

SENATE BILL REPORT

SB 5550

As Reported by Senate Committee On:
Natural Resources & Marine Waters, February 16, 2011

Title: An act relating to annual rent rates for marina.

Brief Description: Concerning the annual rent rate for marinas.

Sponsors: Senators Regala, Ranker, Swecker, Hargrove, Morton, Stevens, Fraser, Shin and Kohl-Welles; by request of Department of Natural Resources.

Brief History:

Committee Activity: Natural Resources & Marine Waters: 2/09/11, 2/16/11 [DPS, w/oRec].

SENATE COMMITTEE ON NATURAL RESOURCES & MARINE WATERS

Majority Report: That Substitute Senate Bill No. 5550 be substituted therefor, and the substitute bill do pass.

Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton, Ranking Minority Member; Swecker.

Minority Report: That it be referred without recommendation.

Signed by Senators Fraser and Stevens.

Staff: Curt Gavigan (786-7437)

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 2 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.

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.

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 the 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 Substitute): Provides a Geographic Averaging Method for Marina Upland Values. Generally, a marina continues to have its lease rent determined in the same manner as any other aquatic lands lease. However, DNR must apply a geographic averaging process for those marinas with upland values that are significantly above or below that of other nearby marinas.

- *DNR must determine a marina's geographic average upland value.* The geographic upland value for each marina is the average of the upland values for all the marinas within a five mile radius centered on that marina.
- *Applying geographic averaging.* If the upland value for a marina is more than 45 percent above its geographic upland value, then the upland value for purposes of setting that marina's rent is 45 percent above its geographic upland value. Similarly, if the upland value for a marina is more than 45 percent below its geographic upland value, then the upland value for purposes of setting that marina's rent is 45 percent below its geographic upland value.

Phasing for New Marina Rents. If the rent for a marina established under the first application of the new formula would result in a lease rate above or below the prior annual rent, DNR must gradually implement the new rate over four years.

Establishes a Base Rent of \$250 for Marinas. Creates a base rent of \$250 to which DNR must then add the rent as determined by the statutory formula for water-dependent uses. The base rent must be deposited in the Resource Management Cost Account administered by DNR.

Defines the Term Marina. Generally, a marina includes an entity that provides moorage for a fee. However, the term excludes homeowners associations, facilities that provide moorage exclusively for floating homes, and facilities dedicated entirely to providing public use and access.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES & MARINE WATERS COMMITTEE (Recommended Substitute): The proposed substitute bill makes technical changes regarding application of the geographic average upland value for a marina.

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: PRO: The current system can create great rent variability for marinas within close proximity to each other, and can impact competitiveness as marinas compete for the same tenants. DNR has tried to compile as accurate a data set as possible to develop the new formula. DNR is trying to make marina rents more equitable, and is willing to keep working on the issue.

CON: This issue merits discussion. However, the problem with this proposal is the stakeholder process by which the bill was developed. The rate changes represented in this bill create winners and losers. Marinas who would see increased rent will be impacted, and some may have to change their business plans or go out of business.

OTHER: DNR should review certain decisions on whether a use is water or non-water dependent.

Persons Testifying: PRO: Kristin Swenddal, Heath Packard, DNR; Ted Johnson, Foss Harbor Marina; Margie Freeman, NW Marine Trade Assn.

CON: Doug Levy, Steve Greaves, Recreational Boating Association of Washington; Ken Harrington, Poulsbo Yacht Club; Charles Draper, Salmon Bay Marina.

OTHER: Brad Tower, Arrow Launch Service.