

# HOUSE BILL REPORT

## SHB 1783

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### As Amended by the Senate

**Title:** An act relating to houseboats and houseboat moorages.

**Brief Description:** Amending the consideration of houseboats and houseboat moorages for the purposes of aquatic lands and shoreline management.

**Sponsors:** House Committee on Local Government (originally sponsored by Representatives Pedersen, Upthegrove, Takko, Blake, Rodne, Smith, Carlyle, Fitzgibbon, Springer, Angel and Kenney).

#### **Brief History:**

##### **Committee Activity:**

Local Government: 2/9/11, 2/15/11 [DPS].

##### **Floor Activity:**

Passed House: 3/3/11, 58-40.

Senate Amended.

Passed Senate: 4/7/11, 47-2.

#### **Brief Summary of Substitute Bill**

- Amends provisions governing aquatic lands to specify that houseboats are a "water-dependent use" rather than a "water-oriented use," and that houseboat moorages are also a "water-dependent use."
- Amends the Shoreline Management Act to specify that houseboats and houseboat moorages permitted or legally established prior to January 1, 2011, must be classified as conforming-water uses.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Takko, Chair; Angel, Ranking Minority Member; Asay, Assistant Ranking Minority Member; Rodne, Springer and Upthegrove.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Tharinger, Vice Chair; Fitzgibbon and Smith.

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*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:** Ethan Moreno (786-7386).

## **Background:**

### Aquatic Lands.

The Legislature has delegated the management of state-owned aquatic lands to the Department of Natural Resources (DNR), with directions to encourage public use and access, foster water-dependent uses, ensure environmental protection, and utilize renewable resources. The DNR is further instructed to charge a rent to the users of state-owned aquatic lands, with different standards applying to different use types. Non water-dependent uses are charged the fair market value for the use of the land. Water-dependent uses are charged rent according to a statutory formula.

Water-dependent uses, defined as uses that cannot logically exist except on water, are assessed a rent that is associated with upland values. Generally, water-dependent users, such as marinas, must pay a rent that is based on a percentage of the assessed value of the nearest upland parcel. After an initial rent amount is determined, the DNR is directed to apply a real capitalization rate every four years.

Water-oriented uses, as the term is defined in aquatic lands provisions, is defined as uses that historically have been dependent on a waterfront location, but with existing technology could be located away from the waterfront. Examples specified in the definition include watercraft sales, fish processing, and houseboats.

### Shoreline Management Act.

The Shoreline Management Act of 1971 (SMA) governs uses of state shorelines. The SMA enunciates state policy to provide for shoreline management by planning for and fostering "all reasonable and appropriate uses." The SMA prioritizes public shoreline access and enjoyment and creates preference criteria listed in prioritized order that must be used by state and local governments in regulating shoreline uses. Additionally, the SMA specifies that preferred shoreline uses are those which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline.

The SMA involves a cooperative regulatory approach between local governments and the state. At the local level, the SMA regulations are developed in city and county shoreline master programs (master programs) that regulate land use activities in shoreline areas of the state. Master programs must be consistent with guidelines adopted by the Department of Ecology (DOE), and the programs, and segments of or amendments to, become effective when approved by the DOE.

## **Summary of Substitute Bill:**

Provisions governing aquatic lands are modified to specify that houseboats are a "water-dependent use" rather than a "water-oriented use," and that houseboat moorages are also a "water-dependent use."

The SMA is amended to specify that houseboats and houseboat moorages permitted or legally established prior to January 1, 2011, must be classified as conforming-water uses.

**EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment strikes the underlying bill and requires a floating home permitted or legally established before January 1, 2011, to be classified as a conforming preferred use. The amendment adds the following definitions to the Shoreline Management Act: (1) "conforming preferred use" means that applicable development and shoreline master program regulations may only impose reasonable conditions and mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable; and (2) "floating home" means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed. The amendment also adds an intent section.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) Houseboats and houseboat moorages are a significant issue in Seattle, Lake Union, and Portage Bay, as houseboat owners in those areas have made significant investments in their floating homes. Houseboat owners in Seattle are experiencing difficulty working with the City and are concerned about their investments and the potential to renovate them. Houseboats are water-dependent uses and should be considered as such. Amendments to broaden the applicability of the bill to statewide would be considered.

This bill comes from the 500 families living in Lake Union and Portage Bay. Seattle has been updating its shoreline master program and there are concerns about the effects of this update on floating home owners. Initial conversations with the City were not productive, but later conversations have been productive. The intent of the bill is to preserve part of Seattle's history, not to expand the number of houseboats or to run afoul of environmental regulations. Seattle's houseboat community has existed since the 1800s and the community, which has been seeking legitimacy and permanence for 120 years, was once larger. Water-dependent status would give the houseboat community peace of mind and would make them feel as though they are part of Seattle's and Washington's history.

(With concerns) Seattle's proposed master program allows existing houseboats to continue. It also allows for new moorages for existing houseboats, but not for new houseboats. Houseboats, under the Seattle proposal, will be considered a conforming use.

(Opposed) Opponents are understanding of the historic nature of houseboats in Lake Washington and they are not seeking to remove existing houseboats. Houseboats, through water shading, have a significant environmental impact. Restrictions are needed to ensure that houseboats are "salmon safe," but this bill would completely remove houseboats and associated moorages from regulation under the SMA. This bill would dilute the distinction between water-oriented uses and water-dependent uses. Water-dependent status should not be broadened to include houseboats and doing so will impact other water-dependent uses. It is believed that Seattle has appropriately addressed houseboats in its recent master program update. The SMA calls for shoreline decisions to be made locally and this practice should continue. The bill would open the door to an expansion of houseboats and resulting environmental degradation.

Shellfish growers are not concerned about Lake Union issues, but they are concerned about granting houseboats water-dependent status. Doing so will be a major policy change that will affect shellfish growers. Shellfish harvesting areas can be closed based upon the number of vessels in an area and more houseboats can lead to more harvesting closures.

**Persons Testifying:** (In support) Representative Pedersen, prime sponsor; and Nick Federici, and Amalia Walton, Floating Homes Association.

(With concerns) Margaret Glowacki, City of Seattle.

(Opposed) Bruce Wishart, People for Puget Sound; Jim Jesernig, Pacific Coast Shellfish Growers; Tom Clingman, Department of Ecology; and Bridget Moran, Department of Natural Resources.

**Persons Signed In To Testify But Not Testifying:** None.