

SENATE BILL REPORT

SB 6214

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, January 17, 2008

Title: An act relating to clarifying the authority of the department of natural resources to issue lesser contractual agreements within existing authorities for state-owned aquatic lands.

Brief Description: Clarifying the authority of the department of natural resources to issue lesser contractual agreements within existing authorities for state-owned aquatic lands.

Sponsors: Senators Jacobsen, Swecker and Rockefeller; by request of Department of Natural Resources.

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation:1/16/08, 1/17/08 [DP].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: Do pass.

Signed by Senators Jacobsen, Chair; Hatfield, Vice Chair; Morton, Ranking Minority Member; Fraser, Spanel, Stevens and Swecker.

Staff: Karen Epps (786-7424)

Background: Under current law, the Department of Natural Resources (DNR) may lease state-owned aquatic lands for a variety of uses. In July 2006 (*Northlake v. DNR*, 134 Wash. App 272), an appellate court found that DNR's leasing authority did not explicitly include lesser use authorizations, such as easements, licenses, permits, and rights-of-entry. The court's examination of other DNR authorization statutes found that some statutes included language for lesser use agreement types while others referred only to the authority to lease.

The court found that since the lesser use authorizations were not included in the section governing DNR's leasing authority of aquatic lands, lesser use authorizations were outside of DNR's leasing authority. However, the court did state that DNR has been granted authority to manage state aquatic lands and has authority to issue use permits, generally.

Summary of Bill: DNR's authority to lease state-owned aquatic lands is amended to explicitly include lesser contractual agreements, including easements, licenses, permits, and rights-of-entry unless the context clearly dictates otherwise.

Appropriation: None.

Fiscal Note: Requested on January 10, 2008.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill will clarify Department of Natural Resources' authority to lease aquatic lands to specifically allow DNR to use lesser types of contractual arrangements in authorizing the types of uses of state-owned aquatic lands. A recent court decision included a comment that the term "lease" does not include the authority to issue lesser use authorizations, because there are some statutes that specifically include those lesser use authorizations. This will clarify the statute to specifically include lesser use authorizations that DNR is currently using when managing state-owned aquatic lands. This will not expand DNR's authority to manage state-owned aquatic lands.

Persons Testifying: PRO: Fran McNair, Department, Joe Panesko, DNR.