditions (~~((thereof))~~) and shall enter the  
17 (~~((same))~~) certificate in the abstracts and records in the department's  
18 Olympia office (~~((of the commissioner of public lands))~~), and thereafter  
19 any sale or lease of the lands affected by (~~((such))~~) the right of way  
20 shall be subject to the easement of (~~((such))~~) the right of way(~~((+~~  
21 ~~PROVIDED, That))~~). However, should the person or the United States of  
22 America securing (~~((such))~~) the right of way ever abandon the use of the  
23 (~~((same))~~) right of way for the purposes for which it was granted, the  
24 right of way shall revert to the state, or the state's grantee.

25 NEW SECTION. **Sec. 216.** (1) The use of state-owned aquatic lands  
26 for public utility lines owned by a governmental entity shall be  
27 granted by an agreement, permit, or other instrument if the use is  
28 consistent with the purposes of RCW 79.90.450 through 79.90.460 (as  
29 recodified by this act) and does not obstruct navigation or other  
30 public uses. The department may recover only its reasonable direct  
31 administrative costs incurred in processing and approving the request  
32 or application, and reviewing plans for construction of public utility  
33 lines. For purposes of this section, "direct administrative costs"  
34 means the cost of hours worked directly on an application or request,  
35 based on salaries and benefits, plus travel reimbursement and other

1 actual out-of-pocket costs. Direct administrative costs recovered by  
2 the department must be deposited into the resource management cost  
3 account.

4 (2) The use of state-owned aquatic lands for local public utility  
5 lines owned by a nongovernmental entity will be granted by easement if  
6 the use is consistent with the purpose of RCW 79.90.450 through  
7 79.90.460 (as recodified by this act) and does not obstruct navigation  
8 or other public uses. The total charge for the easement will be  
9 determined under RCW 79.90.575 (as recodified by this act).

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

14 **Sec. 217.** RCW 79.91.160 and 1982 1st ex.s. c 21 s 63 are each  
15 amended to read as follows:

16 A right of way through, over, and across any state-owned tidelands  
17 or shorelands (~~((belonging to the state))~~) is (~~((hereby))~~) granted to any  
18 irrigation district, or irrigation company duly organized under the  
19 laws of this state, and to any person, or the United States of America,  
20 constructing or proposing to construct an irrigation ditch or pipeline  
21 for irrigation, or to any diking and drainage district or any diking  
22 and drainage improvement district proposing to construct a dike or  
23 drainage ditch.

24 **Sec. 218.** RCW 79.91.170 and 1982 1st ex.s. c 21 s 64 are each  
25 amended to read as follows:

26 In order to obtain the benefits of the grant provided for in RCW  
27 79.91.160 (as recodified by this act), the irrigation district,  
28 irrigation company, person, or the United States of America,  
29 constructing or proposing to construct (~~((such))~~) an irrigation ditch or  
30 pipeline for irrigation, or the diking and drainage district or diking  
31 and drainage improvement district constructing or proposing to  
32 construct any dike or drainage ditch, shall file with the department  
33 (~~((of natural resources))~~) a map accompanied by the field notes of the  
34 survey and location of the proposed irrigation ditch, pipeline, dike,  
35 or drainage ditch, and shall pay to the state as provided in RCW  
36 79.91.180 (as recodified by this act), the amount of the appraised

1 value of the (~~said~~) lands used for or included within (~~such~~) the  
2 right of way. The land within (~~such~~) the right of way shall be  
3 limited to an amount necessary for the construction of the irrigation  
4 ditch, pipeline, dike, or drainage ditch for the purposes required,  
5 together with sufficient land on either side (~~thereof~~) for ingress  
6 and egress to maintain and repair the (~~same~~) irrigation ditch,  
7 pipeline, dike, or drainage ditch.

8 **Sec. 219.** RCW 79.91.180 and 1982 1st ex.s. c 21 s 65 are each  
9 amended to read as follows:

10 Upon the filing of the plat and field notes as in RCW 79.91.170 (as  
11 recodified by this act), the lands included within the right of way  
12 applied for shall be appraised as in the case of an application to  
13 purchase (~~such~~) the lands, at full market value (~~thereof~~). Upon  
14 full payment of the appraised value of the lands the department (~~of~~  
15 ~~natural resources~~) shall issue to the applicant a certificate of right  
16 of way, and enter the (~~same~~) certificate in the department records  
17 (~~in the office of the commissioner of public lands and thereafter~~).  
18 Any subsequent sale or lease by the state of the lands affected by  
19 (~~such~~) the right of way shall be subject (~~thereto~~) to the  
20 certificate of right of way.

21 **Sec. 220.** RCW 79.91.190 and 2003 c 334 s 613 are each amended to  
22 read as follows:

23 The department (~~shall have~~) has the power and authority to grant  
24 to any person, the right, privilege, and authority to perpetually back  
25 and hold water upon or over any state-owned tidelands or shorelands,  
26 and to overflow and inundate the (~~same~~) lands, whenever the  
27 department (~~shall~~) deems it necessary for the purpose of erecting,  
28 constructing, maintaining, or operating any water power plant,  
29 reservoir, or works for impounding water for power purposes,  
30 irrigation, mining, or other public use in accordance with the  
31 provisions of RCW 79.36.570.

32 **Sec. 221.** RCW 79.91.200 and 1982 1st ex.s. c 21 s 67 are each  
33 amended to read as follows:

34 RCW 79.91.010 through 79.91.190 (as recodified by this act),  
35 relating to the acquiring of rights of way and overflow rights through,



1 over, and across state-owned aquatic lands (~~((belonging to the state))~~),  
2 shall not be construed as exclusive or as affecting the right of  
3 municipal and public service corporations to acquire lands belonging to  
4 or under the control of the state, or rights of way or other rights  
5 (~~((thereover))~~), by condemnation proceedings.

6 **Sec. 222.** RCW 79.91.210 and 2003 c 334 s 614 are each amended to  
7 read as follows:

8 The department may grant to any person (~~((such))~~) easements and  
9 rights in tidelands and shorelands and oyster reserves owned by the  
10 state as the applicant may acquire in privately or publicly owned lands  
11 through proceedings in eminent domain in accordance with the provisions  
12 of RCW 79.36.355.

13 **PART 3**

14 **AQUATIC LANDS--HARBOR AREAS**

15 **Sec. 301.** RCW 79.92.010 and 1982 1st ex.s. c 21 s 69 are each  
16 amended to read as follows:

17 (1) It (~~((shall be))~~) is the duty of the board (~~((of natural~~  
18 ~~resources))~~) acting as the harbor line commission to locate and  
19 establish harbor lines and determine harbor areas, as required by  
20 (~~((section 1 of))~~) Article XV, section 1 of the state Constitution, where  
21 (~~((such))~~) harbor lines and harbor areas have not (~~((heretofore))~~)  
22 previously been located and established.

23 (2) The board shall locate and establish outer harbor lines beyond  
24 which the state shall never sell or lease any rights whatever to  
25 private persons, and to locate and establish the inner harbor line,  
26 thereby defining the width of the harbor area between such harbor  
27 lines. The harbor area shall be forever reserved for landings,  
28 wharves, streets, and other conveniences of navigation and commerce.

29 **Sec. 302.** RCW 79.92.020 and 1982 1st ex.s. c 21 s 70 are each  
30 amended to read as follows:

31 Whenever it appears that the inner harbor line of any harbor area  
32 (~~((heretofore determined))~~) has been so established as to overlap or fall  
33 inside the government meander line, or for any other good cause, the  
34 board (~~((of natural resources))~~) acting as the harbor line commission is

1 empowered to relocate and reestablish said inner harbor line so  
2 erroneously established, outside of the meander line. All tidelands or  
3 shorelands within (~~said~~) the inner harbor line so reestablished and  
4 relocated, shall belong to the state and may be sold or leased as other  
5 first-class tidelands or shorelands (~~of the first class~~) in  
6 accordance with the provisions of RCW 79.94.150(~~PROVIDED, That~~)  
7 (as recodified by this act). However, in all other cases, authority to  
8 relocate the inner harbor line or outer harbor line, or both, shall  
9 first be obtained from the legislature.

10 **Sec. 303.** RCW 79.92.030 and 2004 c 219 s 1 are each amended to  
11 read as follows:

12 The commission on harbor lines is (~~hereby~~) authorized to change,  
13 relocate, or reestablish harbor lines in Guemes Channel and Fidalgo Bay  
14 in front of the city of Anacortes, Skagit county; in Grays Harbor in  
15 front of the cities of Aberdeen, Hoquiam, and Cosmopolis, Grays Harbor  
16 county; Bellingham Bay in front of the city of Bellingham and in  
17 Drayton Harbor in front of the city of Blaine, Whatcom county; in  
18 Elliott Bay, Puget Sound and Lake Union within, and in front of the  
19 city of Seattle, King county, and within one mile of the limits of such  
20 city; Port Angeles harbor in front of the city of Port Angeles, Clallam  
21 county; in Lake Washington in front of the cities of Renton and Lake  
22 Forest Park, King county; Commencement Bay in front of the city of  
23 Tacoma, Pierce county; and within one mile of the limits of such city;  
24 Budd Inlet in front of the city of Olympia, Thurston county; the  
25 Columbia river in front of the city of Kalama, Cowlitz county; Port  
26 Washington Narrows and Sinclair Inlet in front of the city of  
27 Bremerton, Kitsap county; Sinclair Inlet in front of the city of Port  
28 Orchard, Kitsap county; in Liberty Bay in front of the city of Poulsbo,  
29 Kitsap county; the Columbia river in front of the city of Vancouver,  
30 Clark county; Port Townsend Bay in front of the city of Port Townsend,  
31 Jefferson county; the Swinomish Channel in front of the city of La  
32 Conner, Skagit county; and Port Gardner Bay in front of the city of  
33 Everett, except no harbor lines shall be established in Port Gardener  
34 Bay west of the easterly shoreline of Jetty Island as presently  
35 situated or west of a line extending S 37° 09' 38" W from the Snohomish  
36 River Light (5), and in front of the city of Edmonds, Snohomish county;  
37 in Oakland Bay in front of the city of Shelton, Mason county; and

1 within one mile of the limits of such city; in Gig Harbor in front of  
2 the city of Gig Harbor, Pierce county; and within one mile of the  
3 limits of such city, at the entrance to the Columbia river in front of  
4 the city of Ilwaco, Pacific county; in the Columbia river in front of  
5 the city of Pasco, Franklin county; and in the Columbia river in front  
6 of the city of Kennewick, Benton county.

7 **Sec. 304.** RCW 79.92.035 and 1987 c 271 s 5 are each amended to  
8 read as follows:

9 The harbor line commission shall modify harbor lines in Port  
10 Gardner Bay as necessary to facilitate the conveyance through exchange  
11 authorized in RCW 79.94.450 (as recodified by this act).

12 **Sec. 305.** RCW 79.92.060 and 1982 1st ex.s. c 21 s 74 are each  
13 amended to read as follows:

14 Applications, leases, and bonds of lessees shall be in such a form  
15 as the department (~~((of natural resources))~~) shall prescribe. Every  
16 lease shall provide that the rental shall be payable to the department,  
17 and for cancellation by the department upon sixty days' written notice  
18 for any breach of the conditions (~~((thereof))~~). Every lessee shall  
19 furnish a bond, with surety satisfactory to the department, with such  
20 penalty as the department may prescribe, but not less than five hundred  
21 dollars, conditioned upon the faithful performance of the terms of the  
22 lease and the payment of the rent when due. If the department  
23 (~~((shall))~~) at any time deems any bond insufficient, it may require the  
24 lessee to file a new and sufficient bond within thirty days after  
25 receiving notice to do so.

26 Applications for leases of harbor areas upon tidal waters shall be  
27 accompanied by (~~((such))~~) plans and drawings and other data concerning  
28 the proposed wharves, docks, or other structures or improvements  
29 (~~((thereof))~~) as the department shall require. Every lease of harbor  
30 areas shall provide that, wharves, docks, or other conveniences of  
31 navigation and commerce adequate for the public needs, to be specified  
32 in (~~((such))~~) the lease, shall be constructed within (~~((such))~~) the time as  
33 may be fixed in each case by the department. In no case shall the  
34 construction be commenced more than two years from the date of (~~((such))~~)  
35 the lease and shall be completed within such reasonable time as the  
36 department shall fix, any of which times may be extended by the

1 department either before or after their expiration, and the character  
2 of the improvements may be changed either before or after completion  
3 with the approval of the department(~~(: PROVIDED, That)~~). However, if  
4 in its opinion improvements existing upon such harbor area or the  
5 tidelands adjacent thereto are adequate for public needs of commerce  
6 and navigation, the department shall require the maintenance of  
7 (~~such~~) existing improvements and need not require further  
8 improvements.

9 **Sec. 306.** RCW 79.92.070 and 2000 c 11 s 27 are each amended to  
10 read as follows:

11 If the owner of any harbor area lease upon tidal waters (~~shall~~)  
12 desires to construct (~~thereon~~) any wharf, dock, or other convenience  
13 of navigation or commerce, or to extend, enlarge, or substantially  
14 improve any existing structure used in connection with (~~such~~) the  
15 harbor area, and (~~shall~~) deems the required expenditure not warranted  
16 by (~~his or her~~) the lessee's right to occupy (~~such~~) the harbor area  
17 during the remainder of the term of (~~his or her~~) their lease, the  
18 lease owner may make application to the department (~~of natural~~  
19 ~~resources~~) for a new lease of (~~such~~) the harbor area for a period  
20 not exceeding thirty years. Upon the filing of (~~such~~) an application  
21 accompanied by (~~such~~) proper plans, drawings, or other data, the  
22 department shall (~~forthwith~~) investigate the (~~same~~) application and  
23 if (~~it shall~~) the department determines that the proposed work or  
24 improvement is in the public interest and reasonably adequate for the  
25 public needs, it shall by order fix the terms and conditions and the  
26 rate of rental for (~~such~~) a new lease, (~~such~~) the rate of rental  
27 shall be a fixed percentage, during the term of (~~such~~) the lease, on  
28 the true and fair value in money of (~~such~~) the harbor area determined  
29 (~~from time to time~~) by the department. The department may propose  
30 modifications of the proposed wharf, dock, or other convenience or  
31 extensions, enlargements, or improvements (~~thereon~~). The department  
32 shall, within ninety days from the filing of (~~such~~) an application  
33 notify the applicant in writing of the terms and conditions upon which  
34 (~~such~~) a new lease will be granted, and of the rental to be paid, and  
35 if the applicant shall within ninety days (~~thereafter~~) elect to  
36 accept a new lease of (~~such~~) the harbor area upon the terms and  
37 conditions, and at the rental prescribed by the department, the

1 department shall make a new lease for (~~such~~) the harbor area for the  
2 term applied for and the existing lease shall (~~thereupon~~) be  
3 surrendered and canceled.

4 **Sec. 307.** RCW 79.92.080 and 2000 c 11 s 28 are each amended to  
5 read as follows:

6 Upon the expiration of any harbor area lease upon tidal waters  
7 (~~hereafter expiring~~), the (~~owner thereof~~) lessee may apply for a  
8 re-lease of (~~such~~) the harbor area for a period not exceeding thirty  
9 years. (~~Such~~) The application shall be accompanied with maps showing  
10 the existing improvements upon (~~such~~) the harbor area and the  
11 adjacent tidelands (~~adjacent thereto~~) and with proper plans,  
12 drawings, and other data showing any proposed extensions or  
13 improvements of existing structures. Upon the filing of (~~such~~) an  
14 application the department (~~of natural resources~~) shall (~~forthwith~~)  
15 investigate the (~~same~~) application and if it (~~shall~~) determines  
16 that the character of the wharves, docks, or other conveniences of  
17 commerce and navigation are reasonably adequate for the public needs  
18 and in the public interest, it shall by order fix and determine the  
19 terms and conditions upon which (~~such~~) the re-lease shall be granted  
20 and the rate of rental to be paid, which rate shall be a fixed  
21 percentage during the term of (~~such~~) the lease on the true and fair  
22 value in money of (~~such~~) the harbor area as determined (~~from time to~~  
23 ~~time~~) by the department (~~of natural resources~~).

24 **Sec. 308.** RCW 79.92.090 and 1985 c 469 s 61 are each amended to  
25 read as follows:

26 Upon completion of the valuation of any tract of harbor area  
27 applied for under RCW 79.92.080 (as recodified by this act), the  
28 department (~~of natural resources~~) shall notify the applicant of the  
29 terms and conditions upon which the re-lease will be granted and of the  
30 rental fixed. The applicant or (~~his~~) the applicant's successor in  
31 interest shall have the option for the period of sixty days from the  
32 date of the service of notice in which to accept a lease on the terms  
33 and conditions and at the rental so fixed and determined by the  
34 department. If the terms and conditions and rental are accepted a new  
35 lease shall be granted for the term applied for. If the terms and  
36 conditions are not accepted by the applicant within the period of time,

1 or within such further time, not exceeding three months, as the  
2 department shall grant, the ~~((same))~~ lease shall be deemed rejected by  
3 the applicant, and the department shall give eight weeks' notice by  
4 publication once a week in one or more newspapers of general  
5 circulation in the county in which the harbor area is located, that a  
6 lease of the harbor area will be sold on ~~((such))~~ the terms and  
7 conditions and at ~~((such))~~ the rental, at a time and place specified in  
8 the notice (which shall not be more than three months from the date of  
9 the first publication of the notice) to the person offering at the  
10 public sale to pay the highest sum as a cash bonus at the time of sale  
11 of ~~((such))~~ the lease. Notice of the sale shall be served upon the  
12 applicant at least six weeks prior to the date ~~((thereof))~~ of sale.  
13 The person paying the highest sum as a cash bonus shall be entitled to  
14 lease the harbor area~~((:—PROVIDED, That))~~. However, if the lease is  
15 not sold at the public sale the department may at any time or times  
16 again fix the terms, conditions, and rental, and again advertise the  
17 lease for sale as ~~((above))~~ provided in this section and upon similar  
18 notice~~((:—AND PROVIDED FURTHER, That))~~. Further, upon failure to  
19 secure any sale of the lease as ~~((above))~~ prescribed in this section,  
20 the department may issue revocable leases without requirement of  
21 improvements for one year periods at a minimum rate of two percent.

22 **Sec. 309.** RCW 79.92.100 and 1982 1st ex.s. c 21 s 78 are each  
23 amended to read as follows:

24 The state of Washington ~~((shall ever))~~ retains and ~~((does hereby))~~  
25 reserves the right to regulate the rates of wharfage, dockage, and  
26 other tolls to be imposed by the lessee or ~~((his))~~ the lessee's assigns  
27 upon commerce for any of the purposes for which the leased area may be  
28 used and the right to prevent extortion and discrimination in such use  
29 ~~((thereof))~~.

30 **Sec. 310.** RCW 79.92.110 and 1984 c 221 s 25 are each amended to  
31 read as follows:

32 (1) Where any leased harbor area or tideland is situated within the  
33 limits of a town, whether or not the harbor area or tideland lies  
34 within a port district, the rents from ~~((such))~~ the leases shall be  
35 paid by the state treasurer to the municipal authorities of the town to  
36 be expended for water-related improvements.

1 (2) The state treasurer is (~~hereby~~) authorized and directed to  
2 make payments to the respective towns on the first days of July and  
3 January of each year, of all moneys payable under the terms of this  
4 section.

5 **PART 4**

6 **AQUATIC LANDS--WATERWAYS AND STREETS**

7 **Sec. 401.** RCW 79.93.010 and 1982 1st ex.s. c 21 s 80 are each  
8 amended to read as follows:

9 It (~~shall be~~) is the duty of the department (~~of natural~~  
10 ~~resources~~) simultaneously with the establishment of harbor lines and  
11 the determination of harbor areas in front of any city or town, or as  
12 soon (~~thereafter~~) as practicable, to survey and plat all first-class  
13 tidelands and shorelands (~~of the first class~~) not (~~heretofore~~)  
14 previously platted, and in platting the (~~same~~) tidelands and  
15 shorelands to lay out streets which shall (~~thereby~~) be dedicated to  
16 public use, subject to the control of the cities or towns in which they  
17 are situated.

18 The department shall also establish one or more public waterways  
19 not less than fifty nor more than one thousand feet wide, beginning at  
20 the outer harbor line and extending inland across the tidelands  
21 belonging to the state. These waterways shall include within their  
22 boundaries, as nearly as practicable, all navigable streams running  
23 through (~~such~~) the tidelands, and shall be located at (~~such~~) other  
24 places as in the judgment of the department may be necessary for the  
25 present and future convenience of commerce and navigation. All  
26 waterways shall be reserved from sale or lease and remain as public  
27 highways for watercraft until vacated as provided for in this chapter.

28 The department shall appraise the value of (~~such~~) platted  
29 tidelands and shorelands and enter (~~such~~) the appraisals in its  
30 records (~~in the office of the commissioner of public lands~~).

31 **Sec. 402.** RCW 79.93.020 and 1982 1st ex.s. c 21 s 81 are each  
32 amended to read as follows:

33 All alleys, streets, avenues, boulevards, waterways, and other  
34 public places and highways (~~heretofore~~) located and platted on the  
35 first-class tidelands and shorelands (~~of the first class~~), or harbor

1 areas, as provided by law, and not (~~heretofore~~) vacated as provided  
2 by law, are (~~hereby~~) validated as public highways and dedicated to  
3 the use of the public for the purposes for which they were intended,  
4 subject (~~however~~) to vacation as provided for in this chapter.

5 **Sec. 403.** RCW 79.93.030 and 1982 1st ex.s. c 21 s 82 are each  
6 amended to read as follows:

7 The department (~~of natural resources shall have~~) has the power to  
8 approve plans for and authorize the construction of slopes, with rock,  
9 riprap, or other protection, upon any state-owned aquatic lands  
10 incident to the improvement of any abutting or adjacent street or  
11 avenue by any city or town in this state.

12 **Sec. 404.** RCW 79.93.040 and 1984 c 221 s 21 are each amended to  
13 read as follows:

14 If the United States government has established pierhead lines  
15 within a waterway created under the laws of this state at any distance  
16 from the boundaries established by the state, structures may be  
17 constructed in that strip of waterway between the waterway boundary and  
18 the nearest pierhead line only with the consent of the department (~~of~~  
19 ~~natural resources~~) and upon such plans, terms, and conditions and for  
20 such term as determined by the department. However, no permit shall  
21 extend for a period longer than thirty years.

22 The department may cancel any permit upon sixty days' notice for a  
23 substantial breach by the permittee of any of the permit conditions.

24 If a waterway is within the territorial limits of a port district,  
25 the duties assigned by this section to the department may be exercised  
26 by the port commission of (~~such~~) the port district as provided in RCW  
27 79.90.475 (as recodified by this act).

28 Nothing in this section shall confer upon, create, or recognize in  
29 any abutting owner any right or privilege in or to any strip of  
30 waterway abutting any street and between prolongations of the lines of  
31 (~~such~~) the street, but the control of and the right to use (~~such~~)  
32 the strip is (~~hereby~~) reserved to the state of Washington, except as  
33 authorized by RCW 79.90.475 (as recodified by this act).

34 **Sec. 405.** RCW 79.93.050 and 1982 1st ex.s. c 21 s 84 are each  
35 amended to read as follows:



1 All waterways excavated through any state-owned tidelands or  
2 shorelands (~~((belonging to the state of Washington))~~) by virtue of the  
3 provisions of chapter 99, Laws of 1893, so far as they run through  
4 (~~((said))~~) the tidelands or shorelands, are (~~((hereby))~~) declared to be  
5 public waterways, free to all citizens upon equal terms, and subject to  
6 the jurisdiction of the proper authorities, as otherwise provided by  
7 law(~~((:—PROVIDED, That))~~). However, where tide gates or locks are  
8 considered by the contracting parties excavating any waterways to be  
9 necessary to the efficiency of the (~~((same))~~) waterway, the department  
10 (~~((of natural resources))~~) may, in its discretion, authorize (~~((such))~~)  
11 tide gates or locks to be constructed and may authorize the parties  
12 constructing the (~~((same))~~) waterway to operate them and collect a  
13 reasonable toll from vessels passing through (~~((said))~~) the tide gates or  
14 locks(~~((:—PROVIDED FURTHER, That))~~). Further, the state of Washington  
15 or the United States of America can, at any time, appropriate (~~((said))~~)  
16 the tide gates or locks upon payment to the parties erecting them of  
17 the reasonable value of the (~~((same))~~) tide gates or locks at the date of  
18 (~~((such))~~) the appropriation, (~~((said))~~) reasonable value to be ascertained  
19 and determined as in other cases of condemnation of private property  
20 for public use.

21 **Sec. 406.** RCW 79.93.060 and 1984 c 221 s 22 are each amended to  
22 read as follows:

23 If a waterway established under the laws of this state, or any  
24 portion of the waterway, has not been excavated, or is not used for  
25 navigation, or is not required in the public interest to exist as a  
26 waterway, (~~((such))~~) the waterway or a portion (~~((thereof))~~) of the  
27 waterway may be vacated by written order of the commissioner (~~((of~~  
28 ~~public lands))~~) upon request by ordinance or resolution of the city  
29 council of the city in which such waterway is located or by resolution  
30 of the port commission of the port district in which the waterway is  
31 located. If the waterway or a portion (~~((thereof))~~) of the waterway  
32 which is vacated is navigable water of the United States, or otherwise  
33 within the jurisdiction of the United States, a copy of (~~((such))~~) the  
34 resolution or ordinance, together with a copy of the vacation order of  
35 the commissioner (~~((of public lands))~~) shall be submitted to the United  
36 States army corps of engineers for their approval, and if they approve,  
37 the waterway or a portion (~~((thereof))~~) of the waterway is vacated(~~((:—~~

1 ~~PROVIDED, That~~). However, if a port district owns property abutting  
2 the waterway and the provisions of this section are otherwise  
3 satisfied, the waterway, or the portion (~~thereof~~) of the waterway  
4 that abuts the port district property, shall be vacated.

5 Upon (~~such~~) vacation of a waterway, the commissioner (~~of public~~  
6 ~~lands~~) shall notify the city in which the waterway is located, and the  
7 city has the right, if otherwise permitted by RCW 79.94.150 (as  
8 recodified by this act), to extend across the portions so vacated any  
9 existing streets, or to select (~~such~~) portions of the waterway as the  
10 city may desire for street purposes, in no case to exceed one hundred  
11 fifty feet in width for any one street. (~~Such~~) The selection shall  
12 be made within sixty days subsequent to the receipt of notice of the  
13 vacation of the portion of the waterway.

14 If the city fails to make a selection within (~~such~~) the time, or  
15 selects only a portion of the waterway, the title of the remaining  
16 portions of the vacated waterway shall vest in the state, unless the  
17 waterway is located within the territorial limits of a port district,  
18 in which event, if otherwise permitted by RCW 79.94.150 (as recodified  
19 by this act), the title shall vest in the port district. The title is  
20 subject to any railroad or street railway crossings existing at the  
21 time of (~~such~~) the vacation.

22 **PART 5**

23 **AQUATIC LANDS--TIDELANDS AND SHORELANDS**

24 **Sec. 501.** RCW 79.94.020 and 1982 1st ex.s. c 21 s 87 are each  
25 amended to read as follows:

26 It (~~shall be~~) is the duty of the department (~~of natural~~  
27 ~~resources~~) simultaneously with the establishment of harbor lines and  
28 the determination of harbor areas in front of any city or town or as  
29 soon (~~thereafter~~) as practicable to survey and plat all first-class  
30 tidelands and shorelands (~~of the first class~~) not (~~heretofore~~)  
31 previously platted as provided in RCW 79.93.010 (as recodified by this  
32 act).

33 **Sec. 502.** RCW 79.94.030 and 1982 1st ex.s. c 21 s 88 are each  
34 amended to read as follows:

1 The department (~~of natural resources~~) may survey and plat any  
2 second-class tidelands and shorelands (~~of the second class~~) not  
3 (~~heretofore~~) previously platted.

4 **Sec. 503.** RCW 79.94.040 and 1982 1st ex.s. c 21 s 89 are each  
5 amended to read as follows:

6 The department (~~of natural resources~~) shall prepare plats showing  
7 all tidelands and shorelands (~~of the first class and second class~~),  
8 surveyed, platted, and appraised by it in the respective counties, on  
9 which shall be marked the location of all (~~such aquatic~~) tidelands  
10 and shorelands, with reference to the lines of the United States survey  
11 of the abutting upland, and shall prepare (~~in well bound books~~) a  
12 record of its proceedings, including a list of (~~said~~) the tidelands  
13 and shorelands surveyed, platted, or replatted, and appraised by it and  
14 its appraisal of the (~~same~~) tidelands and shorelands, which plats and  
15 books shall be in triplicate and the department shall file one copy of  
16 (~~such~~) the plats and records in the department's Olympia office (~~of~~  
17 ~~the commissioner of public lands~~), and file one copy in the office of  
18 the county auditor of the county where the lands platted, or replatted,  
19 and appraised are situated, and file one copy in the office of the city  
20 engineer of the city in which, or within two miles of which, the lands  
21 platted, or replatted, are situated.

22 **Sec. 504.** RCW 79.94.050 and 1982 1st ex.s. c 21 s 90 are each  
23 amended to read as follows:

24 In appraising tidelands or shorelands (~~of the first class or~~  
25 ~~second class platted or replatted after March 26, 1895~~), the  
26 department (~~of natural resources~~) shall appraise each lot, tract, or  
27 piece of land separately, and shall (~~enter in a well bound book to be~~  
28 ~~kept in the office of the commissioner of public lands~~) maintain a  
29 description of each lot, tract, or piece of first or second-class  
30 tidelands or shorelands (~~of the first or second class~~), its full  
31 appraised value, the area and rate per acre at which it was appraised,  
32 and if any lot is covered in whole or in part by improvements in actual  
33 use for commerce, trade, residence, or business, on or prior to, the  
34 date of the plat or replat, the department shall enter the name of the  
35 owner, or reputed owner, the nature of the improvements, the area

1 covered by the improvements, the portion of each lot, tract, or piece  
2 of land covered, and the appraised value of the land covered, with and  
3 exclusive of, the improvements.

4 **Sec. 505.** RCW 79.94.060 and 1982 1st ex.s. c 21 s 91 are each  
5 amended to read as follows:

6 (1) The department (~~(of natural resources)~~) shall, before filing in  
7 the department's Olympia office (~~(of the commissioner of public lands)~~)  
8 the plat and record of appraisal of any tidelands or shorelands (~~(of~~  
9 ~~the first or second class)~~) platted and appraised by it, (~~cause a~~  
10 ~~notice to be published~~) publish a notice once each week for four  
11 consecutive weeks in a newspaper published and of general circulation  
12 in the county (~~wherein~~) where the lands covered by (~~(such)~~) the plat  
13 and record are situated, stating that (~~(such)~~) the plat and record,  
14 describing it, is complete and subject to inspection at the  
15 department's Olympia office (~~(of the commissioner of public lands)~~),  
16 and will be filed on a certain day to be named in the notice.

17 (2) Any person entitled to purchase under RCW 79.94.150 (as  
18 recodified by this act) and claiming a preference right of purchase of  
19 any of the tidelands or shorelands platted and appraised by the  
20 department, and who feels aggrieved at the appraisal fixed by the  
21 department upon (~~(such)~~) the lands, or any part thereof, may within  
22 sixty days after the filing of (~~(such)~~) the plat and record in the  
23 department's Olympia office (~~(of the commissioner)~~) (which shall be  
24 done on the day fixed in (~~(said)~~) the notice), appeal from (~~(such)~~) the  
25 appraisal to the superior court of the county in which the tidelands  
26 or shorelands are situated, in the manner provided for taking appeals  
27 from orders or decisions under RCW 79.90.400 (as recodified by this  
28 act).

29 (3) The prosecuting attorney of any county, or city attorney of any  
30 city, in which (~~(such)~~) the aquatic lands are located, shall at the  
31 request of the governor, (~~(or of ten freeholders of the county or city,~~  
32 ~~in which such lands are situated,)~~) appeal on behalf of the state, or  
33 the county, or city, from any (~~(such)~~) appraisal in the manner provided  
34 in this section. Notice of (~~(such)~~) the appeal shall be served upon  
35 the (~~(department of natural resources through the administrator)~~)  
36 commissioner, and (~~(it shall be his duty to)~~) the department must

1 immediately notify all persons entitled to purchase under RCW 79.94.150  
2 (as recodified by this act) and claiming a preference right to purchase  
3 the lands subject to the appraisal.

4 (4) Any party, other than the state or the county or city  
5 appealing, shall execute a bond to the state with sufficient surety, to  
6 be approved by the department (~~(of natural resources)~~), in the sum of  
7 two hundred dollars conditioned for the payment of costs on appeal.

8 (5) The superior court to which an appeal is taken shall hear  
9 evidence as to the value of the lands appraised and enter an order  
10 confirming, or raising, or lowering the appraisal appealed from, and  
11 the clerk of the court shall file a certified copy (~~(thereof)~~) in the  
12 department's Olympia office (~~(of the commissioner of public lands)~~).  
13 The appraisal fixed by the court shall be final.

14 **Sec. 506.** RCW 79.94.070 and 2000 c 11 s 29 are each amended to  
15 read as follows:

16 (1) Upon platting and appraisal of first-class tidelands or  
17 shorelands (~~(of the first-class)~~) as provided in this chapter  
18 (~~(provided)~~), if the department (~~(of natural resources shall)~~) deems it  
19 for the best public interest to offer (~~(said)~~) the first-class  
20 tidelands or shorelands (~~(of the first-class)~~) for lease, the  
21 department shall (~~(cause a notice to be served upon)~~) notify the owner  
22 of record of uplands fronting upon the tidelands or shorelands to be  
23 offered for lease if (~~(he or she be)~~) the upland owner is a resident of  
24 the state, or (~~(if he or she be)~~) the upland owner is a nonresident of  
25 the state, shall mail to (~~(his or her)~~) the upland owner's last known  
26 post office address, as reflected in the county records, a copy of the  
27 notice notifying (~~(him or her)~~) the owner that the state is offering  
28 (~~(such)~~) the tidelands or shorelands for lease, giving a description of  
29 those lands and the department's appraised fair market value of  
30 (~~(such)~~) the tidelands or shorelands for lease, and notifying (~~(such)~~)  
31 the owner that (~~(he or she)~~) the upland owner has a preference right to  
32 apply to lease (~~(said)~~) the tidelands or shorelands at the appraised  
33 value for the lease (~~(thereof)~~) for a period of sixty days from the  
34 date of service of mailing of (~~(said)~~) the notice.

35 (2) If at the expiration of sixty days from the service or mailing  
36 of the notice, as (~~(above)~~) provided in subsection (1) of this section,  
37 there being no conflicting applications filed, and the owner of the

1 uplands fronting upon the tidelands or shorelands offered for lease,  
2 has failed to avail ~~((himself or herself of his or her))~~ themselves of  
3 their preference right to apply to lease or to pay to the department  
4 the appraised value for lease of the tidelands or shorelands described  
5 in ~~((said))~~ the notice, ~~((then in that event, said))~~ the tidelands or  
6 shorelands may be offered for lease to any person and may be leased in  
7 the manner provided for in the case of lease of state lands.

8 (3) If at the expiration of sixty days two or more claimants  
9 asserting a preference right to lease ~~((shall))~~ have filed applications  
10 to lease any tract, conflicting with each other, the conflict between  
11 the claimants shall be equitably resolved by the department ~~((of~~  
12 ~~natural resources))~~ as the best interests of the state require in  
13 accord with the procedures prescribed by chapter 34.05 RCW~~((+~~  
14 ~~PROVIDED, That))~~. However, any contract purchaser of lands or rights  
15 therein, which upland qualifies the owner for a preference right under  
16 this section, shall have first priority for ~~((such))~~ the preference  
17 right.

18 **Sec. 507.** RCW 79.94.080 and 1982 1st ex.s. c 21 s 93 are each  
19 amended to read as follows:

20 Any first-class tidelands or shorelands ~~((of the first class))~~  
21 remaining unsold, and where there is no pending application for ~~((the))~~  
22 purchase ~~((of the same))~~ under claim of any preference right, when  
23 otherwise permitted under RCW 79.94.150 (as recodified by this act) to  
24 be sold, shall be sold on the same terms and in the same manner as  
25 provided for the sale of state lands for not less than the appraised  
26 value fixed at the time of the application to purchase, and the  
27 department ~~((of natural resources))~~ whenever it ~~((shall))~~ deems it  
28 advisable and for the best interest of the state may reappraise  
29 ~~((such))~~ the lands in the same manner as provided for the appraisal of  
30 state lands.

31 **Sec. 508.** RCW 79.94.090 and 1982 1st ex.s. c 21 s 94 are each  
32 amended to read as follows:

33 All second-class tidelands~~((, other than first class,))~~ shall be  
34 offered for sale, when otherwise permitted under RCW 79.94.150 (as  
35 recodified by this act) to be sold, and sold in the same manner as  
36 state lands, other than capitol building lands, but for not less than

1 five dollars per lineal chain, measured on the United States meander  
2 line bounding the inner shore limit of (~~such~~) the tidelands, (~~and~~  
3 ~~each applicant shall furnish a copy of the United States field notes,~~  
4 ~~certified to by the officer in charge thereof, of said meander line~~  
5 ~~with his application,~~) and shall pay one-tenth of the purchase price  
6 on the date of sale.

7 **Sec. 509.** RCW 79.94.100 and 1982 1st ex.s. c 21 s 95 are each  
8 amended to read as follows:

9 Whenever all of the owners and other persons having a vested  
10 interest in those tidelands or shorelands embraced within any plat of  
11 tidelands or shorelands (~~of the first or second class, heretofore or~~  
12 ~~hereafter platted or replatted,~~) or within any portion of any (~~such~~)  
13 plat in which there are unsold state-owned tidelands or shorelands  
14 (~~belonging to the state~~), shall file a petition with the department  
15 (~~of natural resources~~) accompanied by proof of service of (~~such~~)  
16 the petition upon the city council, or other governing body, of the  
17 city or town in which the tidelands or shorelands described in the  
18 petition are situated, or upon the legislative body of the county in  
19 which (~~such~~) the tidelands or shorelands outside of any incorporated  
20 city or town are situated, asking for a replat of (~~such~~) the  
21 tidelands or shorelands, the department is authorized and empowered to  
22 replat (~~said~~) the tidelands or shorelands described in (~~such~~) the  
23 petition, and all unsold tidelands or shorelands situated within  
24 (~~such~~) the replat shall be reappraised as provided for the original  
25 appraisal of tidelands or shorelands(~~:- PROVIDED, That~~). However,  
26 any streets or alleys embraced within (~~such~~) the plat or portion of  
27 plat, vacated by the replat (~~hereby authorized~~) shall vest in the  
28 owner or owners of the (~~lands~~) abutting (~~thereon~~) lands.

29 **Sec. 510.** RCW 79.94.110 and 1982 1st ex.s. c 21 s 96 are each  
30 amended to read as follows:

31 If in the preparation of a replat provided for in RCW 79.94.100 (as  
32 recodified by this act) by the department (~~of natural resources~~), it  
33 becomes desirable to appropriate any tidelands or shorelands  
34 (~~heretofore~~) previously sold for use as streets, alleys, waterways,  
35 or other public places, all persons interested in the title to (~~such~~)

1 the tidelands or shorelands desired for public places shall join in the  
2 dedication of ~~((such))~~ the replat before it shall become effective.

3 **Sec. 511.** RCW 79.94.120 and 1982 1st ex.s. c 21 s 97 are each  
4 amended to read as follows:

5 If any platted street, alley, waterway, or other public place  
6 ~~((theretofore platted,))~~ is vacated by a replat as provided for in RCW  
7 79.94.100 and 79.94.110 (as recodified by this act), or any new street,  
8 alley, waterway, or other public place is so laid out as to leave  
9 unsold tidelands or shorelands between ~~((such))~~ a new street, alley,  
10 waterway, or other public place, and tidelands or shorelands  
11 ~~((theretofore))~~ previously sold, the owner of the adjacent tidelands or  
12 shorelands ~~((theretofore sold))~~ shall have the preference right for  
13 sixty days after the final approval of ~~((such))~~ the plat to purchase  
14 the unsold tidelands or shorelands so intervening at the appraised  
15 value ~~((thereof))~~, if otherwise permitted under RCW 79.94.150 (as  
16 recodified by this act) to be sold.

17 **Sec. 512.** RCW 79.94.130 and 1982 1st ex.s. c 21 s 98 are each  
18 amended to read as follows:

19 RCW 79.94.100 through 79.94.120 (as recodified by this act) are  
20 intended to afford a method of procedure, in addition to other methods  
21 provided in this ~~((chapter))~~ title for the vacation of streets, alleys,  
22 waterways, and other public places platted on tidelands or shorelands  
23 ~~((of the first or second class))~~.

24 **Sec. 513.** RCW 79.94.140 and 1982 1st ex.s. c 21 s 99 are each  
25 amended to read as follows:

26 A replat of tidelands or shorelands ~~((of the first or second class~~  
27 ~~heretofore, or hereafter,))~~ platted shall be in full force and effect  
28 and shall constitute a vacation of streets, alleys, waterways, and  
29 other dedicated public places ~~((theretofore dedicated))~~, when otherwise  
30 permitted by RCW 79.94.150 (as recodified by this act), and the  
31 dedication of new streets, alleys, waterways, and other public places  
32 appearing upon ~~((such))~~ the replat, when the ~~((same))~~ replat is  
33 recorded and filed as in the case of original plats.



1       **Sec. 514.** RCW 79.94.150 and 1982 1st ex.s. c 21 s 100 are each  
2 amended to read as follows:

3       (1) This section (~~((shall apply))~~) applies to:

4       (a) First\_class tidelands as defined in (~~(RCW 79.90.030)~~) section  
5 102 of this act;

6       (b) Second\_class tidelands as defined in (~~(RCW 79.90.035)~~) section  
7 102 of this act;

8       (c) First\_class shorelands as defined in (~~(RCW 79.90.040)~~) section  
9 102 of this act;

10       (d) Second\_class shorelands as defined in (~~(RCW 79.90.045)~~) section  
11 102 of this act, except as included within RCW 79.94.210 (as recodified  
12 by this act);

13       (e) Waterways as described in RCW 79.93.010 (as recodified by this  
14 act).

15       (2) Notwithstanding any other provision of law, from and after  
16 August 9, 1971, all state-owned tidelands and shorelands enumerated in  
17 subsection (1) of this section (~~((owned by the state of Washington))~~)  
18 shall not be sold except to public entities as may be authorized by law  
19 and they shall not be given away.

20       (3) Tidelands and shorelands enumerated in subsection (1) of this  
21 section may be leased for a period not to exceed fifty-five years(~~((+~~  
22 ~~PROVIDED, That))~~). However, nothing in this section shall be construed  
23 as modifying or canceling any outstanding lease during its present  
24 term.

25       (4) Nothing in this section shall:

26       (a) Be construed to cancel an existing sale contract;

27       (b) Prohibit sale or exchange of beds and shorelands where the  
28 water course has changed and the area now has the characteristics of  
29 uplands;

30       (c) Prevent exchange involving state-owned tidelands and  
31 shorelands;

32       (d) Be construed to prevent the assertion of public ownership  
33 rights in any publicly owned aquatic lands, or the leasing of such  
34 aquatic lands when such leasing is not contrary to the statewide public  
35 interest.

36       **Sec. 515.** RCW 79.94.160 and 1982 1st ex.s. c 21 s 101 are each  
37 amended to read as follows:

1       The department (~~(of natural resources)~~) may with the advice and  
2 approval of the board (~~(of natural resources)~~) sell state-owned  
3 tidelands or shorelands at the appraised market value to any municipal  
4 corporation or agency of the state of Washington when (~~(said)~~) the land  
5 is to be used solely for municipal or state purposes(~~(:—PROVIDED,~~  
6 ~~That)~~). However, the department shall with the advice and approval of  
7 the attorney general, execute (~~(such)~~) agreements, writings, or  
8 relinquishments and certify to the governor such deeds as are necessary  
9 or proper to affect (~~(such)~~) the sale or exchange.

10       **Sec. 516.** RCW 79.94.170 and 1982 1st ex.s. c 21 s 102 are each  
11 amended to read as follows:

12       (1) The department may require the payment of a use and occupancy  
13 fee in lieu of a lease where improvements have been placed without  
14 authorization on state-owned aquatic lands.

15       (2) Nothing in ((RCW 79.94.150 and 79.94.170)) this section shall  
16 be construed to prevent the assertion of public ownership rights in any  
17 publicly owned aquatic lands, or the leasing of (~~(such)~~) the aquatic  
18 lands when (~~(such)~~) the leasing is not contrary to the statewide public  
19 interest.

20       (~~The department of natural resources may require the payment of a~~  
21 ~~use and occupancy fee in lieu of a lease where improvements have been~~  
22 ~~placed without authorization on publicly owned aquatic lands.))~~

23       **Sec. 517.** RCW 79.94.175 and 2003 c 334 s 447 are each amended to  
24 read as follows:

25       Whenever application is made to the department by any incorporated  
26 city or town or metropolitan park district for the use of any state-  
27 owned tidelands or shorelands within the corporate limits of (~~(said)~~)  
28 the city or town or metropolitan park district for municipal park  
29 and/or playground purposes, the department shall cause (~~(such)~~) the  
30 application to be entered in the records of its office, and shall then  
31 forward the (~~(same)~~) application to the governor, who shall appoint a  
32 committee of five representative citizens of the city or town, in  
33 addition to the commissioner and the director of ecology, both of whom  
34 shall be ex officio members of the committee, to investigate the lands  
35 and determine whether they are suitable and needed for (~~(such)~~) park or  
36 playground purposes; and, if they so find, the commissioner shall

1 certify to the governor that the property shall be deeded, when in  
2 accordance with RCW 79.94.150 and 79.94.160 (as recodified by this  
3 act), to the city or town or metropolitan park district and the  
4 governor shall then execute a deed in the name of the state of  
5 Washington, attested by the secretary of state, conveying the use of  
6 (~~such~~) the lands to the city or town or metropolitan park district  
7 for (~~said~~) park or playground purposes for so long as it shall  
8 continue to hold, use, and maintain the lands for (~~such~~) park or  
9 playground purposes.

10 **Sec. 518.** RCW 79.94.181 and 2003 c 334 s 448 are each amended to  
11 read as follows:

12 In the event there are no state-owned tidelands or shorelands in  
13 any (~~such~~) city or town or metropolitan park district suitable for  
14 the purposes of RCW 79.94.175 (as recodified by this act) and the  
15 committee finds other lands (~~therein~~) which are suitable and needed  
16 (~~therefor~~) for parks or playgrounds, the department is (~~hereby~~)  
17 authorized to secure the (~~same~~) lands by exchanging state-owned  
18 tidelands or shorelands of equal value in the same county (~~of equal~~  
19 ~~value therefor~~), and the use of the lands so secured shall be conveyed  
20 to any (~~such~~) city or town or metropolitan park district as provided  
21 for in RCW 79.94.175 (as recodified by this act). In all (~~such~~)  
22 exchanges the department is (~~hereby~~) authorized and directed, with  
23 the assistance of the attorney general, to execute (~~such~~) agreements,  
24 writings, relinquishments, and deeds as are necessary or proper for the  
25 purpose of carrying (~~such~~) the exchanges into effect. Upland owners  
26 shall be notified of (~~such~~) the state-owned tidelands or shorelands  
27 to be exchanged.

28 **Sec. 519.** RCW 79.94.185 and 1988 c 127 s 34 are each amended to  
29 read as follows:

30 The director of ecology, in addition to serving as an ex officio  
31 member of (~~any such~~) the committee, is (~~hereby~~) authorized and  
32 directed to assist (~~any such~~) the city or town or metropolitan park  
33 district in the development and decoration of any lands so conveyed and  
34 to furnish trees, grass, flowers, and shrubs therefor.

1       **Sec. 520.** RCW 79.94.210 and 1989 c 378 s 3 and 1989 c 175 s 171  
2 are each reenacted and amended to read as follows:

3       (1) The legislature finds that maintaining public lands in public  
4 ownership is often in the public interest. However, when second\_class  
5 shorelands on navigable lakes have minimal public value, the sale of  
6 those shorelands to the abutting upland owner may not be contrary to  
7 the public interest(~~(: PROVIDED, That)~~). However, the purpose of this  
8 section is to remove the prohibition contained in RCW 79.94.150 (as  
9 recodified by this act) regarding the sale of second\_class shorelands  
10 to abutting owners, whose uplands front on the shorelands. Nothing  
11 contained in this section shall be construed to otherwise affect the  
12 rights of interested parties relating to public or private ownership of  
13 shorelands within the state.

14       (2) Notwithstanding the provisions of RCW 79.94.150 (as recodified  
15 by this act), the department (~~(of natural resources)~~) may sell second\_  
16 class shorelands on navigable lakes to abutting owners whose uplands  
17 front upon the shorelands in cases where the board (~~(of natural~~  
18 ~~resources)~~) has determined that these sales would not be contrary to  
19 the public interest. These shorelands shall be sold at fair market  
20 value, but not less than five percent of the fair market value of the  
21 abutting upland, less improvements, to a maximum (~~(depth)~~) distance of  
22 one hundred and fifty feet landward from the line of ordinary high  
23 water.

24       (3) Review of the decision of the department regarding the sale  
25 price established for a shoreland to be sold pursuant to this section  
26 may be obtained by the upland owner by filing a petition with the board  
27 of tax appeals created in accordance with chapter 82.03 RCW within  
28 thirty days after the mailing of notification by the department to the  
29 owner regarding the price. The board of tax appeals shall review  
30 (~~(such)~~) the cases in an adjudicative proceeding as described in  
31 chapter 34.05 RCW, the administrative procedure act, and the board's  
32 review shall be de novo. Decisions of the board of tax appeals  
33 regarding fair market values determined pursuant to this section shall  
34 be final unless appealed to the superior court pursuant to RCW  
35 34.05.510 through 34.05.598.

36       **Sec. 521.** RCW 79.94.220 and 1982 1st ex.s. c 21 s 107 are each  
37 amended to read as follows:

1 In every case where the state of Washington had prior to June 13,  
2 1913, sold to any purchaser from the state any second-class shorelands  
3 bordering upon navigable waters of this state by description  
4 (~~wherein~~) where the water boundary of the purchased shorelands (~~se~~  
5 ~~purchased~~) is not defined, (~~such~~) the water boundary shall be the  
6 line of ordinary navigation in (~~such~~) the water; and whenever  
7 (~~such~~) the waters have been or shall (~~hereafter~~) be lowered by any  
8 action done or authorized either by the state of Washington or the  
9 United States, (~~such~~) the water boundary shall (~~thereafter~~) be the  
10 line of ordinary navigation as the (~~same~~) water boundary shall be  
11 found in (~~such~~) the waters after (~~such~~) the lowering, and there is  
12 (~~hereby~~) granted and confirmed to every (~~such~~) purchaser, (~~his~~)  
13 the purchaser's heirs and assigns, all (~~such~~) the lands(~~:-PROVIDED~~  
14 ~~HOWEVER, That~~). However, RCW 79.94.220 and 79.94.230 (as recodified  
15 by this act) shall not apply to (~~such~~) the portions of (~~such~~) the  
16 second-class shorelands which shall, as provided by RCW 79.94.230 (as  
17 recodified by this act), be selected by the department (~~of natural~~  
18 ~~resources~~) for harbor areas, slips, docks, wharves, warehouses,  
19 streets, avenues, parkways and boulevards, alleys, or other public  
20 purposes(~~:-PROVIDED FURTHER, That~~). Further, all shorelands and the  
21 bed of Lake Washington from the southerly margin of the plat of Lake  
22 Washington shorelands southerly along the westerly shore of (~~said~~)  
23 the lake to a line three hundred feet south of and parallel with the  
24 east and west center line of section 35, township 24 north, range 4  
25 east, W.M., are (~~hereby~~) reserved for public uses and are (~~hereby~~)  
26 granted and donated to the city of Seattle for public park, parkway,  
27 and boulevard purposes, and as a part of its public park, parkway, and  
28 boulevard system and any diversion or attempted diversion of (~~such~~)  
29 the lands so donated from such purposes shall cause the title to  
30 (~~said~~) the lands to revert to the state.

31 **Sec. 522.** RCW 79.94.230 and 1982 1st ex.s. c 21 s 108 are each  
32 amended to read as follows:

33 It (~~shall be~~) is the duty of the department (~~of natural~~  
34 ~~resources~~) to survey (~~such~~) the second-class shorelands and in  
35 platting (~~such~~) the survey to designate (~~thereon as selected~~) for  
36 public use all of (~~such~~) the shorelands as in the opinion of the  
37 department is available, convenient, or necessary to be selected for

1 the use of the public as harbor areas, sites for slips, docks, wharves,  
2 warehouses, streets, avenues, parkways and boulevards, alleys, and  
3 other public purposes.

4 Upon the filing of (~~such~~) the plat in the department's Olympia  
5 office (~~of the commissioner of public lands~~), the title to all harbor  
6 areas so selected shall remain in the state, the title to all  
7 selections for streets, avenues, and alleys shall vest in any city or  
8 town within the corporate limits of which they (~~may be then situate~~)  
9 are situated, otherwise in the county in which (~~situate~~) they are  
10 situated, the title to and control of any lands so selected and  
11 designated upon (~~such~~) the plat for parkways and boulevard purposes  
12 shall, if the (~~same~~) lands lie outside of the corporate limits of any  
13 city or town and if the (~~same~~) lands form a part of the general  
14 parkway and boulevard system of a first-class city (~~of the first~~  
15 ~~class, be~~) lie in (~~such~~) the city, and the title to all selections  
16 for slips, docks, wharves, warehouses, and other public purposes shall  
17 vest in the port district if they (~~be situate~~) are situated in a port  
18 district, otherwise in the county in which (~~situate~~) they are  
19 situated.

20 **Sec. 523.** RCW 79.94.240 and 1982 1st ex.s. c 21 s 109 are each  
21 amended to read as follows:

22 It (~~shall be~~) is the duty of the department (~~of natural~~  
23 ~~resources~~) to plat for the public use harbor area in front of (~~such~~)  
24 the portions of the shorelands of Lake Washington (~~heretofore~~) sold  
25 as second-class shorelands by the state of Washington as in the opinion  
26 of the department are necessary for the use of the public as harbor  
27 area(~~:- PROVIDED HOWEVER, That~~). However, RCW 79.94.240 and  
28 79.94.250 (as recodified by this act) shall not be construed to  
29 authorize the department to change the location of any inner or outer  
30 harbor line or the boundaries or location of, or to replat any harbor  
31 area (~~heretofore~~) platted under and by virtue of sections 1 and 2,  
32 chapter 183, Laws of 1913, and the title to all shorelands  
33 (~~heretofore~~) purchased from the state as second-class shorelands is  
34 (~~hereby~~) confirmed to (~~such~~) the purchaser, (~~his~~) the purchaser's  
35 heirs and assigns, out to the inner harbor line (~~heretofore~~)  
36 established and platted under sections 1 and 2, chapter 183, Laws of  
37 1913, or which shall be established and platted under RCW 79.94.230 and

1 79.94.250 (as recodified by this act), and all reservations shown upon  
2 the plat made and filed pursuant to sections 1 and 2, chapter 183, Laws  
3 of 1913, are declared null and void, except reservations shown  
4 ~~((thereon))~~ for harbor area, and reservations in ~~((such))~~ the harbor  
5 area, and reservations across shorelands for traversed streets which  
6 were extensions of streets existing across shorelands at the time of  
7 filing of such plat. ~~((Said))~~ The department shall in platting  
8 ~~((said))~~ the harbor area make a new plat showing all the harbor area on  
9 Lake Washington already platted under ~~((said))~~ sections 1 and 2,  
10 chapter 183, Laws of 1913, and under sections 1 and 2, chapter 150,  
11 Laws of 1917, and upon the adoption of any new plat by the board ~~((of~~  
12 ~~natural-resources))~~ acting as the harbor line commission, and the  
13 filing of ~~((said))~~ the plat in the department's Olympia office ~~((of the~~  
14 ~~commissioner of public lands))~~, the title to all ~~((such))~~ the harbor  
15 areas so selected shall remain in the state of Washington, and ~~((such))~~  
16 the harbor areas shall not be sold, but may be leased as provided for  
17 by law relating to the leasing of ~~((such))~~ the harbor area.

18 **Sec. 524.** RCW 79.94.250 and 1982 1st ex.s. c 21 s 110 are each  
19 amended to read as follows:

20 Immediately after establishing the harbor area provided for in RCW  
21 79.94.240 (as recodified by this act), it ~~((shall be))~~ is the duty of  
22 the department ~~((of natural-resources))~~ to make a plat designating  
23 ~~((thereon))~~ all first and second-class shorelands, ~~((of the first and~~  
24 ~~second-class,))~~ not ~~((theretofore))~~ sold by the state of Washington,  
25 and to select for the use of the public out of ~~((such))~~ the shorelands,  
26 or out of harbor areas ~~((in front thereof))~~, sites for slips, docks,  
27 wharves, warehouses, streets, avenues, parkways, boulevards, alleys,  
28 commercial waterways, and other public purposes, insofar as ~~((such))~~  
29 the shorelands may be available for any or all ~~((such))~~ public  
30 purposes.

31 Upon the filing of ~~((such))~~ the plat of shorelands with ~~((such))~~  
32 the reservations and selections ~~((thereon))~~ in the department's Olympia  
33 office ~~((of the commissioner of public lands))~~, the title to all  
34 selections for streets, avenues, and alleys shall vest in any city or  
35 town within the corporate limits of which they ~~((may be then situate))~~  
36 are situated, otherwise in the county in which they are ~~((situate))~~  
37 situated. The title to and control of any land so selected and

1 designated upon ~~((such))~~ the plat for parkway and boulevard purposes  
2 shall, if the ~~((same))~~ lands lie outside the corporate limits of any  
3 city or town, and if the ~~((same))~~ lands form a part of the general  
4 parkway and boulevard system of the first-class city ~~((of the first~~  
5 ~~class))~~, be in ~~((such))~~ the city. The title to all selections for  
6 commercial waterway purposes shall vest in the commercial waterway  
7 district in which ~~((situate))~~ they are situated, or for which selected,  
8 and the title to all selections for slips, docks, wharves, warehouses,  
9 and other purposes shall vest in the port district if they ~~((be~~  
10 ~~situate))~~ are situated in a port district, otherwise in the county in  
11 which they are situated, and any sales of ~~((such))~~ the shorelands when  
12 otherwise permitted by law shall be made subject to ~~((such))~~ the  
13 selection and reservation for public use.

14 **Sec. 525.** RCW 79.94.260 and 1982 1st ex.s. c 21 s 111 are each  
15 amended to read as follows:

16 (1) If application is made to purchase or lease any second-class  
17 shorelands ~~((of the second class))~~ and the department ~~((of natural~~  
18 ~~resources shall))~~ deems it for the best public interest to offer  
19 ~~((said))~~ second-class shorelands ~~((of the second class))~~ for sale or  
20 lease, the department shall cause a notice to be served upon the  
21 abutting upland owner if ~~((he be))~~ the owner is a resident of the  
22 state, or if the upland owner ~~((be))~~ is a nonresident of the state,  
23 shall mail to ~~((his))~~ the owner's last known post office address, as  
24 reflected in the county records a copy of a notice notifying ~~((him))~~  
25 the owner that the state is offering ~~((such))~~ the shorelands for sale  
26 or lease, giving a description of the department's appraised fair  
27 market value of ~~((such))~~ the shorelands for sale or lease, and  
28 notifying ~~((such))~~ the upland owner that he or she has a preference  
29 right to purchase, if ~~((such))~~ the purchase is otherwise permitted  
30 under RCW 79.94.150 (as recodified by this act), or lease ~~((said))~~ the  
31 shorelands at the appraised value ~~((thereof))~~ for a period of thirty  
32 days from the date of the service or mailing of ~~((said))~~ the notice.  
33 If at the expiration of the thirty days from the service or mailing of  
34 the notice, as provided in this section, the abutting upland owner has  
35 failed to ~~((avail himself of his))~~ exercise the preference right to  
36 purchase, as otherwise permitted under RCW 79.94.150 (as recodified by  
37 this act), or lease, or to pay to the department the appraised value



1 for sale or lease of the shorelands described in ~~((said))~~ the notice,  
2 then in that event, except as otherwise provided in this section,  
3 ~~((said))~~ the shorelands may be offered for sale, when otherwise  
4 permitted under RCW 79.94.150 (as recodified by this act), or offered  
5 for lease, and sold or leased in the manner provided for the sale or  
6 lease of state lands, as otherwise permitted under this chapter.

7 (2) The department ~~((of natural resources))~~ shall authorize the  
8 sale or lease, whether to abutting upland owners or others, only if  
9 ~~((such))~~ the sale or lease would be in the best public interest and is  
10 otherwise permitted under RCW 79.94.150 (as recodified by this act).  
11 It is the intent of the legislature that whenever it is in the best  
12 public interest, the second-class shorelands ~~((of the second class))~~  
13 managed by the department ~~((of natural resources))~~ shall not be sold  
14 but shall be maintained in public ownership for the use and benefit of  
15 the people of the state.

16 (3) In all cases where application is made for the lease of any  
17 second-class shorelands adjacent to upland, under the provisions of  
18 this section, the ~~((same))~~ shorelands shall be leased per lineal chain  
19 frontage~~((, and the United States field notes of the meander line shall~~  
20 ~~accompany each application as required for the sale of such lands, and~~  
21 ~~when application is made for the lease of second class shorelands~~  
22 ~~separated from the upland by navigable waters, the application shall be~~  
23 ~~accompanied by the plat and field notes of a survey of the lands~~  
24 ~~applied for, as required with applications for the purchase of such~~  
25 ~~lands))~~.

26 (4) If, following an application by the abutting upland owner to  
27 either purchase as otherwise permitted under RCW 79.94.150 (as  
28 recodified by this act) or to obtain an exclusive lease at appraised  
29 full market value or rental, the department deems that ~~((such))~~ the  
30 sale or lease is not in the best public interest, or if property rights  
31 in state-owned second-class shorelands are at any time withdrawn, sold,  
32 or assigned in any manner authorized by law to a public agency for a  
33 use by the general public, the department shall within one hundred and  
34 eighty days from receipt of ~~((such))~~ the application to purchase or  
35 lease, or on reaching a decision to withdraw, sell, or assign such  
36 shorelands to a public agency, and: ~~((+1+))~~ (a) Make a formal finding  
37 that the body of water adjacent to ~~((such))~~ the shorelands is  
38 navigable; ~~((+2+))~~ (b) find that the state or the public has an

1 overriding interest inconsistent with a sale or exclusive lease to a  
2 private person, and specifically identify ~~((such))~~ the interest and the  
3 factor or factors amounting to ~~((such))~~ the inconsistency; and ~~((+3))~~  
4 (c) provide for the review of ~~((said))~~ the decision in accordance with  
5 the procedures prescribed by chapter 34.05 RCW.

6 (5) Notwithstanding ~~((the above provisions))~~ subsections (1)  
7 through (4) of this section, the department may cause any of ~~((such))~~  
8 the shorelands to be platted as is provided for the platting of first-  
9 class shorelands ~~((of the first class))~~, and when so platted ~~((such))~~  
10 the lands shall be sold, when otherwise permitted under RCW 79.94.150  
11 (as recodified by this act) to be sold, or leased in the manner  
12 provided for the sale or lease of first-class shorelands ~~((of the first~~  
13 class)).

14 **Sec. 526.** RCW 79.94.270 and 1982 1st ex.s. c 21 s 112 are each  
15 amended to read as follows:

16 ~~((Tide or shore lands of the))~~ Second-class ~~((which))~~ tidelands and  
17 shorelands that are separated from the upland by navigable waters shall  
18 be sold, when otherwise permitted under RCW 79.94.150 (as recodified by  
19 this act) to be sold, but in no case at less than five dollars per  
20 acre. An applicant to purchase ~~((such))~~ the tidelands or shorelands  
21 shall, at ~~((his))~~ the applicant's own expense, survey and file with  
22 ~~((his))~~ the application a plat of the surveys of the land applied for,  
23 which survey shall be connected with, and the plat shall show, two or  
24 more connections with the United States survey of the uplands, and the  
25 applicant shall file the field notes of the survey of ~~((said))~~ the land  
26 with ~~((his))~~ the application. The department ~~((of natural resources))~~  
27 shall examine and test ~~((said))~~ the plat and field notes of the survey,  
28 and if found incorrect or indefinite, it shall cause the ~~((same))~~  
29 survey to be corrected or may reject the ~~((same))~~ survey and cause a  
30 new survey to be made.

31 **Sec. 527.** RCW 79.94.280 and 1982 1st ex.s. c 21 s 113 are each  
32 amended to read as follows:

33 (1) The department ~~((of natural resources))~~ is authorized to lease  
34 to the abutting upland owner any unplatted first-class tidelands or  
35 shorelands.

1       (2) The department shall, prior to the issuance of any lease under  
2 the provisions of this section, fix the annual rental for ~~((said))~~ the  
3 tidelands or shorelands and prescribe the terms and conditions of the  
4 lease. No lease issued under the provisions of this section shall be  
5 for a longer term than ten years ~~((from the date thereof))~~, and every  
6 ~~((such))~~ lease shall be subject to termination upon ninety days' notice  
7 to the lessee in the event that the department shall decide that it is  
8 in the best interest of the state that ~~((such))~~ the tidelands or  
9 shorelands be surveyed and platted. At the expiration of any lease  
10 issued under the provisions of this section, the lessee or ~~((his))~~ the  
11 lessee's successors or assigns shall have a preference right to re-  
12 lease the lands covered by the original lease or any portion  
13 ~~((thereof))~~ of the lease, if the department ~~((shall))~~ deems it to be in  
14 the best interests of the state to re-lease the ~~((same))~~ lands, for  
15 succeeding periods not exceeding five years each at ~~((such))~~ the rental  
16 and upon ~~((such))~~ the terms and conditions as may be prescribed by  
17 ~~((said))~~ the department.

18       (3) In case the abutting uplands are not improved and occupied for  
19 residential purposes and the abutting upland owner has not filed an  
20 application for the lease of ~~((such))~~ the lands, the department may  
21 lease the ~~((same))~~ lands to any person for booming purposes under the  
22 terms and conditions of this section~~((:—PROVIDED, That))~~. However,  
23 failure to use for booming purposes any lands leased under this section  
24 for such purposes for a period of one year shall work a forfeiture of  
25 ~~((such))~~ the lease and ~~((such))~~ the land shall revert to the state  
26 without any notice to the lessee upon the entry of a declaration of  
27 forfeiture in the records of the department ~~((of natural resources))~~.

28       **Sec. 528.** RCW 79.94.290 and 1982 1st ex.s. c 21 s 114 are each  
29 amended to read as follows:

30       (1) The department ~~((of natural resources))~~ is authorized to lease  
31 any second-class tidelands or shorelands, whether reserved from sale,  
32 or from lease for other purposes, by or under authority of law, or not,  
33 except any oyster reserve containing oysters in merchantable  
34 quantities, to any person, for booming purposes, for any term not  
35 exceeding ten years from the date of ~~((such))~~ the lease, for ~~((such))~~  
36 annual rental and upon ~~((such))~~ terms and conditions as the department  
37 may fix and determine, and may also provide for forfeiture and

1 termination of any ((such)) lease at any time for failure to pay the  
2 fixed rental or for any violation of the terms or conditions  
3 ((thereof)).

4 (2) The lessee of any ((such)) lands for booming purposes shall  
5 receive, hold, and sort the logs and other timber products of all  
6 persons requesting ((such)) the service and upon the same terms and  
7 without discrimination, and may charge and collect tolls for ((such))  
8 the service not to exceed seventy-five cents per thousand feet scale  
9 measure on all logs, spars, or other large timber and reasonable rates  
10 on all other timber products, and shall be subject to the same duties  
11 and liabilities, so far as the ((same)) duties and liabilities are  
12 applicable, as are imposed upon boom companies organized under the laws  
13 of the state(~~:- PROVIDED, That~~). However, failure to use any lands  
14 leased under the provisions of this section for booming purposes for a  
15 period of one year shall work a forfeiture of ((such)) the lease, and  
16 ((such)) the lands shall revert to the state without any notice to the  
17 lessee upon the entry of a declaration of forfeiture in the records of  
18 the department.

19 (3) At the expiration of any lease issued under the provisions of  
20 this section, the lessee shall have the preference right to re-lease  
21 the lands covered by ((his)) the lessee's original lease for a further  
22 term, not exceeding ten years, at ((such)) the rental and upon ((such))  
23 the terms and conditions as may be prescribed by the department ((~~of~~  
24 ~~natural resources~~)).

25 **Sec. 529.** RCW 79.94.300 and 1982 1st ex.s. c 21 s 115 are each  
26 amended to read as follows:

27 All preference rights to purchase tidelands or shorelands ((~~of the~~  
28 ~~first or second class~~)), when otherwise permitted by RCW 79.94.150 (as  
29 recodified by this act) to be purchased, awarded by the department ((~~of~~  
30 ~~natural resources~~)), or by the superior court in case of appeal from  
31 the award of the department, shall be exercised by the parties to whom  
32 the award is made within thirty days from the date of the service of  
33 notice of the award by registered mail, by the payment to the  
34 department of the sums required by law to be paid for a contract, or  
35 deed, as in the case of the sale of state lands, other than capitol  
36 building lands, and upon failure to make ((such)) the payment ((such))  
37 the preference rights shall expire.

1       **Sec. 530.** RCW 79.94.310 and 1982 1st ex.s. c 21 s 116 are each  
2 amended to read as follows:

3       Any accretions that may be added to any tract or tracts of  
4 tidelands or shorelands (~~((of the first or second class heretofore))~~)  
5 previously sold, or that may (~~((hereafter))~~) be sold, by the state, shall  
6 belong to the state and shall not be sold, or offered for sale, unless  
7 otherwise permitted by this chapter to be sold, and unless the  
8 accretions (~~((shall have been first))~~) are surveyed under the direction  
9 of the department (~~((of natural resources: PROVIDED, That))~~). However,  
10 the owner of the adjacent tidelands or shorelands shall have the  
11 preference right to purchase (~~((said))~~) the lands produced by accretion,  
12 when otherwise permitted by RCW 79.94.150 (as recodified by this act)  
13 to be sold, for thirty days after (~~((said))~~) the owner of the adjacent  
14 tidelands or shorelands shall have been notified by registered mail of  
15 (~~((his))~~) the owner's preference right to purchase (~~((such))~~) the accreted  
16 lands.

17       **Sec. 531.** RCW 79.94.320 and 1982 1st ex.s. c 21 s 117 are each  
18 amended to read as follows:

19       (1) In case any lessee of tidelands or shorelands, for any purpose  
20 except mining of valuable minerals or coal, or extraction of petroleum  
21 or gas, or (~~((his))~~) the lessee's successor in interest, shall after the  
22 expiration of any lease, fail to purchase, when otherwise permitted  
23 under RCW 79.94.150 (as recodified by this act) to be purchased, or re-  
24 lease from the state the tidelands or shorelands formerly covered by  
25 (~~((his))~~) the lease, when the (~~((same))~~) lands are offered for sale or re-  
26 lease, then and in that event the department (~~((of natural resources))~~)  
27 shall appraise and determine the value of all improvements existing  
28 upon (~~((such))~~) the tidelands or shorelands at the expiration of the  
29 lease which are not capable of removal without damage to the land,  
30 including the cost of filling and raising (~~((said))~~) the property above  
31 high tide, or high water, whether filled or raised by the lessee or  
32 (~~((his))~~) the lessee's successors in interest, or by virtue of any  
33 contract made with the state, and also including the then value to the  
34 land of all existing local improvements paid for by (~~((such))~~) the lessee  
35 or (~~((his))~~) the lessee's successors in interest. In case the lessee or  
36 (~~((his))~~) the lessee's successor in interest is dissatisfied with the  
37 appraised value of (~~((such))~~) the improvements as determined by the

1 department, ~~((he))~~ the lessee shall have the right of appeal to the  
2 superior court of the county ~~((wherein said))~~ where the tidelands or  
3 shorelands are situated, within the time and according to the method  
4 prescribed in RCW 79.90.400 (as recodified by this act) for taking  
5 appeals from decisions of the department.

6 (2) In case ~~((such))~~ the tidelands or shorelands are leased, or  
7 sold, to any person other than such lessee or ~~((his))~~ the lessee's  
8 successor in interest, within three years from the expiration of the  
9 former lease, the bid of ~~((such))~~ the subsequent lessee or purchaser  
10 shall not be accepted until payment is made by ~~((such))~~ the subsequent  
11 lessee or purchaser of the appraised value of the improvements as  
12 determined by the department, or as may be determined on appeal, to  
13 ~~((such))~~ the former lessee or ~~((his))~~ the former lessee's successor in  
14 interest.

15 (3) In case ~~((such))~~ the tidelands or shorelands are not leased, or  
16 sold, within three years after the expiration of ~~((such))~~ the former  
17 lease, then in that event, ~~((such))~~ the improvements existing on the  
18 lands at the time of any subsequent lease, shall belong to the state  
19 and be considered a part of the land, and shall be taken into  
20 consideration in appraising the value, or rental value, of the land and  
21 sold or leased with the land.

22 **Sec. 532.** RCW 79.94.330 and 1982 1st ex.s. c 21 s 118 are each  
23 amended to read as follows:

24 The department ~~((of natural resources))~~ is ~~((hereby))~~ authorized to  
25 locate in all navigable rivers in this state which are subject to tidal  
26 flow, the line dividing the tidelands in ~~((such))~~ the river from the  
27 shorelands in ~~((such))~~ the river, and ~~((such))~~ the classification or  
28 the location of ~~((such))~~ the dividing line shall be final and not  
29 subject to review, and the department shall enter the location of  
30 ~~((said))~~ the line upon the plat of the tidelands and shorelands  
31 affected.

32 **Sec. 533.** RCW 79.94.390 and 2003 c 39 s 42 are each amended to  
33 read as follows:

34 The following described tidelands, being public lands of the state,  
35 are withdrawn from sale or lease and reserved as public areas for

1 recreational use and for the taking of fish and shellfish for personal  
2 use as defined in RCW 77.08.010:

3 Parcel No. 1. (Point Whitney) The second-class tidelands (~~(of the~~  
4 ~~second-class)~~), owned by the state of Washington, situate in front of,  
5 adjacent to or abutting upon lots 3, 4, and 5, section 7, township 26  
6 north, range 1 west, W.M., with a frontage of 72.45 lineal chains, more  
7 or less.

8 Excepting, however, those portions of the above-described second-  
9 class tidelands (~~(of the second-class)~~) conveyed to the state of  
10 Washington, department of fish and wildlife through deed issued May 14,  
11 1925, under application No. 8136, records of department of public  
12 lands.

13 Parcel No. 2. (Point Whitney) The second-class tidelands (~~(of the~~  
14 ~~second-class)~~) lying below the line of mean low tide, owned by the  
15 state of Washington, situate in front of lot 1, section 6, township 26  
16 north, range 1 west, W.M., with a frontage of 21.00 lineal chains, more  
17 or less; also

18 The second-class tidelands (~~(of the second-class)~~), owned by the  
19 state of Washington, situate in front of, adjacent to, or abutting upon  
20 lots 6 and 7, and that portion of lot 5, section 1, township 26 north,  
21 range 1 west, W.M., lying south of a line running due west from a point  
22 on the government meander line which is S 22° E 1.69 chains from an  
23 angle point in said meander line which is S 15° W 1.20 chains, more or  
24 less, from the point of intersection of the north line of said lot 5  
25 and (~~said~~) the meander line, with a frontage of 40.31 lineal chains,  
26 more or less.

27 Parcel No. 3. (Toandos Peninsula) The second-class tidelands (~~(of~~  
28 ~~the second-class)~~), owned by the state of Washington, situate in front  
29 of, adjacent to, or abutting upon lots 1, 2, and 3, section 5, lots 1,  
30 2, and 3, section 4, and lot 1, section 3, all in township 25 north,  
31 range 1 west, W.M., with a frontage of 158.41 lineal chains, more or  
32 less.

33 Parcel No. 4. (Shine) The second-class tidelands (~~(of the second~~  
34 ~~class)~~), owned by the state of Washington, situate in front of,  
35 adjacent to, or abutting upon lots 1, 2, 3 and that portion of lot 4  
36 lying north of the south 8.35 chains (~~thereof~~) as measured along the  
37 government meander line, all in section 35, township 28 north, range 1  
38 east, W.M., with a frontage of 76.70 lineal chains, more or less.

1 Subject to an easement for right of way for county road granted to  
2 Jefferson county December 8, 1941, under application No. 1731, records  
3 of department of public lands.

4 Parcel No. 5. (Lilliwaup) The second-class tidelands (~~(of the~~  
5 ~~second-class)~~), owned by the state of Washington, lying easterly of the  
6 east line of vacated state oyster reserve plat No. 133 produced  
7 southerly and situate in front of, adjacent to, or abutting upon lot 9,  
8 section 30, lot 8, section 19 and lot 5 and the south 20 acres of lot  
9 4, section 20, all in township 23 north, range 3 west, W.M., with a  
10 frontage of 62.46 lineal chains, more or less.

11 Subject to easements for rights of way for state road granted  
12 through the filing of state road plats No. 374 December 15, 1930, No.  
13 661, March 29, 1949, and No. 666 August 25, 1949, records of department  
14 of public lands.

15 Parcel No. 6. (Nemah) Those portions of the second-class tidelands  
16 (~~(of the second-class)~~), owned by the state of Washington, situate in  
17 front of, adjacent to, or abutting upon lots 5, 6, and 7, section 3 and  
18 lots 1, 2, and 3, section 4, township 12 north, range 10 west, W.M.,  
19 lots 1, 2, 3, and 4, section 34, section 27 and lots 1, 2, 3 and 4,  
20 section 28, township 13 north, range 10 west, W.M., lying easterly of  
21 the easterly line of the Nemah Oyster reserve and easterly of the  
22 easterly line of a tract of second-class tidelands (~~(of the second~~  
23 ~~class)~~) conveyed through deed issued July 28, 1938, pursuant to the  
24 provisions of chapter 24, Laws of 1895, under application No. 9731,  
25 with a frontage of 326.22 lineal chains, more or less.

26 Parcels No. 7 and 8. (Penn Cove) The unplatted first and second-  
27 class tidelands (~~(of the first class, and tidelands of the second~~  
28 ~~class)~~), owned by the state of Washington, situate in front of,  
29 adjacent to, or abutting upon lots 1 and 2, section 33, lots 1, 2, 3,  
30 and 4, section 32, lots 2 and 3 and the B.P. Barstow D.L.C. No. 49,  
31 sections 30 and 31 and that portion of the R.H. Lansdale D.L.C. No. 54  
32 in section 30, lying west of the east 3.00 chains thereof as measured  
33 along the government meander line, all in township 32 north, range 1  
34 east, W.M., with a frontage of 260.34 lineal chains, more or less.

35 Excepting, however, the tidelands above the line of mean low tide  
36 in front of said lot 1, section 32 which were conveyed as second-class  
37 tidelands (~~(of the second-class)~~) through deed issued December 29,  
38 1908, application No. 4957, records of department of public lands.



1 Subject to an easement for right of way for transmission cable line  
2 granted to the United States of America Army Engineers June 7, 1943,  
3 under application No. 17511, records of department of public lands.

4 Parcel No. 9. (South of Penn Cove) The second-class tidelands (~~(of~~  
5 ~~the second class)~~), owned by the state of Washington, situate in front  
6 of, adjacent to, or abutting upon lots 2, 3 and 4, section 17 and lots  
7 1, 2 and 3, section 20, township 31 north, range 2 east, W.M., with a  
8 frontage of 129.97 lineal chains, more or less.

9 Parcel No. 10. (Mud Bay--Lopez Island) The second-class tidelands  
10 (~~(of the second class)~~), owned by the state of Washington situate in  
11 front of, adjacent to, or abutting upon lots 5, 6 and 7, section 18,  
12 lot 5, section 7 and lots 3, 4, and 5, section 8, all in township 34  
13 north, range 1 west, W.M., with a frontage of 172.11 lineal chains,  
14 more or less.

15 Excepting, however, any second-class tideland (~~(of the second~~  
16 ~~class)~~) in front of said lot 3, section 8 conveyed through deeds issued  
17 April 14, 1909, pursuant to the provisions of chapter 24, Laws of 1895,  
18 under application No. 4985, records of department of public lands.

19 Parcel No. 11. (Cattle Point) The second-class tidelands (~~(of the~~  
20 ~~second class)~~), owned by the state of Washington, situate in front of,  
21 adjacent to, or abutting upon lot 1, section 6, lots 1, 3, 4, 5, 6, 7,  
22 8, 9, and 10, section 7, lots 1, 2, 3, 4, 5, 6 and 7, section 8 and lot  
23 1, section 5, all in township 34 north, range 2 west, W.M., with a  
24 frontage of 463.88 lineal chains, more or less.

25 Excepting, however, any second-class tidelands (~~(of the second~~  
26 ~~class)~~) in front of said lot 10, section 7 conveyed through deed issued  
27 June 1, 1912, under application No. 6906, records of department of  
28 public lands.

29 Parcel No. 12. (Spencer Spit) The second-class tidelands (~~(of the~~  
30 ~~second class)~~), owned by the state of Washington, situate in front of,  
31 adjacent to, or abutting upon lots 1, 3, and 4, section 7, and lot 5,  
32 section 18 all in township 35 north, range 1 west, W.M., with a  
33 frontage of 118.80 lineal chains, more or less.

34 **Sec. 534.** RCW 79.94.400 and 1994 c 264 s 67 are each amended to  
35 read as follows:

36 The director of fish and wildlife may take appropriate action to

1 provide public and private access, including roads and docks, to and  
2 from the tidelands described in RCW 79.94.390 (as recodified by this  
3 act).

4 **Sec. 535.** RCW 79.94.410 and 1982 1st ex.s. c 21 s 126 are each  
5 amended to read as follows:

6 The use of any ~~((tide and shore lands))~~ tidelands, shorelands, and  
7 abutting bedlands covered with less than four fathoms of water at  
8 ordinary low tide belonging to the state, and adjoining and bordering  
9 on any tract, piece, or parcel of land, which may have been reserved or  
10 acquired, or which may ~~((hereafter))~~ be reserved or acquired, by the  
11 government of the United States, for the purposes of erecting and  
12 maintaining ~~((thereon))~~ forts, magazines, arsenals, dockyards, navy  
13 yards, prisons, penitentiaries, lighthouses, fog signal stations,  
14 aviation fields, or other aids to navigation, may be ~~((and the same is~~  
15 ~~hereby))~~ granted to the United States, upon payment for ~~((such))~~ the  
16 rights, so long as the upland adjoining ~~((such))~~ the tidelands or  
17 shorelands shall continue to be held by the government of the United  
18 States for any of the public purposes above mentioned~~((:—PROVIDED,~~  
19 ~~That))~~. However, this grant shall not extend to or include any aquatic  
20 lands covered by more than four fathoms of water at ordinary low tide;  
21 and shall not be construed to prevent any citizen of the state from  
22 using ~~((said))~~ the lands for the taking of food fishes so long as  
23 ~~((such))~~ the fishing does not interfere with the public use of them by  
24 the United States.

25 **Sec. 536.** RCW 79.94.420 and 1982 1st ex.s. c 21 s 127 are each  
26 amended to read as follows:

27 Whenever application is made to the department ~~((of natural~~  
28 ~~resources))~~ by any department of the United States government for the  
29 use of any state-owned tidelands or shorelands ~~((belonging to the~~  
30 ~~state))~~ and adjoining and bordering on any upland held by the United  
31 States for any of the purposes mentioned in RCW 79.94.410 (as  
32 recodified by this act), upon proof being made to ~~((said))~~ the  
33 department ~~((of natural resources))~~, that ~~((such))~~ the uplands are so  
34 held by the United States for such purposes, and upon payment for  
35 ~~((such))~~ the land, it shall cause ~~((such))~~ the fact to be entered in  
36 the records of the ~~((office of the commissioner of public lands))~~

1 department and the department shall certify (~~such~~) the fact to the  
2 governor who will execute a deed in the name of the state, attested by  
3 the secretary of state, conveying the use of (~~such~~) the lands, for  
4 such purposes, to the United States, so long as it shall continue to  
5 hold for (~~said~~) the public purposes the uplands adjoining (~~said~~)  
6 the tidelands and shorelands.

7 **Sec. 537.** RCW 79.94.430 and 1982 1st ex.s. c 21 s 128 are each  
8 amended to read as follows:

9 Whenever application is made to the department (~~of natural~~  
10 ~~resources~~), by any department of the United States government, for the  
11 use of any state-owned tidelands or shorelands (~~belonging to the~~  
12 ~~state~~), for any public purpose, and (~~said~~) the department shall be  
13 satisfied that the United States requires or may require the use of  
14 (~~such~~) the tidelands or shorelands for (~~such~~) the public purposes,  
15 (~~said~~) the department may reserve (~~such~~) the tidelands or  
16 shorelands from public sale and grant the use of them to the United  
17 States, upon payment for (~~such~~) the land, so long as it may require  
18 the use of them for (~~such~~) the public purposes. In such a case, the  
19 department shall execute an easement to the United States, which grants  
20 the use of (~~said~~) the tidelands or shorelands to the United States,  
21 so long as it shall require the use of them for (~~said~~) the public  
22 purpose.

23 **Sec. 538.** RCW 79.94.440 and 1982 1st ex.s. c 21 s 129 are each  
24 amended to read as follows:

25 Whenever the United States shall cease to hold and use any uplands  
26 for the use and purposes mentioned in RCW 79.94.410 (as recodified by  
27 this act), or shall cease to use any tidelands or shorelands for the  
28 purpose mentioned in RCW 79.94.430 (as recodified by this act), the  
29 grant or easement of (~~such~~) the tidelands or shorelands shall be  
30 terminated (~~thereby~~), and (~~said~~) the tidelands or shorelands shall  
31 revert to the state without resort to any court or tribunal.

32 **PART 6**  
33 **AQUATIC LANDS--BEDS OF NAVIGABLE WATERS**

1       **Sec. 601.** RCW 79.95.010 and 1987 c 271 s 2 are each amended to  
2 read as follows:

3       (1) Except as provided in RCW 79.95.060 (as recodified by this  
4 act), the department (~~(of natural resources)~~) may lease to the abutting  
5 tidelands or shorelands owner or lessee, the beds of navigable waters  
6 lying below the line of extreme low tide in waters where the tide ebbs  
7 and flows, and below the line of navigability in lakes and rivers  
8 claimed by the state and defined in (~~section 1,~~) Article XVII,  
9 section 1 of the state Constitution (~~(of the state)~~).

10       (2) In case the abutting tidelands or shorelands or the abutting  
11 uplands are not improved or occupied for residential or commercial  
12 purposes, the department may lease (~~(such)~~) the beds to any person for  
13 a period not exceeding ten years for booming purposes.

14       (3) Nothing in this chapter shall change or modify any of the  
15 provisions of the state Constitution or laws of the state which provide  
16 for the leasing of harbor areas and the reservation of lands lying in  
17 front (~~(thereof)~~) of harbor areas.

18       **Sec. 602.** RCW 79.95.020 and 1982 1st ex.s. c 21 s 131 are each  
19 amended to read as follows:

20       (1) The department (~~(of natural resources)~~) shall, prior to the  
21 issuance of any lease under the provisions of this chapter, fix the  
22 annual rental and prescribe the terms and conditions of the lease(~~(+~~  
23 ~~PROVIDED, That)~~). However, in fixing (~~(such)~~) the rental, the  
24 department shall not take into account the value of any improvements  
25 (~~(heretofore or hereafter)~~) placed upon the lands by the lessee.

26       (2) No lease issued under the provisions of this chapter shall be  
27 for a term longer than thirty years from the date thereof if in front  
28 of second-class tidelands or shorelands; or a term longer than ten  
29 years if in front of unplatted first-class tidelands or shorelands  
30 leased under the provisions of RCW 79.94.280 (as recodified by this  
31 act), in which case (~~(said)~~) the lease shall be subject to the same  
32 terms and conditions as provided for in the lease of (~~(such)~~) the  
33 unplatted first-class tidelands or shorelands. Failure to use those  
34 beds leased under the provisions of this chapter for booming purposes,  
35 for a period of two years shall work a forfeiture of (~~(said)~~) the lease  
36 and the land shall revert to the state without notice to the lessee

1 upon the entry of a declaration of forfeiture in the records of the  
2 (~~commissioner of public lands~~) department.

3 **Sec. 603.** RCW 79.95.030 and 1982 1st ex.s. c 21 s 132 are each  
4 amended to read as follows:

5 The applicant for a lease under the provisions of this chapter  
6 shall first obtain from the United States army corps of engineers or  
7 other federal regulatory agency, a permit to place structures or  
8 improvements in (~~said~~) the navigable waters and file with the  
9 department (~~of natural resources~~) a copy of (~~said~~) the permit. No  
10 structures or improvements shall be constructed beyond a point  
11 authorized by the army corps of engineers or the department (~~of~~  
12 ~~natural resources~~) and any construction beyond authorized limits will  
13 work a forfeiture of all rights granted by the terms of any lease  
14 issued under the provisions of this chapter. The applicant shall also  
15 file plans and specifications of any proposed improvements to be placed  
16 upon (~~such~~) the areas with the department (~~of natural resources~~),  
17 (~~said~~) the plans and specifications to be the same as provided for in  
18 the case of the lease of harbor areas.

19 **Sec. 604.** RCW 79.95.040 and 1982 1st ex.s. c 21 s 133 are each  
20 amended to read as follows:

21 At the expiration of any lease issued under the provisions of this  
22 chapter, the lessee or (~~his~~) the lessee's successors or assigns,  
23 shall have a preference right to re-lease all or part of the area  
24 covered by the original lease (~~or any portion thereof~~) if the  
25 department (~~of natural resources~~) deems it to be in the best interest  
26 of the state to re-lease the (~~same~~) area. Such re-lease shall be for  
27 (~~such~~) the term as specified by the provisions of this chapter, and  
28 at (~~such~~) the rental and upon (~~such~~) the conditions as may be  
29 prescribed by the department(~~:- PROVIDED, That~~). However, if  
30 (~~such~~) the preference right is not exercised, the rights and  
31 obligations of the lessee, the department (~~of natural resources~~), and  
32 any subsequent lessee shall be the same as provided in RCW 79.94.320  
33 (as recodified by this act) relating to failure to re-lease tidelands  
34 or shorelands. Any person who prior to June 11, 1953, had occupied and  
35 improved an area subject to lease under this chapter and has secured a  
36 permit for (~~such~~) the improvements from the United States army corps

1 of engineers, or other federal regulatory agency, shall have the rights  
2 and obligations of a lessee under this section upon the filing of a  
3 copy of (~~such~~) the permit together with plans and specifications of  
4 (~~such~~) the improvements with the department (~~of natural resources~~).

5 **Sec. 605.** RCW 79.95.050 and 1987 c 271 s 1 are each amended to  
6 read as follows:

7 The legislature recognizes the importance of economic development  
8 in the state of Washington, and finds that the location of a United  
9 States Navy base in Everett, Washington will enhance economic  
10 development. The legislature finds that the state should not assume  
11 liability or risks resulting from any action taken by the United States  
12 Navy, now or in the future associated with the dredge disposal program  
13 for that project known as confined aquatic disposal (CAD). The  
14 legislature also recognizes the importance of improving water quality  
15 and cleaning up pollution in Puget Sound. The legislature (~~hereby~~)  
16 declares these actions to be a public purpose necessary to protect the  
17 health, safety, and welfare of its citizens, and to promote economic  
18 growth and improve environmental quality in the state of Washington.  
19 The United States Navy proposes to commence the Everett home port  
20 project immediately.

21 **Sec. 606.** RCW 79.95.060 and 1987 c 271 s 3 are each amended to  
22 read as follows:

23 (1) Upon application by the United States Navy, and upon  
24 verification of the legal description and compliance with the intent of  
25 this chapter, the commissioner (~~of public lands~~) is authorized to  
26 lease bedlands in Port Gardner Bay for a term of thirty years so the  
27 United States Navy can utilize a dredge spoil site solely for purposes  
28 related to construction of the United States Navy base at Everett.

29 (2) The lease shall reserve for the state uses of the property and  
30 associated waters which are not inconsistent with the use of the bed by  
31 the Navy as a disposal site. The lease shall include conditions under  
32 which the Navy:

33 (a) Will agree to hold the state of Washington harmless for any  
34 damage and liability relating to, or resulting from, the use of the  
35 property by the Navy; and

1 (b) Will agree to comply with all terms and conditions included in  
2 the applicable state of Washington section 401 water quality  
3 certification issued under the authority of the Federal Clean Water Act  
4 (33 U.S.C. Sec. 1251, et seq.), all terms and conditions of the army  
5 corps of engineers section 404 permit (33 U.S.C. Sec. 1344), and all  
6 requirements of statutes, regulations, and permits relating to water  
7 quality and aquatic life in Puget Sound and Port Gardner Bay, including  
8 all reasonable and appropriate terms and conditions of any permits  
9 issued under the authority of the Washington state shoreline management  
10 act (chapter 90.58 RCW) and any applicable shoreline master program.

11 (3) The ability of the state of Washington to enforce the terms and  
12 conditions specified in subsection (2)(b) of this section shall  
13 include, but not be limited to: (a) The terms and conditions of the  
14 lease; (b) the section 401 water quality certification under the Clean  
15 Water Act, 33 U.S.C. Sec. 1251, et seq.; (c) the Comprehensive  
16 Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sec.  
17 9601, et seq.; (d) the Resource Conservation and Recovery Act, 42  
18 U.S.C. Sec. 6901, et seq.; or (e) any other applicable federal or state  
19 law.

20 **PART 7**

21 **AQUATIC LANDS--OYSTERS, GEODUCKS, SHELLFISH,**  
22 **OTHER AQUACULTURAL USES, AND MARINE AQUATIC PLANTS**

23 **Sec. 701.** RCW 79.96.010 and 1993 c 295 s 1 are each amended to  
24 read as follows:

25 (1) The beds of all navigable tidal waters in the state lying below  
26 extreme low tide, except as prohibited by (~~section 17~~) Article XV,  
27 section 1 of the (~~Washington~~) state Constitution shall be subject to  
28 lease for the purposes of planting and cultivating oyster beds, or for  
29 the purpose of cultivating clams or other edible shellfish, or for  
30 other aquaculture use, for periods not to exceed thirty years.

31 (2) Nothing in this section shall prevent any person from leasing  
32 more than one parcel, as offered by the department.

33 **Sec. 702.** RCW 79.96.020 and 1982 1st ex.s. c 21 s 135 are each  
34 amended to read as follows:

35 Any person desiring to lease tidelands or beds of navigable waters

1 for the purpose of planting and cultivating oyster beds, or for the  
2 purpose of cultivating clams and other edible shellfish, shall file  
3 with the department (~~(of natural resources)~~), on a proper form, an  
4 application in writing signed by the applicant and accompanied by a map  
5 of the lands desired to be leased, describing the lands by metes and  
6 bounds tied to at least two United States government corners, and by  
7 (~~such~~) the reference to local geography as shall suffice to convey a  
8 knowledge of the location of the lands with reasonable accuracy to  
9 persons acquainted with the vicinity, and accompanied by a deposit of  
10 ten dollars (~~which~~). The deposit shall be returned to the applicant  
11 in case a lease is not granted.

12 **Sec. 703.** RCW 79.96.030 and 1994 c 264 s 68 are each amended to  
13 read as follows:

14 (1) The department (~~(of natural resources)~~), upon the receipt of an  
15 application for a lease for the purpose of planting and cultivating  
16 oyster beds or for the purpose of cultivating clams or other edible  
17 shellfish, shall notify the director of fish and wildlife of the filing  
18 of the application describing the tidelands or beds of navigable waters  
19 applied for. The director of fish and wildlife shall cause an  
20 inspection of the lands applied for to be made and shall make a full  
21 report to the department (~~(of natural resources)~~) of (~~his or her~~) the  
22 director's findings as to whether it is necessary, in order to protect  
23 existing natural oyster beds, and to secure adequate seeding  
24 (~~thereof~~) of the lands, to retain the lands described in the  
25 application for lease or any part (~~thereof~~) of the lands, and in the  
26 event the director deems it advisable to retain the lands or any part  
27 (~~thereof~~) of the lands for the protection of existing natural oyster  
28 beds or to guarantee the continuance of an adequate seed stock for  
29 existing natural oyster beds, the (~~same~~) lands shall not be subject  
30 to lease. However, if the director determines that the lands applied  
31 for or any part (~~thereof~~) of the lands may be leased, the director  
32 shall so notify the department (~~(of natural resources)~~) and the  
33 director shall cause an examination of the lands to be made to  
34 determine the presence, if any, of natural oysters, clams, or other  
35 edible shellfish on (~~said~~) the lands, and to fix the rental value of  
36 the lands for use for oyster, clam, or other edible shellfish  
37 cultivation. In (~~his or her~~) the report to the department, the



1 director shall recommend a minimum rental for (~~said~~) the lands and an  
2 estimation of the value of the oysters, clams, or other edible  
3 shellfish, if any, then present on the lands applied for. The lands  
4 approved by the director for lease may then be leased to the applicant  
5 for a period of not less than five years nor more than ten years at a  
6 rental not less than the minimum rental recommended by the director of  
7 fish and wildlife. In addition, before entering upon possession of the  
8 land, the applicant shall pay the value of the oysters, clams, or other  
9 edible shellfish, if any, then present on the land as determined by the  
10 director, plus the expense incurred by the director in investigating  
11 the quantity of oysters, clams, or other edible shellfish, present on  
12 the land applied for.

13 (2) When issuing new leases or reissuing existing leases the  
14 department shall not permit the commercial harvest of subtidal  
15 hardshell clams by means of hydraulic escalating when the upland within  
16 five hundred feet of any lease tract is zoned for residential  
17 development.

18 **Sec. 704.** RCW 79.96.040 and 1994 c 264 s 69 are each amended to  
19 read as follows:

20 Before entering into possession of any leased tidelands or beds of  
21 navigable waters, the applicant shall (~~cause the same to be~~) have the  
22 lands surveyed by a registered land surveyor, and (~~he or she~~) the  
23 applicant shall furnish to the department (~~of natural resources~~) and  
24 to the director of fish and wildlife, a map of the leased premises  
25 signed and certified by the registered land surveyor. The lessee shall  
26 also (~~cause~~) mark the boundaries of the leased premises (~~to be~~  
27 ~~marked~~) by piling monuments or other markers of a permanent nature as  
28 the director of fish and wildlife may direct.

29 **Sec. 705.** RCW 79.96.050 and 1994 c 264 s 70 are each amended to  
30 read as follows:

31 The department (~~of natural resources~~) may, upon the filing of an  
32 application for a renewal lease, (~~cause~~) inspect the tidelands or  
33 beds of navigable waters (~~to be inspected~~), and if (~~he or she~~) the  
34 department deems it in the best interests of the state to re-lease  
35 (~~said~~) the lands, (~~he or she~~) the department shall issue to the  
36 applicant a renewal lease for (~~such~~) a further period not exceeding

1 thirty years and under (~~such~~) the terms and conditions as may be  
2 determined by the department(~~(:—PROVIDED, That)~~). However, in the  
3 case of an application for a renewal lease it shall not be necessary  
4 for the lands to be inspected and reported upon by the director of fish  
5 and wildlife.

6 **Sec. 706.** RCW 79.96.060 and 1982 1st ex.s. c 21 s 139 are each  
7 amended to read as follows:

8 All leases of tidelands and beds of navigable waters for the  
9 purpose of planting and cultivating oysters, clams, or other edible  
10 shellfish shall expressly provide that if at any time after the  
11 granting of (~~said~~) the lease, the described lands (~~described~~  
12 ~~therein~~) shall cease to be used for the purpose of oyster beds, clam  
13 beds, or other edible shellfish beds, they shall (~~thereupon~~) revert  
14 to and become the property of the state and that the (~~same~~) lands are  
15 leased only for the purpose of cultivating oysters, clams, or other  
16 edible shellfish thereon, and that the state reserves the right to  
17 enter upon and take possession of (~~said~~) the lands if at any time the  
18 (~~same~~) lands are used for any other purpose than the cultivation of  
19 oysters, clams, or other edible shellfish.

20 **Sec. 707.** RCW 79.96.070 and 1982 1st ex.s. c 21 s 140 are each  
21 amended to read as follows:

22 If from any cause any lands leased for the purpose of planting and  
23 cultivating oysters, clams, or other edible shellfish (~~shall~~) become  
24 unfit and valueless for any such purposes, the lessee or (~~his~~) the  
25 lessee's assigns, upon certifying (~~such~~) the fact under oath to the  
26 department (~~(of natural resources)~~), together with the fact that (~~he~~)  
27 the lessee has abandoned (~~such~~) the land, shall be entitled to make  
28 application for other lands for such purposes.

29 **Sec. 708.** RCW 79.96.080 and 2003 c 39 s 43 are each amended to  
30 read as follows:

31 (1) Geoducks shall be sold as valuable materials under the  
32 provisions of chapter 79.90 RCW (as recodified by this act). After  
33 confirmation of the sale, the department (~~(of natural resources)~~) may  
34 enter into an agreement with the purchaser for the harvesting of  
35 geoducks. The department (~~(of natural resources)~~) may place terms and

1 conditions in the harvesting agreements as the department deems  
2 necessary. The department (~~(of natural resources)~~) may enforce the  
3 provisions of any harvesting agreement by suspending or canceling the  
4 harvesting agreement or through any other means contained in the  
5 harvesting agreement. Any geoduck harvester may terminate a harvesting  
6 agreement entered into pursuant to this subsection if actions of a  
7 governmental agency, beyond the control of the harvester, its agents,  
8 or its employees, prohibit harvesting, for a period exceeding thirty  
9 days during the term of the harvesting agreement, except as provided  
10 within the agreement. Upon (~~such~~) termination of the agreement by  
11 the harvester, the harvester shall be reimbursed by the department (~~(of~~  
12 ~~natural resources)~~) for the cost paid to the department on the  
13 agreement, less the value of the harvest already accomplished by the  
14 harvester under the agreement.

15 (2) Harvesting agreements under this title for the purpose of  
16 harvesting geoducks shall require the harvester and the harvester's  
17 agent or representatives to comply with all applicable commercial  
18 diving safety standards and regulations promulgated and implemented by  
19 the federal occupational safety and health administration established  
20 under the federal occupational safety and health act of 1970 as  
21 (~~such~~) the law exists or as (~~hereafter~~) amended (84 Stat. 1590 et  
22 seq.; 29 U.S.C. Sec. 651 et seq.) (~~(:—PROVIDED, That)~~). However, for  
23 the purposes of this section and RCW 77.60.070 (~~(as now or hereafter~~  
24 ~~amended)~~), all persons who dive for geoducks are deemed to be employees  
25 as defined by the federal occupational safety and health act. All  
26 harvesting agreements shall provide that failure to comply with these  
27 standards is cause for suspension or cancellation of the harvesting  
28 agreement (~~(:—PROVIDED FURTHER, That)~~). Further, for the purposes of  
29 this subsection if the harvester contracts with another person or  
30 entity for the harvesting of geoducks, the harvesting agreement shall  
31 not be suspended or canceled if the harvester terminates its business  
32 relationship with such an entity until compliance with this subsection  
33 is secured.

34 **Sec. 709.** RCW 79.96.085 and 1990 c 163 s 5 are each amended to  
35 read as follows:

36 The department (~~(of natural resources)~~) shall designate the areas

1 of state-owned aquatic lands (~~(owned by the state)~~) that are available  
2 for geoduck harvesting by licensed geoduck harvesters in accordance  
3 with chapter 79.90 RCW (as recodified by this act).

4 **Sec. 710.** RCW 79.96.090 and 1982 1st ex.s. c 21 s 142 are each  
5 amended to read as follows:

6 The department (~~(of natural resources)~~) is (~~(hereby)~~) authorized to  
7 lease first or second-class tidelands which have (~~(heretofore)~~) been or  
8 (~~(which may hereafter be)~~) that are set aside as state oyster reserves  
9 in the same manner as provided elsewhere in this chapter for the lease  
10 of those lands.

11 **Sec. 711.** RCW 79.96.100 and 1994 c 264 s 71 are each amended to  
12 read as follows:

13 The department (~~(of natural resources)~~), upon the receipt of an  
14 application for the lease of any first or second-class state-owned  
15 tidelands (~~(owned by the state which have heretofore or which may~~  
16 ~~hereafter be)~~) that are set aside as state oyster reserves, shall  
17 notify the director of fish and wildlife of the filing of the  
18 application describing the lands applied for. It (~~(shall be)~~) is the  
19 duty of the director of fish and wildlife to (~~(cause an inspection of)~~)  
20 inspect the reserve (~~(to be made)~~) for the purpose of determining  
21 whether (~~(said)~~) the reserve or any part (~~(thereof)~~) of the reserve  
22 should be retained as a state oyster reserve or vacated.

23 **Sec. 712.** RCW 79.96.110 and 2001 c 273 s 4 are each amended to  
24 read as follows:

25 (1) In the event that the fish and wildlife commission approves the  
26 vacation of the whole or any part of a reserve, the department (~~(of~~  
27 ~~natural resources)~~) may vacate and offer for lease (~~(such)~~) the parts  
28 or all of the reserve as it deems to be for the best interest of the  
29 state, and all moneys received for the lease of (~~(such)~~) the lands  
30 shall be paid to the department (~~(of natural resources)~~).

31 (2) Notwithstanding RCW 77.60.020, subsection (1) of this section,  
32 or any other provision of state law, the state oyster reserves in Eld  
33 Inlet, Hammersley Inlet, or Totten Inlet, situated in Mason or Thurston  
34 counties shall permanently be designated as state oyster reserve lands.

1       **Sec. 713.** RCW 79.96.120 and 1982 1st ex.s. c 21 s 145 are each  
2 amended to read as follows:

3       Upon an application to purchase the reserved and reversionary  
4 rights of the state in any tidelands sold under the provisions of  
5 chapter 24 (~~(of the)~~), Laws of 1895, or chapter 25 (~~(of the)~~), Laws of  
6 1895, or chapter 165 (~~(of the)~~), Laws of 1919, or either (~~(such)~~) the  
7 reserved or reversionary right if only one exists, being filed in the  
8 department's Olympia office (~~(of the commissioner of public lands)~~) by  
9 the owner of (~~(such)~~) the tidelands, accompanied by an abstractor's  
10 certificate, or other evidence of the applicant's title to (~~(such)~~) the  
11 lands, the department (~~(of natural resources)~~), if it finds the  
12 applicant is the owner of the tidelands, is authorized to inspect,  
13 appraise, and sell, if otherwise permitted under RCW 79.94.150 (as  
14 recodified by this act), for not less than the appraised value, such  
15 reserved or reversionary rights of the state to the applicant, and upon  
16 payment of the purchase price to cause a deed to be issued (~~(therefor)~~)  
17 as in the case of the sale of state lands, or upon the payment of one-  
18 fifth of the purchase price, to issue a contract of sale (~~(therefor)~~),  
19 providing that the remainder of the purchase price may be paid in four  
20 equal annual installments, with interest on deferred payments at the  
21 rate of six percent per annum, or sooner at the election of the  
22 contract holder, which contract shall be subject to cancellation by the  
23 department (~~(of natural resources)~~) for failure to comply with its  
24 provisions, and upon the completion of the payments as provided in  
25 (~~(such)~~) the contract to cause a deed to the lands described in the  
26 contract to be issued to the holder (~~(thereof)~~) as in the case of the  
27 sale of state lands.

28       **Sec. 714.** RCW 79.96.130 and 1994 c 264 s 73 are each amended to  
29 read as follows:

30       (1) If a person wrongfully takes shellfish or causes shellfish to  
31 be wrongfully taken from the public lands and the wrongful taking is  
32 intentional and knowing, (~~(then)~~) the person (~~(shall be)~~) is liable for  
33 damages of treble the fair market retail value of the amount of  
34 shellfish wrongfully taken. If a person wrongfully takes shellfish  
35 from the public lands under other circumstances, (~~(then)~~) the person  
36 (~~(shall be)~~) is liable for damages of double the fair market value of  
37 the amount of shellfish wrongfully taken.

1 (2) For purposes of this section, a person "wrongfully takes"  
2 shellfish from public lands if the person takes shellfish: (a) Above  
3 the limits of any applicable laws that govern the harvest of shellfish  
4 from public lands; (b) without reporting the harvest to the department  
5 of fish and wildlife or the department (~~(of natural resources)~~) where  
6 (~~such~~) the reporting is required by law or contract; (c) outside the  
7 area or above the limits that an agreement or contract from the  
8 department (~~(of natural resources)~~) allows the harvest of shellfish  
9 from public lands; or (d) without a lease or purchase of the shellfish  
10 where (~~such~~) the lease or purchase is required by law prior to  
11 harvest of the shellfish.

12 (3) The remedies in this section are for civil damages and shall be  
13 proved by a preponderance of the evidence. The department (~~(of natural~~  
14 ~~resources)~~) may file a civil action in Thurston county superior court  
15 or the county where the shellfish were taken against any person liable  
16 under this section. Damages recovered under this section shall be  
17 applied in the same way as received under geoduck harvesting agreements  
18 authorized by RCW 79.96.080 (as recodified by this act).

19 (4) For purposes of the remedies created by this section, the  
20 amount of shellfish wrongfully taken by a person may be established  
21 either:

22 (a) By surveying the aquatic lands to reasonably establish the  
23 amount of shellfish taken from the immediate area where a person is  
24 shown to have been wrongfully taking shellfish;

25 (b) By weighing the shellfish on board any vessel or in possession  
26 of a person shown to be wrongfully taking shellfish; or

27 (c) By any other evidence that reasonably establishes the amount of  
28 shellfish wrongfully taken.

29 The amount of shellfish established by (a) or (b) of this  
30 subsection shall be presumed to be the amount wrongfully taken unless  
31 the defendant shows by a preponderance of evidence that the shellfish  
32 were lawfully taken or that the defendant did not take the shellfish  
33 presumed to have been wrongfully taken. Whenever there is reason to  
34 believe that shellfish in the possession of any person were wrongfully  
35 taken, the department (~~(of natural resources)~~) or the department of  
36 fish and wildlife may require the person to proceed to a designated  
37 off-load point and to weigh all shellfish in possession of the person  
38 or on board the person's vessel.

1 (5) This civil remedy is supplemental to the state's power to  
2 prosecute any person for theft of shellfish, for other crimes where  
3 shellfish are involved, or for violation of (~~regulations~~) rules of  
4 the department of fish and wildlife.

5 **Sec. 715.** RCW 79.96.210 and 2003 c 334 s 442 are each amended to  
6 read as follows:

7 (1) The maximum daily wet weight harvest or possession of seaweed  
8 for personal use from all state-owned aquatic lands (~~as defined under~~  
9 ~~RCW 79.90.010~~) and all privately owned tidelands is ten pounds per  
10 person. The department in cooperation with the department of fish and  
11 wildlife may establish seaweed harvest limits of less than ten pounds  
12 for conservation purposes. This section shall in no way affect the  
13 ability of any state agency to prevent harvest of any species of marine  
14 aquatic plant from lands under its control, ownership, or management.

15 (2) Except as provided under subsection (3) of this section,  
16 commercial harvesting of seaweed from state-owned aquatic lands (~~as~~  
17 ~~defined under RCW 79.90.010~~), and all privately owned tidelands is  
18 prohibited. This subsection shall in no way affect commercial seaweed  
19 aquaculture.

20 (3) Upon mutual approval by the department and the department of  
21 fish and wildlife, seaweed species of the genus *Macrocystis* may be  
22 commercially harvested for use in the herring spawn-on-kelp fishery.

23 (4) Importation of seaweed species of the genus *Macrocystis* into  
24 Washington state for the herring spawn-on-kelp fishery is subject to  
25 the fish and shellfish disease control policies of the department of  
26 fish and wildlife. *Macrocystis* shall not be imported from areas with  
27 fish or shellfish diseases associated with organisms that are likely to  
28 be transported with *Macrocystis*. The department shall incorporate this  
29 policy on *Macrocystis* importation into its overall fish and shellfish  
30 disease control policies.

31 **Sec. 716.** RCW 79.96.220 and 2003 c 334 s 443 and 2003 c 53 s 380  
32 are each reenacted and amended to read as follows:

33 (1) It is unlawful to exceed the harvest and possession  
34 restrictions imposed under RCW 79.96.210 (as recodified by this act).

35 (2) A violation of this section is a misdemeanor, and a violation

1 taking place on state-owned aquatic lands is subject to the provisions  
2 of RCW 79.02.300.

3 (3) A person committing a violation of this section on private  
4 tidelands which he or she owns is liable to the state for treble the  
5 amount of damages to the seaweed resource, and a person trespassing on  
6 (~~(private)~~) privately owned tidelands and committing a violation of  
7 this section is liable to the private tideland owner for treble the  
8 amount of damages to the seaweed resource. Damages recoverable  
9 include, but are not limited to, damages for the market value of the  
10 seaweed, for injury to the aquatic ecosystem, and for the costs of  
11 restoration. In addition, the person is liable for reimbursing the  
12 injured party for the party's reasonable costs, including but not  
13 limited to investigative costs and reasonable attorneys' fees and other  
14 litigation-related costs.

15 **Sec. 717.** RCW 79.96.230 and 2003 c 334 s 444 are each amended to  
16 read as follows:

17 The department of fish and wildlife and law enforcement authorities  
18 may enforce the provisions of RCW 79.96.210 and 79.96.220 (as  
19 recodified by this act).

20 **Sec. 718.** RCW 79.96.906 and 1994 c 264 s 74 are each amended to  
21 read as follows:

22 The department (~~(of natural resources)~~) may enter into agreements  
23 with the department of fish and wildlife for the development of an  
24 intensive management plan for geoducks including the development and  
25 operation of a geoduck hatchery.

26 (~~(The department of natural resources shall evaluate the progress  
27 of the intensive geoduck management program and provide a written  
28 report to the legislature by December 1, 1990, for delivery to the  
29 appropriate standing committees. The evaluation shall determine the  
30 benefits and costs of continued operation of the program, and shall  
31 discuss alternatives including continuance, modification, and  
32 termination of the intensive geoduck management program.)~~)

33 **PART 8**  
34 **VALUABLE MATERIALS**



1        NEW SECTION.    **Sec. 801.**    (1) When the department decides to sell  
2 any valuable materials situated within or upon any state-owned aquatic  
3 lands, it is the duty of the department to fix the date, place, and  
4 time of sale, and no sale shall be had on any day that is a legal  
5 holiday.

6        (2) The department shall give notice of the sale by advertisement  
7 published once a week for four consecutive weeks immediately preceding  
8 the date fixed for sale in the notice, in at least one newspaper  
9 published and of general circulation in the county in which the whole  
10 or any part of any lot, block, or tract of land containing the valuable  
11 material to be sold is situated, and by causing a copy of the notice to  
12 be posted in a conspicuous place in the department's Olympia office and  
13 the region headquarters administering the sale.

14        (3) The notice shall: (a) Specify the place and time of sale; (b)  
15 estimate the volume of valuable materials; (c) state the appraised  
16 value; (d) describe with particularity each parcel of land from which  
17 valuable materials are to be sold; and (e) specify that the terms of  
18 sale will be posted in the area headquarters and the department's  
19 Olympia office.

20        NEW SECTION.    **Sec. 802.**    The department shall print a list of  
21 valuable materials contained within or upon state-owned aquatic lands,  
22 giving appraised value, character of the land, and such other  
23 information as may be of interest to prospective buyers. The lists  
24 must be issued at least four weeks prior to the date of any sale. The  
25 department shall retain for free distribution in its office in Olympia  
26 and the regional offices sufficient copies of the lists, to be kept in  
27 a conspicuous place or receptacle on the counter of the general and  
28 regional office of the department, and, when requested, shall mail  
29 copies of the list as issued to any applicant.

30        NEW SECTION.    **Sec. 803.**    The department is authorized to expend any  
31 sum in additional advertising of the sale as is determined to be in the  
32 best interests of the state.

33        NEW SECTION.    **Sec. 804.**    Any sale that has been offered, and for  
34 which there are no bids received, shall not be reoffered until it has  
35 been readvertised as specified in sections 801 through 803 of this act.

1 If all sales cannot be offered within the specified time on the  
2 advertised date, the sale shall continue on the following day between  
3 the hours of ten o'clock a.m. and four o'clock p.m.

4 NEW SECTION. **Sec. 805.** All sales of valuable materials shall be  
5 at public auction or by sealed bid to the highest responsible bidder,  
6 on the terms prescribed by law and as specified in the notice provided,  
7 and no land or materials shall be sold for less than their appraised  
8 value. However:

9 (1) When valuable material has been appraised at an amount not  
10 exceeding one hundred thousand dollars, the department, when authorized  
11 by the board, may arrange for the sale at public auction of said  
12 valuable material and for its removal under such terms and conditions  
13 as the department may prescribe, after the department shall have caused  
14 to be published not less than ten days prior to sale a notice of such  
15 sale in a newspaper of general circulation located nearest to the  
16 property to be sold;

17 (2) Any sale of valuable material on state-owned aquatic lands of  
18 an appraised value of ten thousand dollars or less may be sold directly  
19 to the applicant for cash without notice or advertising.

20 NEW SECTION. **Sec. 806.** (1) To determine the "highest responsible  
21 bidder" under section 805 of this act, the department shall be entitled  
22 to consider, in addition to price, the following:

23 (a) The financial and technical ability of the bidder to perform  
24 the contract;

25 (b) Whether the bid contains material defects;

26 (c) Whether the bidder has previously or is currently complying  
27 with terms and conditions of any other contracts with the state or  
28 relevant contracts with entities other than the state;

29 (d) Whether the bidder was the "highest responsible bidder" for a  
30 sale within the previous five years but failed to complete the sale,  
31 such as by not entering into a resulting contract or by not paying the  
32 difference between the deposit and the total amount due. However,  
33 sales that were bid prior to January 1, 2003, may not be considered for  
34 the purposes of this subsection (1)(d);

35 (e) Whether the bidder has been convicted of a crime relating to

1 the public lands or natural resources of the state of Washington, the  
2 United States, or any other state, tribe, or country, where  
3 "conviction" includes a guilty plea, or unvacated forfeiture of bail;

4 (f) Whether the bidder is owned, controlled, or managed by any  
5 person, partnership, or corporation that is not responsible under this  
6 statute; and

7 (g) Whether the subcontractors of the bidder, if any, are  
8 responsible under this statute.

9 (2) Whenever the department has reason to believe that the apparent  
10 high bidder is not a responsible bidder, the department may award the  
11 sale to the next responsible bidder or the department may reject all  
12 bids pursuant to section 808 of this act.

13 NEW SECTION. **Sec. 807.** (1) Sales by public auction under this  
14 chapter shall be conducted under the direction of the department, by  
15 its authorized representative. The department's representatives are  
16 referred to as auctioneers.

17 (2) On or before the time specified in the notice of sale each  
18 bidder shall deposit with the auctioneer, in cash or by certified  
19 check, cashier's check, or postal money order payable to the order of  
20 the department, or by bid guarantee in the form of bid bond acceptable  
21 to the department, an amount equal to the deposit specified in the  
22 notice of sale. The deposit shall include a specified amount of the  
23 appraised price for the valuable materials offered for sale, together  
24 with any fee required by law for the issuance of contracts or bills of  
25 sale. The deposit may, when prescribed in the notice of sale, be  
26 considered an opening bid of an amount not less than the minimum  
27 appraised price established in the notice of sale. The successful  
28 bidder's deposit will be retained by the auctioneer and the difference,  
29 if any, between the deposit and the total amount due shall on the day  
30 of the sale be paid in cash, certified check, cashier's check, draft,  
31 postal money order, or by personal check made payable to the  
32 department. If a bid bond is used, the share of the total deposit due  
33 guaranteed by the bid bond shall, within ten days of the day of sale,  
34 be paid in cash, certified check, cashier's check, draft, or postal  
35 money order payable to the department. Other deposits, if any, shall  
36 be returned to the respective bidders at the conclusion of each sale.

1 (3) The auctioneer shall deliver to the purchaser a memorandum of  
2 purchase containing a description of the materials purchased, the price  
3 bid, and the terms of the sale.

4 (4) The auctioneer shall at once send to the department the cash,  
5 certified check, cashier's check, draft, postal money order, or bid  
6 guarantee received from the purchaser, and a copy of the memorandum  
7 delivered to the purchaser, together with such additional report of the  
8 auctioneer's proceedings with reference to the sales as may be required  
9 by the department.

10 NEW SECTION. Sec. 808. (1) A sale of valuable materials shall be  
11 confirmed if:

12 (a) No affidavit showing that the interest of the state in such a  
13 sale was injuriously affected by fraud or collusion, is filed with the  
14 department's Olympia office within ten days from the receipt of the  
15 report of the auctioneer conducting the sale;

16 (b) It appears from the report that the sale was fairly conducted,  
17 that the purchaser was the highest responsible bidder at the sale, and  
18 that the sale price is not less than the appraised value of the  
19 property sold;

20 (c) The department is satisfied that the material sold would not,  
21 upon being readvertised and offered for sale, sell for a substantially  
22 higher price; and

23 (d) The payment required by law to be made at the time of making  
24 the sale has been made, and that the best interests of the state are  
25 being served.

26 (2) Upon confirming a sale, the department shall enter upon its  
27 records the confirmation of sale and issue to the purchaser a contract  
28 of sale or bill of sale as the case may be, as is provided for in this  
29 chapter.

30 NEW SECTION. Sec. 809. In no case shall any valuable materials  
31 situated within or upon any tidelands, shorelands, or beds of navigable  
32 waters belonging to the state, be offered for sale unless the same  
33 shall have been appraised by the department of natural resources within  
34 ninety days prior to the date fixed for the sale.



1 The department is the designated agency to coordinate  
2 implementation of the action plan and is authorized to hire such  
3 employees as are necessary to coordinate the action plan among state  
4 and federal agencies, the private sector, and interested public groups  
5 and organizations. The department is authorized to contract, through  
6 an open bidding process, with interested parties to act as the  
7 information clearinghouse for marine plastic debris related issues.

8 **Sec. 905.** RCW 79.97.060 and 1989 c 23 s 6 are each amended to read  
9 as follows:

10 The department is authorized to accept, receive, disburse, and  
11 administer grants or funds or gifts from any source including private  
12 individuals, public entities, and the federal government to supplement  
13 the funds ((~~hereby~~)) appropriated to carry out the purposes of this  
14 chapter.

15 **PART 10**

16 **MISCELLANEOUS PROVISIONS**

17 NEW SECTION. **Sec. 1001.** This act is intended to make technical  
18 amendments to certain codified statutes that deal with the department  
19 of natural resources. Any statutory changes made by this act should be  
20 interpreted as technical in nature and not be interpreted to have any  
21 substantive policy implications.

22 NEW SECTION. **Sec. 1002.** Part headings and subchapter headings  
23 used in this act are not any part of the law.

24 NEW SECTION. **Sec. 1003.** A new chapter is added to Title 79 RCW  
25 and is named "Aquatic Lands--General." The following sections are  
26 codified or recodified under the following subchapters:

- 27 (1) "General provisions" as follows:  
28 RCW 79.90.450;  
29 Section 101 of this act;  
30 RCW 79.90.455;  
31 RCW 79.90.545;  
32 RCW 79.90.546; and  
33 Section 102 of this act.

1 (2) "General use, sale, and lease provisions" as follows:  
2 RCW 79.90.090;  
3 RCW 79.90.100;  
4 RCW 79.90.120;  
5 RCW 79.90.410;  
6 RCW 79.90.370;  
7 RCW 79.90.245; and  
8 RCW 79.90.400.  
9 (3) "Leasing and rental rates" as follows:  
10 RCW 79.94.170;  
11 RCW 79.90.460;  
12 RCW 79.90.470;  
13 Section 144 of this act;  
14 RCW 79.90.480;  
15 RCW 79.90.485;  
16 RCW 79.90.490;  
17 RCW 79.90.500;  
18 Section 151 of this act;  
19 RCW 79.90.505;  
20 RCW 79.90.510;  
21 RCW 79.90.515;  
22 RCW 79.90.520;  
23 RCW 79.90.525;  
24 RCW 79.90.530;  
25 RCW 79.90.535; and  
26 RCW 79.90.540.  
27 (4) "Other conveyances" as follows:  
28 RCW 79.90.457;  
29 RCW 79.90.580;  
30 RCW 79.90.475; and  
31 RCW 79.90.105.  
32 (5) "Dredged material disposal" as follows:  
33 RCW 79.90.550;  
34 RCW 79.90.555; and  
35 RCW 79.90.560.  
36 (6) "Other management provisions" as follows:  
37 RCW 79.90.565;  
38 RCW 79.90.900;

1 RCW 79.90.901; and  
2 RCW 79.90.902.

3 NEW SECTION. **Sec. 1004.** RCW 79.90.080 is recodified as a section  
4 in chapter 43.30 RCW.

5 NEW SECTION. **Sec. 1005.** A new chapter is added to Title 79 RCW  
6 and is named "Aquatic Lands--Easements and Rights Of Way." The  
7 following sections are codified or recodified under the following  
8 subchapters:

9 (1) "Easements for removal of valuable materials" as follows:

10 RCW 79.91.010;

11 RCW 79.91.020;

12 RCW 79.91.030;

13 RCW 79.91.040;

14 RCW 79.91.050;

15 RCW 79.91.060; and

16 RCW 79.91.070.

17 (2) "Rights of way for roads, bridges, and trestles" as follows:

18 RCW 79.91.080;

19 RCW 79.91.090;

20 RCW 79.91.100;

21 RCW 79.91.110; and

22 RCW 79.91.120.

23 (3) "Rights of way for utility lines" as follows:

24 RCW 79.91.130;

25 RCW 79.91.140;

26 RCW 79.91.150;

27 Section 216 of this act; and

28 RCW 79.90.575.

29 (4) "Rights of way for irrigation, diking, and drainage/overflow  
30 rights" as follows:

31 RCW 79.91.160;

32 RCW 79.91.170;

33 RCW 79.91.180;

34 RCW 79.91.190;

35 RCW 79.91.200;

36 RCW 79.91.210; and



1 RCW 79.91.900.

2 NEW SECTION. **Sec. 1006.** A new chapter is added to Title 79 RCW  
3 and is named "Aquatic Lands--Harbor Areas." The following sections are  
4 recodified under the following subchapters:

5 (1) "Harbor line establishment and relocation" as follows:

6 RCW 79.92.010;

7 RCW 79.92.020;

8 RCW 79.92.030;

9 RCW 79.92.035; and

10 RCW 79.90.390.

11 (2) "Harbor area leases" as follows:

12 RCW 79.92.060;

13 RCW 79.92.070;

14 RCW 79.92.080;

15 RCW 79.92.090;

16 RCW 79.92.100;

17 RCW 79.92.110; and

18 RCW 79.92.900.

19 NEW SECTION. **Sec. 1007.** A new chapter is added to Title 79 RCW  
20 and is named "Aquatic Lands--Waterways and Streets." The following  
21 sections are recodified and added to the chapter created in this  
22 section:

23 RCW 79.93.010;

24 RCW 79.93.020;

25 RCW 79.93.030;

26 RCW 79.93.040;

27 RCW 79.93.050;

28 RCW 79.93.060; and

29 RCW 79.93.900.

30 NEW SECTION. **Sec. 1008.** A new chapter is added to Title 79 RCW  
31 and is named "Aquatic Lands--Tidelands and Shorelands." The following  
32 sections are recodified under the following subchapters:

33 (1) "Plat/appraisal/replat" as follows:

34 RCW 79.94.330;

35 RCW 79.94.020;

1 RCW 79.94.030;  
2 RCW 79.94.040;  
3 RCW 79.90.110;  
4 RCW 79.94.050;  
5 RCW 79.94.060;  
6 RCW 79.94.100;  
7 RCW 79.94.110;  
8 RCW 79.94.130; and  
9 RCW 79.94.140.  
10 (2) "Exchange, sale, lease limitations/terms" as follows:  
11 RCW 79.94.150;  
12 RCW 79.94.090;  
13 RCW 79.94.290;  
14 RCW 79.94.270;  
15 RCW 79.90.250;  
16 RCW 79.90.260;  
17 RCW 79.90.270;  
18 RCW 79.90.280;  
19 RCW 79.90.350;  
20 RCW 79.94.080;  
21 RCW 79.94.320; and  
22 RCW 79.90.360.  
23 (3) "Sale or leasing preference" as follows:  
24 RCW 79.94.070;  
25 RCW 79.94.280;  
26 RCW 79.94.120;  
27 RCW 79.94.300;  
28 RCW 79.94.310;  
29 RCW 79.94.210; and  
30 RCW 79.94.260.  
31 (4) "Second-class shorelands--Special platting and selection  
32 provisions" as follows:  
33 RCW 79.94.220;  
34 RCW 79.94.230;  
35 RCW 79.94.240; and  
36 RCW 79.94.250.  
37 (5) "Sales of tidelands and shorelands" as follows:  
38 RCW 79.90.170;

1 RCW 79.90.180;  
2 RCW 79.90.190;  
3 RCW 79.90.200;  
4 RCW 79.90.210;  
5 RCW 79.90.215;  
6 RCW 79.90.220;  
7 RCW 79.90.230; and  
8 RCW 79.90.240.

9 (6) "Conveyance to public entities/public use" as follows:

10 RCW 79.94.160;  
11 RCW 79.94.175;  
12 RCW 79.94.181;  
13 RCW 79.94.185;  
14 RCW 79.94.390;  
15 RCW 79.94.400;  
16 RCW 79.94.410;  
17 RCW 79.94.420;  
18 RCW 79.94.430;  
19 RCW 79.94.440;  
20 RCW 79.94.450; and  
21 RCW 79.94.900.

22 NEW SECTION. **Sec. 1009.** A new chapter is added to Title 79 RCW  
23 and is named "Aquatic Lands--Beds of Navigable Waters." The following  
24 sections are recodified and added to the chapter created in this  
25 section:

26 RCW 79.95.010;  
27 RCW 79.95.020;  
28 RCW 79.95.030;  
29 RCW 79.95.040;  
30 RCW 79.95.050;  
31 RCW 79.95.060;  
32 RCW 79.90.458; and  
33 RCW 79.95.900.

34 NEW SECTION. **Sec. 1010.** A new chapter is added to Title 79 RCW  
35 and is named "Aquatic Lands--Oysters, Geoducks, Shellfish, Other

1 Aquacultural Uses, and Marine Aquatic Plants." The following sections  
2 are recodified under the following subchapters:

3 (1) "General provisions" as follows:  
4 RCW 79.90.570;  
5 RCW 79.96.120; and  
6 RCW 79.96.130.

7 (2) "Leasing for shellfish cultivation/aquaculture use" as follows:  
8 RCW 79.90.495;  
9 RCW 79.96.010;  
10 RCW 79.96.020;  
11 RCW 79.96.030;  
12 RCW 79.96.040;  
13 RCW 79.96.050;  
14 RCW 79.96.060; and  
15 RCW 79.96.070.

16 (3) "Geoduck harvest/cultivation" as follows:  
17 RCW 79.96.140;  
18 RCW 79.96.080;  
19 RCW 79.96.085; and  
20 RCW 79.96.906.

21 (4) "Oyster reserves" as follows:  
22 RCW 79.96.090;  
23 RCW 79.96.100; and  
24 RCW 79.96.110.

25 (5) "Marine aquatic plants" as follows:  
26 RCW 79.96.200;  
27 RCW 79.96.210;  
28 RCW 79.96.220;  
29 RCW 79.96.230;  
30 RCW 79.96.901;  
31 RCW 79.96.902;  
32 RCW 79.96.903;  
33 RCW 79.96.904; and  
34 RCW 79.96.905.

35 NEW SECTION. **Sec. 1011.** A new chapter is added to Title 79 RCW  
36 and is named "Valuable Materials." The following sections are  
37 recodified under the following subchapters:

1 (1) "Sale procedure" as follows:  
2 Sections 801 through 808 of this act.  
3 (2) "Special provisions and leases" as follows:  
4 RCW 79.90.130;  
5 RCW 79.90.150;  
6 RCW 79.90.160;  
7 Section 809 of this act;  
8 RCW 79.90.290;  
9 RCW 79.90.300;  
10 RCW 79.90.310;  
11 RCW 79.90.320;  
12 RCW 79.90.325;  
13 RCW 79.90.330; and  
14 RCW 79.90.340.

15 NEW SECTION. **Sec. 1012.** A new chapter is added to Title 79 RCW  
16 and is named "Marine Plastic Debris." The following sections are  
17 recodified and added to the chapter created in this section:

18 RCW 79.97.010;  
19 RCW 79.97.020;  
20 RCW 79.97.030;  
21 RCW 79.97.040;  
22 RCW 79.97.050;  
23 RCW 79.97.060; and  
24 RCW 79.97.900.

25 NEW SECTION. **Sec. 1013.** The following acts or parts of acts are  
26 each repealed:

27 (1) RCW 79.90.010 ("Aquatic lands") and 1982 1st ex.s. c 21 s 1;  
28 (2) RCW 79.90.015 ("Outer harbor line") and 1982 1st ex.s. c 21 s  
29 2;  
30 (3) RCW 79.90.020 ("Harbor area") and 1982 1st ex.s. c 21 s 3;  
31 (4) RCW 79.90.025 ("Inner harbor line") and 1982 1st ex.s. c 21 s  
32 4;  
33 (5) RCW 79.90.030 ("First class tidelands") and 1982 1st ex.s. c 21  
34 s 5;  
35 (6) RCW 79.90.035 ("Second class tidelands") and 1982 1st ex.s. c  
36 21 s 6;

- 1 (7) RCW 79.90.040 ("First class shorelands") and 1982 1st ex.s. c  
2 21 s 7;  
3 (8) RCW 79.90.045 ("Second class shorelands") and 1982 1st ex.s. c  
4 21 s 8;  
5 (9) RCW 79.90.050 ("Beds of navigable waters") and 1982 1st ex.s.  
6 c 21 s 9;  
7 (10) RCW 79.90.055 ("Improvements") and 1982 1st ex.s. c 21 s 10;  
8 (11) RCW 79.90.060 ("Valuable materials") and 1982 1st ex.s. c 21  
9 s 11;  
10 (12) RCW 79.90.065 ("Person") and 1982 1st ex.s. c 21 s 12;  
11 (13) RCW 79.90.070 (Harbor line commission) and 1982 1st ex.s. c 21  
12 s 13;  
13 (14) RCW 79.90.380 (Abstracts of state-owned aquatic lands) and  
14 2003 c 334 s 605 & 1982 1st ex.s. c 21 s 44;  
15 (15) RCW 79.90.465 (Definitions) and 1984 c 221 s 4;  
16 (16) RCW 79.93.070 (Copies of waterway permits or leases existing  
17 on October 1, 1984, to be delivered to the department--Exception) and  
18 1984 c 221 s 23; and  
19 (17) RCW 79.94.010 (Survey to determine area subject to sale or  
20 lease) and 1982 1st ex.s. c 21 s 86.

21 NEW SECTION. **Sec. 1014.** If any provision of this act or its  
22 application to any person or circumstance is held invalid, the  
23 remainder of the act or the application of the provision to other  
24 persons or circumstances is not affected.

Passed by the House March 8, 2005.

Passed by the Senate April 6, 2005.

Approved by the Governor April 22, 2005, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State April 22, 2005.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to section 210, Substitute  
House Bill No. 1491 entitled:

"AN ACT Relating to recodification of aquatic lands statutes."

Substitute House Bill 1491 recodifies the state's aquatic lands  
management statutes without substantive change. Section 210 of the  
bill makes non-substantive changes to RCW 79.91.100, a section of  
state law that was substantively amended by Substitute House Bill  
1657, relating to bridges and trestles. I signed Substitute House  
Bill 1657 into law earlier this session, on April 14, 2005. If  
Section 210 of Substitute House Bill 1491 is also signed into law, it  
may conflict with the substantive changes made by Substitute House  
Bill 1657. For this reason, I have vetoed Section 210 of Substitute  
House Bill 1491.

With the exception of Section 210, Substitute House Bill 1491 is approved."