
SENATE BILL 6068

State of Washington

59th Legislature

2005 Regular Session

By Senators Poulsen, Kline and Kohl-Welles

Read first time 03/01/2005. Referred to Committee on Water, Energy & Environment.

1 AN ACT Relating to conservation of aquatic lands owned by the
2 state; amending RCW 79.90.460; adding a new chapter to Title 79 RCW;
3 and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the state's more
6 than two million acres of state-owned aquatic lands are a valuable
7 treasure belonging to all the citizens of the state, and support
8 important recreational, navigational, commercial, industrial,
9 residential, fisheries harvest, and other uses that benefit the entire
10 state. The legislature further finds that there are specific limited
11 areas of these lands that possess unique or significant characteristics
12 making them most valuable for maintaining their relatively undeveloped
13 condition and continuing to support important natural ecosystem
14 functions.

15 It is therefore the purpose of this chapter to establish a system
16 of reserves of state-owned aquatic lands and a means whereby the long-
17 term conservation of these lands can be accomplished.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Aquatic lands" means shorelands, tidelands, and bedlands.

4 (2) "Aquatic reserves" means those areas of aquatic lands
5 designated pursuant to section 3 of this act.

6 NEW SECTION. **Sec. 3.** (1) There is created the state aquatic
7 reserve system. The aquatic reserve system consists of those reserves
8 designated by the legislature in section 4 of this act, and such
9 additional reserves as the commissioner designates by order. Reserves
10 may only encompass state-owned tidelands and bedlands, except that a
11 reserve may include tidelands or shorelands contiguous to state aquatic
12 lands where the owner provides written permission for inclusion of such
13 lands and states an intent to sell or donate the lands to the state in
14 the future.

15 (2) The commissioner may designate additional reserves by order
16 upon determining that the lands for inclusion in the system meet one or
17 more of the following characteristics:

18 (a) The lands have been identified as having high priority for
19 conservation, natural systems, wildlife, and low-impact public use
20 values;

21 (b) The lands have flora, fauna, geological, recreational,
22 archeological, cultural, scenic, or similar features of critical
23 importance and has retained to some degree or reestablished its natural
24 character;

25 (c) The lands provide significant examples of native ecological
26 communities; and

27 (d) The lands have significant sites or features threatened with
28 conversion to incompatible uses.

29 (3) Prior to adopting an order designating an aquatic reserve, the
30 department shall hold a public hearing in the county where the majority
31 of the aquatic lands in the proposed reserve is located.

32 NEW SECTION. **Sec. 4.** The legislature designates the following
33 areas as aquatic reserves to be managed as required under this chapter:

34 (1) Certain aquatic lands consisting of tidelands and bedlands,
35 surrounding Maury Island and including Quartermaster Harbor in King
36 county, as described in this subsection:

1 The tidelands and bedlands of navigable waters, owned by the state
2 of Washington, described as follows:

3 Those tidelands and bedlands surrounding Maury Island, which are
4 fronting and abutting Section 14, Sections 20-23, inclusively, and
5 Sections 28-32, inclusively, Township 22 North, Range 3 East, W.M.;

6 Together with, those tidelands and bedlands lying westerly of said
7 Maury Island which are fronting and abutting only those portions of
8 Sections 9 and 16, which are fronting on Quartermaster Harbor, Township
9 22 North, Range 3 East, W.M.;

10 Together with, those tidelands and bedlands lying southerly of said
11 Maury Island, which are fronting and abutting Sections 5 and 6,
12 Township 21 North, Range 3 East, W.M.; and said reserve extends
13 waterward to a water depth of 70 feet below mean lower low water or
14 one-half mile from the line of extreme low tide, whichever line is
15 further waterward;

16 Those tidelands and bedlands lying southerly and easterly of Vashon
17 Island, which are fronting and abutting Section 1, Township 21 North,
18 Range 2 East, W.M.;

19 Together with, those tidelands and bedlands lying easterly of said
20 Vashon Island, which are fronting and abutting Sections 24, 25, and 36,
21 Township 22 North, Range 2 East, W.M.;

22 Together with, those tidelands and bedlands lying easterly of said
23 Vashon Island, which are fronting and abutting Sections 17-20,
24 inclusively, Township 22 North, Range 3 East, W.M.;

25 Together with, those tidelands and bedlands lying southerly
26 westerly of said Vashon Island, which are fronting and abutting only
27 those portions of Sections 8, which is fronting on Quartermaster
28 Harbor, Township 22 North, Range 3 East, W.M.; and said reserve extends
29 waterward to a water depth of 70 feet below mean lower low water or
30 one-half mile from the line of extreme low tide, whichever line is
31 further waterward;

32 Subject to, department of natural resources use authorizations
33 51-021507, 51-027510, 51-033836, 51-CR0207, 51-CR0706, 51-CR0707,
34 51-CR1771, 20-009814, 20-A11434, 20-012741, and 20-010075.

35 Situated in King county, Washington.

36 (2) Certain aquatic lands consisting of tidelands and bedlands
37 adjacent to Cherry Point in Whatcom county described in this
38 subsection:

1 That portion of the tidelands and bedlands of navigable waters
2 owned by the state of Washington, fronting and abutting Sections 2, 11,
3 13, 14, and 24, Township 39 North, Range 1 West, Willamette Meridian
4 and fronting and abutting Sections 19, 20, 29 and 32, Township 39
5 North, Range 1 East, Willamette Meridian described as follows:

6 Lying south of the south line of government lot 1, of said Section
7 2, Township 39 North, Range 1 West, W.M. being the south line of Birch
8 Bay State Park; and lying north of the south line of Township 39 North,
9 Range 1 East; and extending waterward to a line which is 70 feet below
10 mean lower low water or 0.5 mile beyond extreme low tide, whichever
11 line is further waterward;

12 Excepting therefrom, the following use authorizations issued by the
13 department of natural resources: Lease application numbers 20-A09122,
14 20-A11714, 20-A08488, 20-013265 and 20-010521;

15 Also excepting therefrom, any second class tidelands previously
16 sold by the state of Washington.

17 Situated in Whatcom county, Washington.

18 (3) Certain aquatic lands consisting of tidelands and bedlands
19 within Fidalgo Bay in Skagit county, described in this subsection:

20 That portion of the harbor area, waterways, and beds of navigable
21 water in Fidalgo Bay owned by the state of Washington located within
22 Section 5, Township 34 North, Range 2 East, W.M. and within Sections
23 29, 30, and 32, Township 35 North, Range 2 East, W.M. and further
24 described as follows:

25 That portion of Fidalgo Bay lying southerly of a line beginning at
26 the northeast corner of Tract No. 10 as shown on Plate 11 of the Tide
27 and Shore Lands of Anacortes Harbor as filed by the Tideland Appraisers
28 dated May 1, 1893, and said line extended easterly to terminate at the
29 meander corner between government lots 2 and 3 of Section 29, Township
30 35 North, Range 2 East, W.M.;

31 Excepting therefrom, that portion of the southerly end of the West
32 Arm of Fidalgo Waterway which was vacated by Waterway Vacation No. 101
33 according to the Commissioner's Order dated April 29, 1959, for Primary
34 State Highway No. 1 (State Route 20);

35 Also excepting therefrom, that portion of the southerly end of the
36 East Arm of Fidalgo Waterway granted to the Department of Highways as
37 shown on State Road Plat No. 941 dated January 18, 1961, for Primary
38 State Highway No. 1 (State Route 20);

1 Also excepting therefrom, that 100 foot right of way for railroad
2 purposes across said Fidalgo Waterway granted to the Seattle and
3 Montana Railroad Company by decree filed March 2, 1904, according to
4 Condemnation file No. A26;

5 Together with, those first class tidelands conveyed to the state of
6 Washington according to the Statutory Warranty deed recorded on
7 December 20, 1999, recorded under Auditor's File No. 199912200133,
8 Skagit County Auditor's records and further described as follows:

9 Tracts 4, 5, 6, 7, 8, 9, and 10 of Plate 13; Tracts 8, 9, 10, 11,
10 12, 13, 14, and 15 of Plate 12; that portion of Tracts 16 and 17 of
11 said Plate 12 and lying southerly of the Seattle and Montana Railroad
12 Company by decree filed March 2, 1904, according to Condemnation file
13 No. A26; said tracts and plates are according to of the Tide and Shore
14 Lands of Anacortes Harbor as filed by the Tideland Appraisers dated May
15 1, 1893;

16 Excepting therefrom, that portion of said first class tidelands, if
17 any, conveyed to the state of Washington for Primary State Highway No.
18 1, Jct. S.S.H. No. 1-D (State Route 20) by deed recorded October 15,
19 1956, under Skagit County Auditor's file No. 542873; by deed recorded
20 January 3, 1958, under Skagit County Auditor's file No. 560284; and by
21 deed recorded February 7, 1961, under Skagit County Auditor's file No.
22 603915;

23 Also excepting therefrom, that 100 foot right of way for railroad
24 purposes across said first class tidelands granted to the Seattle and
25 Montana Railroad Company by decree filed March 2, 1904, according to
26 Condemnation file No. A26;

27 Together with, those second class tidelands conveyed to the state
28 of Washington according to the Statutory Warranty deed recorded on
29 December 20, 1999, recorded under Auditor's File No. 199912200133,
30 Skagit County Auditor's records and further described as follows:

31 All tidelands of the second class lying between the line of mean
32 high tide and the line of extreme low tide, situated in front of and
33 adjacent to, or abutting government lots 5 and 6, Section 32, Township
34 35 North, Range 2 East, W.M. and government lot 4, Section 4, Township
35 34 North, Range 2 East, W.M.;

36 Together with, those bedlands, if any, lying westerly of the line
37 of extreme low tide fronting and abutting the said second class
38 tidelands situated in front of and adjacent to, or abutting government

1 lots 5 and 6, Section 32, Township 35 North, Range 2 East, W.M. and
2 government lot 4, Section 4, Township 34 North, Range 2 East, W.M.; and
3 lying easterly of said east line of the East Arm of the Fidalgo
4 Waterway;

5 Together with, those bedlands, if any, lying westerly of the line
6 of extreme low tide fronting and abutting the second class tidelands
7 situated in front of and adjacent to, or abutting government lot 7,
8 Section 32, Township 35 North, Range 2 East, W.M. and lying easterly of
9 the east line of said Fidalgo Waterway and the said east line of the
10 East Arm of Fidalgo Waterway;

11 Excepting therefrom, that 100 foot right of way for railroad
12 purposes across said bedlands, if any, granted to the Seattle and
13 Montana Railroad Company by decree filed March 2, 1904, according to
14 Condemnation file No. A26;

15 Together with, second class tidelands and bedlands, if any, lying
16 northerly of the north lateral sideline of said second class tidelands
17 in front of and adjacent to, or abutting government lot 7, Township 35
18 North, Range 2 East, W.M. and lying southerly of the south line of
19 Tract No. 2 as shown on Plate 12 of the Tide and Shore Lands of
20 Anacortes Harbor as filed by the Tideland Appraisers dated May 1, 1893;

21 Together with, those bedlands, if any, lying westerly of the line
22 of extreme low tide fronting and abutting the second class tidelands
23 situated in front of and adjacent to, or abutting government lots 2, 3
24 and 4, Section 29, Township 35 North, Range 2 East, W.M. and the north
25 10.19 lineal chains along the meander line of government lot 8, Section
26 32, Township 35 North, Range 2 East, W.M. and lying easterly of the
27 inner harbor line of the easterly most harbor area within Fidalgo Bay
28 as shown on the Map of Anacortes Harbor as filed by the Harbor Line
29 Commission dated 1892;

30 Excepting therefrom, those bedlands, if any, of said Tract 2 as
31 shown on Plate 12 of the Tide and Shore Lands of Anacortes Harbor as
32 filed by the Tideland Appraisers dated May 1, 1893, as conveyed by the
33 state of Washington according to the deed dated April 17, 1908, within
34 Volume 8 of Tide Land Deeds, page 370 on file in the office of the
35 commissioner of public lands;

36 Also excepting therefrom, those bedlands, if any, of Fidalgo Bay
37 lying southerly of said line beginning at the northeast corner of Tract
38 No. 10 as shown on Plate 11 of the Tide and Shore Lands of Anacortes

1 Harbor as filed by the Tideland Appraisers dated May 1, 1893, and said
2 line extended easterly to terminate at the meander corner between
3 government lots 2 and 3 of Section 29, Township 35 North, Range 2 East,
4 W.M.;

5 Also excepting therefrom, tidelands of the first class of said
6 Tract 2 as shown on Plate 12 of the Tide and Shore Lands of Anacortes
7 Harbor as filed by the Tideland Appraisers dated May 1, 1893, as
8 conveyed by the state of Washington according to the deed dated April
9 17, 1908 within Volume 8 of Tide Land Deeds, page 370 on file in the
10 office of the commissioner of public lands;

11 Also excepting therefrom, tidelands of the second class, if any,
12 extending from mean high tide to extreme low tide as conveyed by the
13 state of Washington in deeds recorded in Volume 88 of Deeds, page 513
14 on May 21, 1912, and in Volume 102 of Deeds, page 550 on April 25,
15 1916, of Skagit County Auditor records, situate in front of and
16 adjacent to or abutting upon that portion of the government meander
17 line described as follows:

18 Beginning at the northeast corner of Government Lot 1, Section 5,
19 Township 34 North, Range 2 East, W.M.; thence South 28° West, 7.50
20 chains (495.00 feet); thence South 47° West, 17.50 chains (1155.00
21 feet) to the terminal point of this description.

22 Except that portion, if any, lying outside of the bounds of Tract
23 3, Plate No. 13, Tide and Shore Lands in Section 5, Township 34 North,
24 Range 2 East, W.M., Anacortes Harbor as per the recorded plat thereof
25 on file in the office of the commissioner of public lands, Olympia, WA.

26 Also excepting that portion conveyed to the state of Washington for
27 Primary State Highway No. 1, Jct. S.S.H. No. 1-D (State Route 20) by
28 deed recorded January 10, 1961, under Skagit County Auditor's file No.
29 602917.

30 Situated in Skagit county, Washington.

31 (4) Certain aquatic lands, consisting of tidelands and bedlands
32 surrounding Cypress in Skagit county described in this subsection:

33 The tidelands and bedlands of navigable waters, owned by the state
34 of Washington, department of natural resources, lying in front of and
35 surrounding Cypress Island, Strawberry Island (a.k.a. Loon Island), and
36 Cone Islands No.1, No.2 & No.3 (according to the official U.S.
37 government survey approved 1933) and said islands are located within
38 Sections 4, 5, 6, and 8, Township 35 North, Range 1 East, W.M. and

1 Sections 17-22, inclusively, and Sections 27-34, inclusively, Township
2 36 North, Range 1 East; W.M., and extending waterward to a water depth
3 of 70 feet below mean lower low water or one-half mile from the line of
4 extreme low tide, whichever line is further waterward;

5 Subject to department of natural resources use authorizations 20-
6 11458, 20-10667, 20-10827, 20-A12517, and 51-33711.

7 Situated in Skagit county, Washington.

8 NEW SECTION. **Sec. 5.** (1) Except as otherwise provided in section
9 6 of this act, the department shall manage aquatic reserves primarily
10 for the achievement of the following goals as applicable to each
11 reserve:

12 (a) To conserve native habitats and associated plant and wildlife
13 species, with a special emphasis upon forage fish, salmonids, and
14 migratory birds;

15 (b) To protect and restore the functions and natural processes of
16 nearshore ecosystems in support of the natural resources of the
17 reserve;

18 (c) To promote stewardship of riparian and aquatic habitats and
19 species by providing education and outreach opportunities and promoting
20 coordination with other resource managers; and

21 (d) To provide for low-impact public uses including recreation uses
22 and improvements that do not adversely affect the resource values, are
23 appropriate to the maintenance of the lands in a relatively unmodified
24 natural setting, and do not detract from long-term ecological
25 processes.

26 (2) The department shall develop a management plan for each aquatic
27 reserve, and may incorporate any existing management plans or policies
28 previously adopted for such lands where consistent with the management
29 guidance of this section and section 6 of this act. The plan must
30 identify the significant resources to be conserved consistent with the
31 purposes of this chapter and identify the areas with potential for low-
32 impact public uses. The plan must specify what types of management
33 activities and public uses are permitted, consistent with the
34 conservation purposes of this chapter. The department shall make such
35 plans available for review and comment by the public and other state,
36 tribal, and local agencies, prior to final approval by the
37 commissioner.

1 NEW SECTION. **Sec. 6.** (1) Prior to July 1, 2009, the department
2 shall not authorize any portion of the reserve lands designated in
3 section 4 of this act for industrial uses or for transportation of
4 materials from mining or other industrial activities, and shall not
5 authorize the construction of docks or other improvement associated
6 with such uses.

7 (2) The department shall develop proposed policies and management
8 criteria for the authorization of industrial uses or associated
9 transportation activities and improvements on aquatic reserves, to
10 ensure consistency with the goals and objectives of this chapter. The
11 department shall provide a report summarizing its review and proposals
12 to the appropriate committees of the senate and house of
13 representatives by December 31, 2008.

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

16 (1) The management of state-owned aquatic lands shall preserve and
17 enhance water-dependent uses. Water-dependent uses shall be favored
18 over other uses in aquatic land planning and in resolving conflicts
19 between competing lease applications. In cases of conflict between
20 water-dependent uses, priority shall be given to uses which enhance
21 renewable resources, water-borne commerce, and the navigational and
22 biological capacity of the waters, and to statewide interests as
23 distinguished from local interests.

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

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

35 (4) The power to lease state-owned aquatic lands is vested in the
36 department (~~(of natural resources)~~), which has the authority to make
37 leases upon terms, conditions, and length of time in conformance with

1 the state Constitution and chapters 79.90 through 79.96 RCW. Leases of
2 state-owned aquatic lands designated within the aquatic reserve system
3 under chapter 79.-- RCW (sections 1 through 6 of this act) must conform
4 with the management criteria expressed in that chapter.

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

8 NEW SECTION. Sec. 8. Sections 1 through 6 of this act constitute
9 a new chapter in Title 79 RCW.

10 NEW SECTION. Sec. 9. This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 immediately.

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