

# SENATE BILL REPORT

## SB 5255

---

---

As Reported by Senate Committee On:  
Natural Resources, Ocean & Recreation, February 19, 2009  
Ways & Means, March 2, 2009

**Title:** An act relating to aquatic lands lease rates for marinas.

**Brief Description:** Regarding aquatic lands lease rates for marinas.

**Sponsors:** Senators Jacobsen, Swecker, Regala, Morton, Kilmer, Pridemore and Shin.

**Brief History:**

**Committee Activity:** Natural Resources, Ocean & Recreation: 1/28/09, 2/19/09 [DPS-WM].

Ways & Means: 2/26/09, 3/02/09 [DP2S, DNP, w/oRec].

---

### SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

**Majority Report:** That Substitute Senate Bill No. 5255 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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

**Staff:** Curt Gavigan (786-7437)

---

### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 5255 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Fairley, Hewitt, Hobbs, Keiser, Kline, Kohl-Welles, McDermott, Oemig, Parlette, Pridemore, Regala, Rockefeller and Schoesler.

**Minority Report:** Do not pass.

Signed by Senator Honeyford.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Carrell.

---

*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.*

**Staff:** Maria Hovde (786-7710)

**Background:** General Aquatic Lands Management Authority. The Legislature has designated the Department of Natural Resources (DNR) as manager of the state's aquatic lands. DNR manages over two million acres of tidelands, shorelands, and bedlands. This includes the beds of navigable rivers and lakes, along with the beds below Puget Sound.

By statute, the management of aquatic lands must support a balance of goals. DNR must encourage public use and access, water-dependent uses, utilization of renewable resources, environmental protection, and revenue generation. Revenues generated from the state's aquatic lands are used for land management and public benefits, such as shoreline access, environmental protection, and recreational opportunities.

Water-Dependent Lease Rates. DNR has general leasing authority for aquatic lands. The Legislature has directed DNR, however, to favor water-dependent uses. A water dependent use is a use that cannot logically exist in any location but on water.

State-owned aquatic land lease rents for water-dependent uses are determined using a statutory method, with a key variable being the upland value of the tax parcel associated with the lease. Specifically, the upland value is the per area assessed value of the associated upland parcel. The formula generally sets the aquatic land value by multiplying the associated upland parcel value by the area of the lease, and multiplying the result by 30 percent. The rent is then determined by multiplying the aquatic land value by a real capitalization rate.

Once an initial lease rate is determined, rents are adjusted annually for inflation. DNR recalculates lease rates every four years.

**Summary of Bill (Recommended Second Substitute):** Marina Lease Rent Calculation. The method for determining aquatic land lease rates for marinas is changed. Instead of establishing marina lease rates individually based on the associated upland parcel value of each individual marina, DNR must follow an upland value averaging process for marinas within a specified geographic averaging zone before applying the current rent calculation formula.

DNR must determine the per area assessed value of the upland parcels associated with all marinas within a geographic averaging zone. DNR must then calculate the average upland value for marinas in this zone. The resulting average is considered the upland value which DNR must use in the rent calculation formula for all marinas in the zone. There are two distinct geographic averaging zones within each county. One zone contains all marinas within cities and the Urban Growth Area. A separate zone contains all other marinas.

If the initial marina rent established under the new formula would result in a lease rate more than 20 percent above or below the prior rent, DNR must gradually implement the new rate. In such cases, the rent may not increase or decrease more than 25 percent of the difference between the new and prior rent in any year.

The term "marina" is defined to include only those entities that provide vessel moorage for a fee and excludes homeowner associations, floating homes, and facilities that are dedicated to providing public use and access under a no-fee public use and access agreement.

Vessel Sewage Pumpout Station Plan. In cooperation with specified entities, DNR must develop a plan to enhance the number of operating vessel sewage pumpout stations available for use on state-owned aquatic lands. The plan must include a prioritized list of areas in need of pumpout station installation or improved pumpout operation and maintenance, as well as recommendations on plan implementation and funding. DNR must provide the plan to the Legislature by November 1, 2009.

Youth Recreation Aquatic Lands Lease Rate. Organizations qualifying for a youth recreation aquatic lands lease rate are eligible for a 50 percent reduction in the lease rent otherwise due under the water-dependent lease rate formula. An organization is eligible for the reduced rate if it is a nonprofit organization exempt from federal income tax and certifies that the primary use of the aquatic lands is boating and maritime recreation and instruction for youth.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Second Substitute):** The definition of "marina" is modified to include only those entities that provide vessel moorage for a fee and excludes homeowner associations, floating homes, and facilities that are dedicated to providing public use and access under a no-fee public use and access agreement.

**EFFECT OF CHANGES MADE BY NATURAL RESOURCES, OCEAN & RECREATION COMMITTEE (Recommended First Substitute):** The recommended substitute:

- broadens the definition of the term "marina;"
- instead of directing DNR to establish zones for purposes of marina rate determination, establishes that the upland value for determination of marina rents will be set using county-based geographic averaging zones;
- instead of linking marina rent changes to changes in average moorage rates, maintains current law linking rent change to changes in upland value;
- expands the applicability of a provision gradually transitioning certain marinas to rents under the new procedure and expands the time over which the transition will occur;
- requires development of a plan to enhance the availability of operating vessel sewage pumpout stations on state-owned aquatic lands; and
- provides a discounted aquatic lands lease rate for eligible organizations providing boating and maritime recreation and instruction for youth.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Original Bill (Natural Resources, Ocean & Recreation):** PRO: The system is broken because marinas within the same marketplace pay rent based on upland values, which does not necessarily correspond to the amount marinas charge for moorage. This bill is designed to create an even playing field. Marina owners have invested in upland improvements, but have been penalized for these investments by an increase in their aquatic lands lease rents. Often, these rent increases exceed increases in what they can charge for moorage.

CON: DNR has conducted reviews of its leasing system, as have other entities. Despite the imperfection of the current process, DNR and stakeholders have not been able to agree on an alternative. DNR thinks the current system is equitable, though work can be done to incorporate geographic lease rate averaging into the process. DNR requests that it be given time to develop a model to incorporate some form of geographic averaging for marinas.

OTHER: Other groups question whether they want to have their rents calculated under this new process, and want to keep discussing the issue.

**Persons Testifying (Natural Resources, Ocean & Recreation):** PRO: Ted Johnson, Simon Johnson, LLC; John Woodring, Marina Operator; Joe Dusenbury, City of Des Moines.

CON: Rich Doenges, DNR.

OTHER: Jim King, Recreational Boating Association of Washington; Cliff Webster, Northwest Marine Trade Association.

**Staff Summary of Public Testimony on First Substitute Bill (Ways & Means):** PRO: This bill incorporates fairness into the process used to calculate lease rates. Additionally, it results in positive cash receipts into dedicated accounts.

CON: The definition of marina has been expanded to include any entity that has an aquatic lands lease and a boat tie-up. This now includes fishing piers, restaurants, and houseboats; all of which would be a marina under this expansive definition. This was a major change that has negative impacts and was not discussed with stakeholders. It is not an easy process to determine how these lease rates should be calculated. It requires an all-inclusive process that could be continued in the interim. The city of Des Moines owns a public marina that, under this version of the bill, would be averaged with values in King County. This will increase the costs over time to the city.

OTHER: The bill generates modest revenue for the Aquatic Lands Enhancement Account and the Resource Management Cost Account. Under this bill some rents will increase and some will decrease. However, averaging the assessed values of the uplands provides a more equitable distribution of the rates. There are concerns with the pump-out provisions in the bill. Currently, DNR does not have the staff needed to meet this requirement. Through the Clean Vessel Program within the State Parks and Recreation Commission, there is federal pass-through money available for these pump-out stations. There are additional concerns

with the provision for nonprofit groups. Current statute already allows groups that provide public access through their facilities to receive free rent. For those that are subject to a lease, statute currently provides a discount off the upland parcel and providing a full discount will establish a bad precedent that would negatively impact these dedicated accounts.

**Persons Testifying (Ways & Means):** PRO: John Woodring, marina operator.

CON: Jim King, Recreational Boating Association of Washington; Steve Greaves, Recreational Boating Association of Washington, Floating Homes Association; Mike Ryhard, Floating Homes Association; Phil Watkins, city of Des Moines.

OTHER: Heath Packard, DNR; Donna Wolfe, Washington State Parks and Recreation Commission.