

SSB 6011 - H AMD 604

By Representative McDermott

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 79.105
4 RCW under the subchapter heading "other management provisions" to read
5 as follows:

6 (1) There is created the Maury Island aquatic reserve. The reserve
7 encompasses only state-owned tidelands and bedlands, except that the
8 department may include tidelands or shorelands contiguous to state
9 aquatic lands where the owner provides written permission for inclusion
10 of such lands in the reserve and states in writing an intent to sell or
11 donate the lands to the state in the future. The commissioner may
12 expand the reserve by administrative order designating additional
13 contiguous state-owned tidelands and bedlands, or by accepting written
14 permission by the owner of contiguous aquatic lands, where the
15 commissioner determines the lands in the designation or private owner
16 permission meet one or more of the following characteristics:

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

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

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

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

28 (2) The Maury Island aquatic reserve shall include the lands
29 designated by administrative order under subsection (1) of this

1 section, and the tidelands and bedlands surrounding Maury Island and
2 including Quartermaster Harbor in King county, as described in this
3 subsection:

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

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

9 Together with, those tidelands and bedlands lying westerly of said
10 Maury Island which are fronting and abutting only those portions of
11 Sections 9 and 16, which are fronting on Quartermaster Harbor, Township
12 22 North, Range 3 East, W.M.;

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

19 Those tidelands and bedlands lying southerly and easterly of Vashon
20 Island, which are fronting and abutting Section 1, Township 21 North,
21 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 24, 25, and 36,
24 Township 22 North, Range 2 East, W.M.;

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

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

35 (3) The department shall manage the Maury Island aquatic reserve
36 primarily for the achievement of the following goals:

37 (a) To conserve native habitats and associated plant and wildlife

1 species, with a special emphasis upon forage fish, salmonids, and
2 migratory birds;

3 (b) To protect and restore the functions and natural processes of
4 nearshore ecosystems in support of the natural resources of the
5 reserve;

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

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

14 (4) The department shall develop a management plan for the aquatic
15 reserve, and may incorporate an existing management plan and policies
16 previously adopted for the lands where consistent with the management
17 guidance of this section. The plan must identify the significant
18 resources to be conserved consistent with the purposes of this chapter
19 and identify the areas with potential for low-impact public uses. The
20 plan must specify what types of management activities and public uses
21 are permitted, consistent with the conservation purposes of this
22 chapter. The department shall make the plan available for review and
23 comment by the public and other state, tribal, and local agencies,
24 prior to final approval by the commissioner.

25 (5)(a) Until February 1, 2009, the department shall not authorize
26 any portion of the Maury Island aquatic reserve for industrial uses or
27 for transportation of materials from a surface mine or mining operation
28 as defined under RCW 78.44.031 or other industrial activities, and may
29 not authorize the construction of docks or other improvements
30 associated with these uses.

31 (b) Nothing in this section shall preclude any landowner from
32 initiating, continuing, or completing a land use permitting process for
33 aquatic lands or uplands affected by this section either before or
34 after February 1, 2009.

35 (c) After February 1, 2009, the department may authorize portions
36 of the Maury Island aquatic reserve for industrial uses or for
37 transportation of materials from a surface mine or mining operation and

1 may authorize the construction of docks or other improvements
2 associated with these uses only if the commissioner publishes formal
3 findings in the Washington State Register that:

4 (i) The proposed uses are fully permitted under all applicable
5 federal, state, and local laws;

6 (ii) There is an identified market demand for the mineral resources
7 located on the uplands adjacent to the Maury Island aquatic reserve
8 that cannot be reasonably accessed or transported in quantities
9 necessary to satisfy the demand without the construction of a dock or
10 other improvements;

11 (iii) There is not an existing portion of state-owned uplands
12 containing a mineral resource with a significantly equitable value to
13 any mineral resources existing on upland parcels adjacent to the Maury
14 Island aquatic reserve, that is located in an area that would allow for
15 the extraction and transportation of the minerals in a manner that
16 provides less risk to the health of the state's aquatic environment
17 than extraction and transportation from the uplands adjacent to the
18 Maury Island aquatic reserve would create; and

19 (iv) The commissioner conducts at least one hearing on either
20 Vashon or Maury Island where the public can express concerns or make
21 recommendations.

22 **Sec. 2.** RCW 79.105.210 and 2005 c 155 s 143 are each amended to
23 read as follows:

24 (1) The management of state-owned aquatic lands shall preserve and
25 enhance water-dependent uses. Water-dependent uses shall be favored
26 over other uses in state-owned aquatic land planning and in resolving
27 conflicts between competing lease applications. In cases of conflict
28 between water-dependent uses, priority shall be given to uses which
29 enhance renewable resources, water-borne commerce, and the navigational
30 and biological capacity of the waters, and to statewide interests as
31 distinguished from local interests.

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

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

7 (4) The power to lease state-owned aquatic lands is vested in the
8 department, which has the authority to make leases upon terms,
9 conditions, and length of time in conformance with the state
10 Constitution and chapters 79.105 through 79.140 RCW. Leases,
11 easements, licenses, permits, rights-of-way, and any other agreements
12 allowing use of state-owned aquatic lands designated as an aquatic
13 reserve under section 1 of this act must conform with the management
14 criteria expressed in chapters 79.105 through 79.140 RCW and with
15 section 1 of this act.

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

19 NEW SECTION. Sec. 3. (1) It is the intent of the legislature that
20 the creation of the Maury Island aquatic reserve will not have a net
21 impact on the availability of construction material resources or an
22 economic impact on any private sector mineral operation. It is the
23 intent of the legislature, expressed through the implementation of this
24 section, for any existing mineral-extraction operations affected by the
25 creation of the Maury Island aquatic reserve to be offered compensation
26 in the form of an opportunity to transfer title of their land to the
27 state in exchange for land elsewhere with an equal or greater
28 extractable mineral resource.

29 (2)(a) By October 1, 2007, the department of natural resources
30 shall identify a portion of state-owned uplands containing a mineral
31 resource with a significantly equitable value to any mineral resources
32 existing on upland parcels adjacent to the Maury Island aquatic reserve
33 created in section 1 of this act, that is located in an area that would
34 allow for the extraction and transportation of the minerals in a manner
35 that provides less risk to the health of the state's aquatic
36 environment than extraction and transportation from the uplands
37 adjacent to the Maury Island aquatic reserve would create.

1 (b) In order to gather the information necessary to implement this
2 section, the department of natural resources shall work with the owner
3 or owners of the mineral resources existing on upland parcels adjacent
4 to the Maury Island aquatic reserve to allow the department of natural
5 resources to conduct an estimate of the value of the mineral resources
6 present.

7 (3) Within three months of the identification of a comparable
8 mineral resource under this section, the department of natural
9 resources shall, through any authorities, programs, or management
10 options available to it, make a good faith offer to transfer the
11 ownership of the identified parcel to the owner or owners of the
12 mineral resources existing on upland parcels adjacent to the Maury
13 Island aquatic reserve in exchange for the transfer to the state of
14 ownership of the mineral resources existing on upland parcels adjacent
15 to the Maury Island aquatic reserve.

16 (4) Any land transferred into state ownership under this section
17 must be managed in accordance with the trust status originally
18 applicable to the land for which ownership was transferred to the
19 former owner or owners of the mineral resources existing on upland
20 parcels adjacent to the Maury Island aquatic reserve. If this
21 management status is not appropriate for holding the upland parcels
22 adjacent to the Maury Island aquatic reserve in a conservation status,
23 then the department of natural resources shall pursue and prioritize
24 all available options to transfer the land into a state-owned
25 landholding status appropriate for conservation management.

26 (5) When the transfer of the identified parcel to the owner or
27 owners of the mineral resources existing on upland parcels adjacent to
28 the Maury Island aquatic reserve has been completed, all state agencies
29 and local subdivisions of the state shall provide a coordinated and
30 expedited permitting process to assist the owners or owners of the
31 transferred parcel in permitting a mineral extraction project on the
32 transferred parcel. The office of regulatory assistance is responsible
33 for overseeing and ensuring that the permitting process is coordinated
34 and expedited.

35 (6) The department of natural resources shall report to the
36 appropriate committees of the legislature by December 31, 2008, as to
37 the details of the land transfer completed under this section.

1 NEW SECTION. **Sec. 4.** The department shall prioritize
2 expenditures, within existing appropriations for the 2005-2007 and the
3 2007-2009 fiscal bienniums, from the resource management cost account
4 to implement this act.

5 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately."

9 Correct the title.

EFFECT: Changes the date after which the Commissioner of Public
Lands can allow industrial activities associated with the Maury Island
Aquatic Reserve from November 1, 2007, to February 1, 2009, removes the
specification that industrial activities can only begin after the
Commissioner of Public Lands finds that comparable mineral resources
are unavailable in another location and that transportation from the
site must be waterborne transportation, and moves the date by which the
Department of Natural Resources must locate an alternative location
from August 1, 2007, to October 1, 2007.

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