

account in the county treasury. The county treasurer shall remit the amount of deferred special assessment and/or real property taxes together with interest to the ((state treasurer, with a remittance advice to the)) department within thirty days from the date of collection.

(3) The ((state treasurer)) department shall deposit the deferred taxes in the state general fund.

NEW SECTION. Sec. 28. Section 2, chapter 348, Laws of 1977 ex. sess. and RCW 84.36.048 are each repealed.

NEW SECTION. Sec. 29. Section 23 of this act shall take effect July 1, 1985.

Passed the House March 8, 1984.

Passed the Senate March 3, 1984.

Approved by the Governor March 27, 1984.

Filed in Office of Secretary of State March 27, 1984.

CHAPTER 221

[Second Substitute House Bill No. 1231]

AQUATIC LANDS

AN ACT Relating to aquatic lands; amending section 83, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.93.040; amending section 85, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.93.060; amending section 79, chapter 21, Laws of 1982 1st ex. sess. as last amended by section 1, chapter 153, Laws of 1983 and RCW 79.92.110; amending section 9, chapter 167, Laws of 1961 as last amended by section 4, chapter 8, Laws of 1982 2nd ex. sess. and RCW 79.24.580; adding new sections to chapter 79.90 RCW; adding a new section to chapter 79.93 RCW; creating new sections; decodifying RCW 79.96.900; repealing section 1, chapter 93, Laws of 1917 and RCW 53.32.010; repealing section 2, chapter 93, Laws of 1917 and RCW 53.32.020; repealing section 3, chapter 93, Laws of 1917, section 3, chapter 72, Laws of 1979 and RCW 53.32.050; repealing section 5, chapter 93, Laws of 1917 and RCW 53.32.060; repealing section 4, chapter 93, Laws of 1917 and RCW 53.32.070; repealing section 6, chapter 93, Laws of 1917 and RCW 53.32.900; repealing section 72, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.92.040; repealing section 71, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.92.050; repealing section 103, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.94.180; repealing section 104, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.94.190; repealing section 105, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.94.200; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that state-owned aquatic lands are a finite natural resource of great value and an irreplaceable public heritage. The legislature recognizes that the state owns these aquatic lands in fee and has delegated to the department of natural resources the responsibility to manage these lands for the benefit of the public. The legislature finds that water-dependent industries and activities have played a major role in the history of the state and will continue to be important in the future. The legislature finds that revenues derived from leases of state-owned aquatic lands should be used to enhance opportunities for public recreation, shoreline access, environmental protection, and other

public benefits associated with the aquatic lands of the state. The legislature further finds that aquatic lands are faced with conflicting use demands. The purpose of sections 1 through 20 of this act is to articulate a management philosophy to guide the exercise of the state's ownership interest and the exercise of the department's management authority, and to establish standards for determining equitable and predictable lease rates for users of state-owned aquatic lands.

NEW SECTION. Sec. 2. The management of state-owned aquatic lands shall be in conformance with constitutional and statutory requirements. The manager of state-owned aquatic lands shall strive to provide a balance of public benefits for all citizens of the state. The public benefits provided by aquatic lands are varied and include:

- (1) Encouraging direct public use and access;
- (2) Fostering water-dependent uses;
- (3) Ensuring environmental protection;
- (4) Utilizing renewable resources.

Generating revenue in a manner consistent with subsections (1) through (4) of this section is a public benefit.

NEW SECTION. Sec. 3. (1) The management of state-owned aquatic lands shall preserve and enhance water-dependent uses. Water-dependent uses shall be favored over other uses in aquatic land planning and in resolving conflicts between competing lease applications. In cases of conflict between water-dependent uses, priority shall be given to uses which enhance renewable resources, water-borne commerce, and the navigational and biological capacity of the waters, and to state-wide interests as distinguished from local interests.

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

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

(4) The power to lease state-owned aquatic lands is vested in the department of natural resources, which has the authority to make leases upon terms, conditions, and length of time in conformance with the state Constitution and chapters 79.90 through 79.96 RCW.

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

NEW SECTION. Sec. 4. The definitions in this section apply throughout chapters 79.90 through 79.96 RCW.

(1) "Water-dependent use" means a use which cannot logically exist in any location but on the water. Examples include, but are not limited to, water-borne commerce; terminal and transfer facilities; ferry terminals; watercraft sales in conjunction with other water-dependent uses; watercraft construction, repair, and maintenance; moorage and launching facilities; aquaculture; log booming; and public fishing piers and parks.

(2) "Water-oriented use" means a use which historically has been dependent on a waterfront location, but with existing technology could be located away from the waterfront. Examples include, but are not limited to, wood products manufacturing, watercraft sales, fish processing, petroleum refining, sand and gravel processing, log storage, and house boats. For the purposes of determining rent under this chapter, water-oriented uses shall be classified as water-dependent uses if the activity either is conducted on state-owned aquatic lands leased on October 1, 1984, or was actually conducted on the state-owned aquatic lands for at least three years before October 1, 1984. If, after October 1, 1984, the activity is changed to a use other than a water-dependent use, the activity shall be classified as a non-water-dependent use. If continuation of the existing use requires leasing additional state-owned aquatic lands and is permitted under the shoreline management act of 1971, chapter 90.58 RCW, the department may allow reasonable expansion of the water-oriented use.

(3) "Nonwater-dependent use" means a use which can operate in a location other than on the waterfront. Examples include, but are not limited to, hotels, condominiums, apartments, restaurants, retail stores, and warehouses not part of a marine terminal or transfer facility.

(4) "Log storage" means the water storage of logs in rafts or otherwise prepared for shipment in water-borne commerce, but does not include the temporary holding of logs to be taken directly into a vessel or processing facility.

(5) "Log booming" means placing logs into and taking them out of the water, assembling and disassembling log rafts before or after their movement in water-borne commerce, related handling and sorting activities taking place in the water, and the temporary holding of logs to be taken directly into a processing facility. "Log booming" does not include the temporary holding of logs to be taken directly into a vessel.

(6) "Department" means the department of natural resources.

(7) "Port district" means a port district created under Title 53 RCW.

(8) The "real rate of return" means the average for the most recent ten calendar years of the average rate of return on conventional real property mortgages as reported by the federal home loan bank board or any successor agency, minus the average inflation rate for the most recent ten calendar years.

(9) The "inflation rate" for a given year is the percentage rate of change in the previous calendar year's all commodity producer price index of the bureau of labor statistics of the United States department of commerce. If the index ceases to be published, the department shall designate by rule a comparable substitute index.

(10) "Public utility lines" means pipes, conduits, and similar facilities for distribution of water, electricity, natural gas, telephone, other electronic communication, and sewers, including sewer outfall lines.

(11) "Terminal" means a point of interchange between land and water carriers, such as a pier, wharf, or group of such, equipped with facilities for care and handling of cargo and/or passengers.

(12) "State-owned aquatic lands" means those aquatic lands and waterways administered by the department of natural resources or managed under section 6 of this act by a port district. "State-owned aquatic lands" does not include aquatic lands owned in fee by, or withdrawn for the use of, state agencies other than the department of natural resources.

NEW SECTION. Sec. 5. The use of state-owned aquatic lands for public utility lines owned by a governmental entity shall be granted without charge by an agreement, permit, or other instrument if the use is consistent with the purposes of sections 1 through 3 of this act and does not obstruct navigation or other public uses. Use for public parks or public recreation purposes shall be granted without charge if the aquatic lands and improvements are available to the general public on a first-come, first-served basis and are not managed to produce a profit for the operator or a concessionaire. The department may lease state-owned tidelands that are in front of state parks only with the approval of the state parks and recreation commission. The department may lease bedlands in front of state parks only after the department has consulted with the state parks and recreation commission.

NEW SECTION. Sec. 6. Upon request of a port district, the department and port district may enter into an agreement authorizing the port district to manage state-owned aquatic lands abutting or used in conjunction with and contiguous to uplands owned, leased, or otherwise managed by a port district, for port purposes as provided in Title 53 RCW. Such agreement shall include, but not be limited to, provisions defining the specific area to be managed, the term, conditions of occupancy, reservations, periodic review, and other conditions to ensure consistency with the state Constitution and the policies of this chapter. If a port district acquires operating management, lease, or ownership of real property which abuts state-owned aquatic lands currently under lease from the state to a person other than the port district, the port district shall manage such aquatic lands if: (1) The port district acquires the leasehold interest in accordance with state law, or (2) the current lessee and the department agree to termination of the current lease to accommodate management by the port. The

administration of aquatic lands covered by a management agreement shall be consistent with the aquatic land policies of chapters 79.90 through 79.96 RCW and the implementing regulations adopted by the department. The administrative procedures for management of the lands shall be those of Title 53 RCW.

No rent shall be due the state for the use of state-owned aquatic lands managed under this section for water-dependent or water-oriented uses. If a port district manages state-owned aquatic lands under this section and either leases or otherwise permits any person to use such lands, the rental fee attributable to such aquatic land only shall be comparable to the rent charged lessees for the same or similar uses by the department: PROVIDED, That a port district need not itemize for the lessee any charges for state-owned aquatic lands improved by the port district for use by carriers by water. If a port leases state-owned aquatic lands to any person for non-water-dependent use, eighty-five percent of the revenue attributable to the rent of the state-owned aquatic land only shall be paid to the state.

Upon application for a management agreement, and so long as the application is pending and being diligently pursued, no rent shall be due the department for the lease by the port district of state-owned aquatic lands included within the application for water-dependent or water-oriented uses.

The department and representatives of the port industry shall develop a proposed model management agreement which shall be used as the basis for negotiating the management agreements required by this section. The model management agreement shall be reviewed and approved by the board of natural resources.

NEW SECTION. Sec. 7. Except as otherwise provided by this chapter, annual rent rates for the lease of state-owned aquatic lands for water-dependent uses shall be determined as follows:

(1)(a) The assessed land value, exclusive of improvements, as determined by the county assessor, of the upland tax parcel used in conjunction with the leased area or, if there are no such uplands, of the nearest upland tax parcel used for water-dependent purposes divided by the parcel area equals the upland value.

(b) The upland value times the area of leased aquatic lands times thirty percent equals the aquatic land value.

(2) As of July 1, 1989, and each July 1 thereafter, the department shall determine the real capitalization rate to be applied to water-dependent aquatic land leases commencing or being adjusted under subsection (3)(a) of this section in that fiscal year. The real capitalization rate shall be the real rate of return, except that until June 30, 1989, the real capitalization rate shall be five percent and thereafter it shall not change by more than one percentage point in any one year or be more than seven percent or less than three percent.

(3) The annual rent shall be:

(a) Determined initially, and redetermined every four years or as otherwise provided in the lease, by multiplying the aquatic land value times the real capitalization rate; and

(b) Adjusted by the inflation rate each year in which the rent is not determined under subsection (3)(a) of this section.

(4) If the upland parcel used in conjunction with the leased area is not assessed or has an assessed value inconsistent with the purposes of the lease, the nearest comparable upland parcel used for similar purposes shall be substituted and the lease payment determined in the same manner as provided in this section.

(5) For the purposes of this section, "upland tax parcel" is a tax parcel, some portion of which has upland characteristics. Filled tidelands or shorelands with upland characteristics which abut state-owned aquatic land shall be considered as uplands in determining aquatic land values.

(6) The annual rent for filled state-owned aquatic lands that have the characteristics of uplands shall be determined in accordance with section 11 of this act in those cases in which the state owns the fill and has a right to charge for the fill.

NEW SECTION. Sec. 8. (1) Until June 30, 1989, the log storage rents per acre shall be the average rents the log storage leases in effect on July 1, 1984, would have had under the formula for water-dependent leases as set out in section 7 of this act, except that the aquatic land values shall be thirty percent of the assessed value of the abutting upland parcels exclusive of improvements, if they are assessed. If the abutting upland parcel is not assessed, the nearest assessed upland parcel shall be used.

(2) On July 1, 1989, and every four years thereafter, the base log storage rents established under subsection (1) of this section shall be adjusted in proportion to the change in average water-dependent lease rates per acre since the date the log storage rates were last established under this section.

(3) The annual rent shall be adjusted by the inflation rate each year in which the rent is not determined under subsection (1) or (2) of this section.

(4) If the lease provides for seasonal use so that portions of the leased area are available for public use without charge part of the year, the annual rent may be discounted to reflect such public use in accordance with rules adopted by the board of natural resources.

NEW SECTION. Sec. 9. For leases in effect on October 1, 1984, the rent shall remain at the annual rate in effect on September 30, 1984, until the next lease anniversary date, at which time rent established under section 7 or 8 of this act shall become effective. If the first rent amount established is an increase of more than one hundred dollars and is more than thirty-three percent above the rent in effect on September 30, 1984, the annual rent shall not increase in any year by more than thirty-three percent of the difference between the previous rent and the rent established under section 7 or 8 of this act. If the first rent amount established under section 7 or 8 of

this act is more than thirty-three percent below the rent in effect on September 30, 1984, the annual rent shall not decrease in any year by more than thirty-three percent of the difference between the previous rent and the rent established under section 7 or 8 of this act. Thereafter, notwithstanding any other provision of this title, the annual rental established under section 7 or 8 of this act shall not increase more than fifty percent in any year.

This section applies only to leases of state-owned aquatic lands subject to section 7 or 8 of this act.

NEW SECTION. Sec. 10. If state-owned aquatic lands are used for aquaculture production or harvesting, rents and fees shall be established through competitive bidding or negotiation.

NEW SECTION. Sec. 11. Leases for nonwater-dependent uses of state-owned aquatic lands shall be charged the fair market rental value of the leased lands, determined in accordance with appraisal techniques specified by rule. However, rents for nonwater-dependent uses shall always be more than the amount that would be charged as rent for a water-dependent use of the same parcel. Rents and fees for the mining or other recovery of mineral or geothermal resources shall be established through competitive bidding, negotiations, or as otherwise provided by statute.

NEW SECTION. Sec. 12. If water-dependent and nonwater-dependent uses occupy separate portions of the same leased parcel of state-owned aquatic land, the rental rate for each use shall be that established for such use by this chapter, prorated in accordance with the proportion of the whole parcel that each use occupies. If water-dependent and nonwater-dependent uses occupy the same portion of a leased parcel of state-owned aquatic land, the rental rate for such parcel shall be subject to negotiation with the department taking into account the proportion of the improvements each use occupies.

NEW SECTION. Sec. 13. If a parcel leased for water-dependent uses is used for an extended period of time, as defined by rule of the department, for a nonwater-dependent use, the rental for the nonwater-dependent use shall be negotiated with the department.

NEW SECTION. Sec. 14. Except as agreed between the department and the lessee prior to construction of the improvements, rent shall not be charged under any lease of state-owned aquatic lands for improvements, including fills, authorized by the department or installed by the lessee or its predecessor before June 1, 1971, so long as the lands remain under a lease or succession of leases without a period of three years in which no lease is in effect or a bona fide application for a lease is pending.

If improvements were installed under a good faith belief that a state aquatic lands lease was not necessary, rent shall not be charged for the improvements if, within ninety days after specific written notification by the

department that a lease is required, the owner either applies for a lease or files suit to determine if a lease is required.

NEW SECTION. Sec. 15. The manager shall, by rule, provide for an administrative review of any aquatic land rent proposed to be charged. The rules shall require that the lessee or applicant for release file a request for review within thirty days after the manager has notified the lessee or applicant of the rent due. For leases issued by the department, the final authority for the review rests with the board of natural resources. For leases managed under section 6 of this act, the final authority for the review rests with the appropriate port commission. If the request for review is made within thirty days after the manager's final determination as to the rental, the lessee may pay rent at the preceding year's rate pending completion of the review, and shall pay any additional rent or be entitled to a refund, with interest thirty days after announcement of the decision. The interest rate shall be the average rate of return for the prior calendar year on conventional real property mortgages as reported by the federal home loan bank board. Nothing in this section abrogates the right of an aggrieved party to pursue legal remedies including those under chapter 34.04 RCW. For purposes of this section, "manager" is the department except where state-owned aquatic lands are managed by a port district, in which case "manager" is the port district.

NEW SECTION. Sec. 16. For any lease for a term of more than one year, the department may require that the rent be secured by insurance, bond, or other security satisfactory to the department in an amount not exceeding two years' rent. The department may require additional security for other lease provisions. The department shall not require cash deposits exceeding one-twelfth of the annual rental.

NEW SECTION. Sec. 17. If the annual rent charged for the use of a parcel of state-owned aquatic lands exceeds four thousand dollars, the lessee may pay on a prorated quarterly basis. If the annual rent exceeds twelve thousand dollars, the lessee may pay on a prorated monthly basis.

NEW SECTION. Sec. 18. The lessee shall pay interest at the rate of one percent per month on rent or other sums owing to the department commencing thirty days after the date each rent or other sum is due and payable, unless there is review pending under section 15 of this act.

NEW SECTION. Sec. 19. The department shall adopt such rules as are necessary to carry out the purposes of sections 1 through 18 of this act, specifically including criteria for determining under section 7(4) of this act when an abutting upland parcel has been inappropriately assessed and for determining the nearest comparable upland parcel used for water-dependent uses.

NEW SECTION. Sec. 20. Nothing in this chapter or RCW 79.93.040 or 79.93.060 shall modify or affect any existing legal rights involving the

boundaries of, title to, or vested property rights in aquatic lands or waterways. Nothing in this chapter shall modify, alter, or otherwise affect the applicability of chapter 90.58 RCW.

Sec. 21. Section 83, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.93.040 are each amended to read as follows:

~~((Whenever, in any waterways created under the laws of this state,))~~ If the United States government ~~((shall have))~~ has established pierhead lines within ~~((said))~~ a waterway created under the laws of this state at any distance from the boundaries ~~((thereof))~~ established by the state, structures ~~((shall be allowed to))~~ may be constructed in that strip of waterway between the waterway boundary and the nearest pierhead line ~~((but))~~ only ~~((upon))~~ with the consent of the department of natural resources and upon such plans, terms, and conditions and for such term as ~~((approved and fixed))~~ determined by the department. However, no permit shall extend for a period longer than thirty years.

~~((The department shall require of the holder of every permit under this section a penalty bond with sufficient surety, to be approved by the department, in an amount not exceeding twice the amount of the annual rental, but in no case less than five hundred dollars. The bond shall secure the payment of the rental reserved in the permit, during the term of such permit or during such part thereof as said department in its discretion shall require to be covered by such bond. In case only a part of the term of such permit shall be covered thereby, the department shall require another like bond, to be executed and delivered within three months and not less than one month prior to the expiration of the period covered by the previous bond, to cover the remainder of the term of the permit, or such part thereof as the department in its discretion shall require to be covered thereby. The department shall have power at any time to summon sureties upon any bond and to examine into the sufficiency of the bond, and if the department shall find the same to be insufficient, it shall require the holder of the permit to file a new and sufficient bond within thirty days after receiving notice to do so, under penalty of cancellation of the permit.))~~

The department ~~((shall have power upon sixty days' notice to))~~ may cancel any permit upon sixty days' notice for a substantial breach by the ~~((holder thereof))~~ permittee of any of the permit conditions ~~((thereof, or for lack of a bond therewith as required by this section)).~~

~~((In case[s] where such))~~ If a waterway ~~((s shall be))~~ is within the territorial limits of a port district ~~((organized under the laws of this state)),~~ the duties assigned by this section to the department ~~((shall))~~ may be exercised by the port commission of such port district ~~((, and in every case the rentals received shall be disposed of as follows: Seventy-five percent shall be paid by the state treasurer to the county treasurer of the county wherein such port district is situated, for the use of said port district and twenty-five percent into the state treasury: PROVIDED, That in cases where the port~~

~~district itself shall have constructed or shall have owned structures or improvements situated upon such strip of waterway since June 22, 1913, the entire rentals for such improved strip of waterway shall be paid directly to the county treasurer for the use of such port district))~~ as provided in section 6 of this 1984 act.

Nothing in this section shall confer upon, create, or recognize in any abutting owner any right or privilege in or to any strip of waterway abutting any street and between prolongations of the lines of such street, but the control of and the right to use such strip is hereby reserved to the state of Washington, except ~~((that in cases situate in a port district such control and use shall vest in such port district))~~ as authorized by section 6 of this 1984 act.

Sec. 22 Section 85, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.93.060 are each amended to read as follows:

~~((Whenever any))~~ If a waterway established under the ((authority of the)) laws of this state, or any portion of ((such)) the waterway, ((shall)) has not ((have)) been excavated, or ((shall not be in use)) is not used for ((the purposes of)) navigation, or ((shall no longer be)) is not required in the public interest to exist as a waterway, such waterway or portion thereof may be vacated by written order of the commissioner of public lands ((of the state of Washington whenever he shall be)) upon request((ed so to do)) by ordinance or resolution of the city council of the city in which such waterway is ~~((situate, in whole or in part, or, in case such waterway is situate, in whole or in part, in a port district organized under the laws of the state of Washington, whenever he shall be requested so to do))~~ located or by resolution of the port commission of ~~((such))~~ the port district~~((, and upon the making of such order the waterway or portion thereof shall thereupon be deemed to be and shall be thereby vacated: PROVIDED, HOWEVER, That))~~ in which the waterway is located. If the waterway or portion thereof ((so)) which is vacated ((be)) is navigable water of the United States, or otherwise within the jurisdiction of the United States, a copy of such resolution or ordinance, together with a copy of ((said)) the vacation order of the commissioner of public lands ((certified to by him;)) shall be submitted to the United States Army Corps of Engineers for their approval, and if they approve, the ((same such)) waterway or portion thereof ((shall thereupon be deemed to be and shall be thereupon)) is vacated: PROVIDED, That if a port district owns property abutting the waterway and the provisions of this section are otherwise satisfied, the waterway, or the portion thereof that abuts the port district property, shall be vacated.

~~Upon such vacation ((occurring, in either of the manners aforesaid;)) of a waterway, the commissioner of public lands shall notify the city ((within, or in front of,)) in which((, such)) the waterway is located, and~~

the city (~~((shall have))~~) has the right, if otherwise permitted by RCW 79.94.150, to extend across the portions so vacated any existing streets, or to select (~~((therefrom))~~) such portions (~~((thereof))~~) of the waterway as the city may desire for street purposes, in no case to exceed one hundred fifty feet in width for any one street. Such selection shall be made within sixty days subsequent to the receipt of notice of the vacation of the portion of the waterway (~~((so vacated))~~).

~~((Should such))~~ If the city fails to make ((such)) a selection within such time, or ((within such time make such selection)) selects only a portion of the waterway, the title of the remaining portions of ((such)) the vacated waterway ((so vacated)) shall vest in the state, unless the ((same be situated)) waterway is located within the territorial limits of a port district ((created under the laws of the state)), in which event, if otherwise permitted by RCW 79.94.150, ((such)) the title shall vest in ((said)) the port district. ((If subsequent to such vacation, the vacated waterway or portion of waterway shall be embraced within the limits of a port district created under the laws of the state, the title to such portions thereof as shall then remain undisposed of by the state shall vest in such port district. Such title so vesting shall be)) The title is subject to any railroad or street railway crossings existing at the time of such vacation.

NEW SECTION. Sec. 23. There is added to chapter 79.93 RCW a new section to read as follows:

Copies of waterway permits or leases in existence on the effective date of this act shall be delivered to the department of natural resources except in those cases in which the port district enters into an agreement authorizing management of state-owned aquatic land as provided in section 6 of this act.

Sec. 24. Section 9, chapter 167, Laws of 1961 as last amended by section 4, chapter 8, Laws of 1982 2nd ex. sess. and RCW 79.24.580 are each amended to read as follows:

After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.92.110(2), all moneys received by the state from the sale ((of tidelands, and shorelands;)) or lease of state-owned aquatic lands and from the sale of valuable material from ((tidelands, shorelands, beds of navigable waters and harbor areas and from the lease of shorelands and beds of navigable waters;)) state-owned aquatic lands shall be distributed as follows: (1) Forty percent shall be deposited in the aquatic lands enhancement account of the general fund which is hereby created. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to such lands; and for volunteer cooperative fish and game projects; and (2) the remainder shall be deposited in the capitol purchase and development account of the general fund, the creation of which is hereby authorized or,

in the event that revenue bonds are issued as authorized by RCW 79.24.630 through 79.24.647, into the state building bond redemption fund pursuant to RCW 79.24.638.

Sec. 25. Section 79, chapter 21, Laws of 1982 1st ex. sess. as last amended by section 1, chapter 153, Laws of 1983 and RCW 79.92.110 are each amended to read as follows:

~~((The rents paid under leases of harbor areas and tidelands belonging to the state of Washington, where not otherwise directed to a particular account, shall be disposed of as follows:~~

~~(1) Except as otherwise provided in this section, where the leased harbor area or tideland is situated within the territorial limits of a port district, twenty-five percent of the rentals received from such leases shall be paid by the state treasurer to the county treasurer of the county wherein such port district is situated for the use of such port district and said rental shall go into a special fund to be expended only for harbor or waterfront improvement purposes. The remaining seventy-five percent shall be deposited in the capitol purchase and development account of the general fund of the state treasury. PROVIDED, That in cases where the port district itself shall have before April 28, 1967, constructed or owned structures or improvements situate upon the leased harbor area, or tidelands, the entire rentals from such improved harbor area or tideland shall go to the port district. PROVIDED FURTHER, That whenever the port district shall after April 28, 1967, construct improvements on such leased harbor area or tidelands, the rental attributable to such improvements shall go to the port district.~~

~~(2) In all other cases twenty-five percent of the rents shall be paid by the state treasurer into the county treasury of the county in which the leased harbor area or tidelands are situated, the same to go into a special fund known as the "harbor improvement fund", and to be disbursed only for harbor or harbor improvement purposes, and the remaining seventy-five percent shall be deposited in the capitol purchase and development account of the general fund of the state treasury. PROVIDED, That where any leased harbor area or tideland is situated within the limits of any incorporated city and is not embraced within the area of any port district, the legislative body of the county shall allocate the funds received from the lease thereof to the municipal authorities of such city, to be expended by said authorities for harbor or waterfront purposes. PROVIDED FURTHER, That)) (1) Where any leased harbor area or tideland is situated within the limits of a town, whether or not the harbor area or tideland lies within a port district, the rents from such leases shall be paid by the state treasurer to the municipal authorities of the town to be expended for water-related improvements.~~

~~((3)) (2) The state treasurer is hereby authorized and directed to make ((such)) payments to the respective ((county treasurers and municipal authorities for the use of such port districts, counties, or towns, as the case~~

~~may be;)) towns on the first days of July and January of each year, of all moneys ((in his hands on such dates)) payable under the terms of this section ((to such port district, counties, or towns respectively)).~~

NEW SECTION. Sec. 26. The department of natural resources may enter into agreements with the department of fisheries for the development of an intensive management plan for geoducks including the development and operation of a geoduck hatchery.

The department of natural resources shall evaluate the progress of the intensive geoduck management program and provide a written report to the legislature by December 1, 1990, for delivery to the appropriate standing committees. The evaluation shall determine the benefits and costs of continued operation of the program, and shall discuss alternatives including continuance, modification, and termination of the intensive geoduck management program.

NEW SECTION. Sec. 27. The department of natural resources shall evaluate the progress of the seaweed aquaculture program and provide a written report to the legislature by December 1, 1987, for delivery to the appropriate standing committees. The evaluation shall determine the benefits and costs of continued operation of the program, and shall discuss alternatives including continuance, modification, and termination of the seaweed aquaculture program. The expenditure of state funds for seaweed aquaculture shall, after June 30, 1989, be limited to those funds received pursuant to RCW 79.64.040 which are derived from commercial seaweed leases of state aquatic lands, unless otherwise expressly provided by law.

NEW SECTION. Sec. 28. Sections 1 through 20 of this act are each added to chapter 79.90 RCW.

NEW SECTION. Sec. 29. RCW 79.96.900 is decodified.

NEW SECTION. Sec. 30. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 93, Laws of 1917 and RCW 53.32.010;
- (2) Section 2, chapter 93, Laws of 1917 and RCW 53.32.020;
- (3) Section 3, chapter 93, Laws of 1917, section 3, chapter 72, Laws of 1979 and RCW 53.32.050;
- (4) Section 5, chapter 93, Laws of 1917 and RCW 53.32.060;
- (5) Section 4, chapter 93, Laws of 1917 and RCW 53.32.070;
- (6) Section 6, chapter 93, Laws of 1917 and RCW 53.32.900;
- (7) Section 72, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.92.040;
- (8) Section 73, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.92.050;
- (9) Section 103, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.94.180;

(10) Section 104, chapter 21, Laws of 1982 1st ex. sess. and RCW 79-.94.190; and

(11) Section 105, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.94.200.

NEW SECTION. Sec. 31. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 32. This act shall take effect on October 1, 1984.

Passed the House March 8, 1984.

Passed the Senate March 8, 1984.

Approved by the Governor March 27, 1984.

Filed in Office of Secretary of State March 27, 1984.

CHAPTER 222

[Second Substitute House Bill No. 181]

PUBLIC LANDS—FORESTS—MANAGEMENT

AN ACT Relating to management of public lands; amending section 1, chapter 109, Laws of 1977 ex. sess. and RCW 79.66.010; amending section 2, chapter 109, Laws of 1977 ex. sess. and RCW 79.66.020; amending section 3, chapter 109, Laws of 1977 ex. sess. and RCW 79-.66.030; amending section 4, chapter 109, Laws of 1977 ex. sess. and RCW 79.66.040; amending section 5, chapter 109, Laws of 1977 ex. sess. and RCW 79.66.050; amending section 54, chapter 255, Laws of 1927 as last amended by section 159, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.01.216; amending section 10, chapter 109, Laws of 1979 ex. sess. and RCW 79.01.242; amending section 154, chapter 255, Laws of 1927 and RCW 79.01.612; adding new sections to chapter 79.66 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 109, Laws of 1977 ex. sess. and RCW 79-.66.010 are each amended to read as follows:

The legislature finds that from time to time it may be desirable for the department of natural resources to sell state lands which have low potential for natural resource management or low income-generating potential or which, because of geographic location or other factors, are inefficient for the department to manage. However, it is also important to acquire lands for long-term management to replace those sold so that the publicly owned land base will not be depleted and the publicly owned forest land base will not be reduced. The purpose of this chapter is to provide a means to facilitate such sales and purchases so that the diversity of public uses on the trust lands will be maintained. In making the determinations, the department shall comply with local land use plans and applicable growth management principles.

Sec. 2. Section 2, chapter 109, Laws of 1977 ex. sess. and RCW 79-.66.020 are each amended to read as follows: