

HOUSE BILL REPORT

HB 2591

As Reported by House Committee On:

Natural Resources

Title: An act relating to roads and streets across aquatic lands.

Brief Description: Freeing counties from costs of roads over aquatic lands.

Sponsors: Representatives Hatfield and Doumit.

Brief History:

Committee Activity:

Natural Resources: 1/29/02, 2/6/02 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Natural Resources to apply the same leasing charges to cities and counties as it applies to state and federal agencies.

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Doumit, Chair; Rockefeller, Vice Chair; Sump, Ranking Minority Member; Buck, Eickmeyer, Ericksen, Jackley, McDermott, Orcutt, Pearson and Upthegrove.

Staff: Jason Callahan (786-7117).

Background:

The Washington State Constitution declares that the beds and shores of all navigable waters in Washington are owned by the state. The Legislature subsequently designated the Department of Natural Resources (DNR) as the steward of these lands. The DNR acts as a proprietor, subject to legislative direction, of all state-owned aquatic lands and holds these lands in trust for all current and future residents of the state. The DNR may charge for a lease for use of the state's aquatic lands.

Currently, the DNR is authorized by statute to grant right-of-ways over the aquatic lands of the state for limited purposes. These purposes include the construction of a road,

bridge or trestle by a city, county, or railroad and the siting of a utility pipeline or a transmission line. Before the DNR may grant a right-of-way, it must first assure payment for the use of the aquatic land and for any damages caused by the right-of-way to the affected aquatic land.

Summary of Substitute Bill:

The Department of Natural Resources must apply the same leasing charges to cities and counties as it applies to state and federal agencies for the use of a right-of-way or for damages caused to the affected aquatic lands if they are granted a right-of-way for the location, establishment or construction of a road, street, bridge or trestle over or across aquatic lands, harbor areas, or a state-owned wharf.

Substitute Bill Compared to Original Bill:

In the original, the Department of Natural Resources could not charge a county for the use of a right-of-way or for damages caused to the affected aquatic lands if the county was granted a right-of-way for a road, street, bridge or trestle over or across aquatic lands, harbor areas, or a state-owned wharf.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: It is inequitable for cities and counties to be charged by a state agency for the use of a public resource when that resource is being used to benefit the public. The policy is being inconsistently applied, since the state Department of Transportation is given free use of the right-of-ways. The costs paid by local governments to the state should be minimized.

Testimony Against: The Department of Natural Resources serves as the steward to the state's aquatic lands, and uses its leasing authority to minimize negative effects to aquatic lands. It has a duty to manage the public lands for the public's benefit under the Public Trust Doctrine. Money lost from the leasing authority would have a negative effect on grant programs that support aquatic lands preservation. The impacts of the bill go beyond environmental issues, since it also effects access and recreation on the state's aquatic lands.

Testified: (In support) Ashley Probart, Association of Washington Cities.

(In support, with concerns) Fran McNair, Department of Natural Resources.

(Concerns) Steve Pozzanghera, Department of Fish and Wildlife.

(Opposed) Bruce Wishart, People for Puget Sound.