
Environment & Energy Committee

HB 1849

Brief Description: Revising the lease terms for managing first-class unplatted tidelands and shorelands.

Sponsors: Representatives Lekanoff, Chapman, Fitzgibbon and Doglio; by request of Department of Natural Resources.

Brief Summary of Bill

- Revises lease terms for certain state-owned aquatic lands.
- Provides a preferential right to lessees re-leasing first-class tidelands or shorelands.
- Modifies the authority of the Department of Natural Resources to lease tidelands or shorelands for booming purposes under certain circumstances.

Hearing Date: 2/14/19

Staff: Jenny Aronson (786-7290), Robert Hatfield (786-7117).

Background:

State Management of Aquatic Lands.

Aquatic lands are generally managed by the state and protected for the common good. The Legislature has designated the Department of Natural Resources (DNR) as the manager of the more than 2.6 million acres of state-owned aquatic lands. In managing these lands, the DNR must support a balance of use demands and statutory goals such as public use, environmental protections, trade, transportation, and generating revenue consistent with those goals. The DNR must also establish standards for determining equitable and predictable lease rates for users of state-owned aquatic lands.

Types of Aquatic Land and Lease Terms.

Aquatic lands include the lands beneath both marine “salt” waters and fresh waters. There are three categories of aquatic lands: tidelands, shorelands, and bedlands.

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.

Tidelands are submerged lands and beaches that are exposed and submerged with the ebb and flow of the tides. Shorelands are the submerged lands lying along the edge of a river or lake, between the line of ordinary high water and the line of navigability. Tidelands and shorelands in front of or within two miles of a city are considered first-class tidelands and shorelands, and those more than two miles from a city are considered second-class tidelands and shorelands. Bedlands are those aquatic lands that are submerged at all times beneath navigable waters.

DNR is required to plat all previously unplatted first class tidelands. Platting is the process of making a plan or map showing the division of a piece of land into individual lots or subdivisions. Unplatted first class tidelands and shorelands may be leased for a maximum period of 10 years. The maximum term for a re-lease of unplatted first-class tidelands and shorelands is five years. The maximum lease term for platted tidelands and shorelands is generally 55 years.

Rights of Adjacent Upland Owners to Navigable Waters.

Washington is a “non-riparian” state, meaning adjacent upland owners do not have an automatic right, by virtue of their upland ownership, to build out over the adjacent navigable waters. Owners of residential property abutting state-owned tidelands and shorelands are permitted by statute to install and maintain private recreational docks on such land free of charge.

Upon offering first-class tidelands or shorelands for lease after platting and appraising them, the DNR must notify the owner of record of uplands fronting upon the lands being offered for lease by mail that:

- the tideland or shorelands are being offered for lease; and
- the property owner has a preference right to apply to lease the tidelands or shorelands at the appraised value for the lease for a period of 60 days from the date of service of mailing of the notice.

Summary of Bill:

Lease Terms for Certain State-owned Aquatic Lands.

Leases for both platted and unplatted first class tidelands and shorelands are aligned under the same terms and processes. Leases issued under the provisions of the chapter governing state-owned tidelands and shorelands must be for a term no longer than 30 years. The Department of Natural Resources (DNR) retains the authority to survey and plat unplatted tidelands and shorelands, but is no longer required to do so.

Leasing and Re-leasing State-owned Aquatic Lands.

At the expiration of any lease of first-class tidelands or shorelands, the lessee or the lessee's successors or assigns have the preferential right to re-lease all or part of the area, superior to any preference right given to the landowner fronting the tidelands and shorelands.

Where the fronting uplands are not improved and occupied for residential purposes and the fronting landowner has not filed an application for the lease of the lands, the DNR may lease the lands to any person for booming purposes. Failure to use lands leased for booming purposes for a period of one year shall result in a forfeiture of the lease, and land ownership of reverts to the state without any notice to the lessee upon the entry of a declaration of forfeiture in the records of the DNR.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.