

CHAPTER 271

[Engrossed Substitute Senate Bill No. 5604]

NAVY HOMEPORT IN EVERETT—PORT GARDNER BAY BEDLANDS LEASE
AUTHORIZED—LEASE CONDITIONS ESTABLISHED—TIDELAND EXCHANGE
AUTHORIZED

AN ACT Relating to conveyance of state-owned aquatic lands and the relocation of harbor lines for the purpose of assisting the siting of a United States Navy base in Everett; amending RCW 79.95.010; adding a new section to chapter 79.92 RCW; adding a new section to chapter 79.94 RCW; adding new sections to chapter 79.95 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 79.95 RCW to read as follows:

The legislature recognizes the importance of economic development in the state of Washington, and finds that the location of a United States Navy base in Everett, Washington will enhance economic development. The legislature finds that the state should not assume liability or risks resulting from any action taken by the United States Navy, now or in the future associated with the dredge disposal program for that project known as confined aquatic disposal (CAD). The legislature also recognizes the importance of improving water quality and cleaning up pollution in Puget Sound. The legislature hereby declares these actions to be a public purpose necessary to protect the health, safety, and welfare of its citizens, and to promote economic growth and improve environmental quality in the state of Washington. The United States Navy proposes to commence the Everett home port project immediately.

Sec. 2. Section 130, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.95.010 are each amended to read as follows:

Except as provided in section 3 of this 1987 act, the department of natural resources may lease to the abutting tide or shore land owner or lessee, the beds of navigable waters lying below the line of extreme low tide in waters where the tide ebbs and flows, and below the line of navigability in lakes and rivers claimed by the state and defined in section 1, Article XVII, of the Constitution of the state.

In case the abutting tide or shore lands or the abutting uplands are not improved or occupied for residential or commercial purposes, the department may lease such beds to any person for a period not exceeding ten years for booming purposes.

Nothing in this chapter shall change or modify any of the provisions of the state Constitution or laws of the state which provide for the leasing of harbor areas and the reservation of lands lying in front thereof.

NEW SECTION. Sec. 3. A new section is added to chapter 79.95 RCW to read as follows:

(1) Upon application by the United States Navy, and upon verification of the legal description and compliance with the intent of this chapter, the commissioner of public lands is authorized to lease bedlands in Port Gardner Bay for a term of thirty years so the United States Navy can utilize a dredge spoil site solely for purposes related to construction of the United States Navy base at Everett.

(2) The lease shall reserve for the state uses of the property and associated waters which are not inconsistent with the use of the bed by the Navy as a disposal site. The lease shall include conditions under which the Navy:

(a) Will agree to hold the state of Washington harmless for any damage and liability relating to, or resulting from, the use of the property by the Navy; and

(b) Will agree to comply with all terms and conditions included in the applicable state of Washington section 401 water quality certification issued under the authority of the Federal Clean Water Act (33 U.S.C. Sec. 1251, et seq.), all terms and conditions of the Army Corps of Engineers section 404 permit (33 U.S.C. Sec. 1344), and all requirements of statutes, regulations, and permits relating to water quality and aquatic life in Puget Sound and Port Gardner Bay, including all reasonable and appropriate terms and conditions of any permits issued under the authority of the Washington state shoreline management act (chapter 90.58 RCW) and any applicable shoreline master program.

(3) The ability of the state of Washington to enforce the terms and conditions specified in subsection (2)(b) of this section shall include, but not be limited to: (a) The terms and conditions of the lease; (b) the section 401 water quality certification under the Clean Water Act, 33 U.S.C. Sec. 1251, et seq.; (c) the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sec. 9601, et seq.; (d) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901, et seq.; or (e) any other applicable federal or state law.

NEW SECTION. Sec. 4. A new section is added to chapter 79.94 RCW to read as follows:

The department of natural resources is authorized to deed, by exchanges of property, to the United States Navy those tidelands necessary to facilitate the location of the United States Navy base in Everett. In carrying out this authority, the department of natural resources shall request that the governor execute the deed in the name of the state attested to by the secretary of state. The department of natural resources will follow the requirements outlined in RCW 79.08.015 in making the exchange. The department must exchange the state's tidelands for lands of equal value, and the land received in the exchange must be suitable for natural preserves, recreational

purposes, or have commercial value. The lands must not have been previously used as a waste disposal site. Choice of the site must be made with the advice and approval of the board of natural resources.

NEW SECTION. Sec. 5. A new section is added to chapter 79.92 RCW to read as follows:

The harbor line commission shall modify harbor lines in Port Gardner Bay as necessary to facilitate the conveyance through exchange authorized in section 4 of this act.

NEW SECTION. Sec. 6. 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. 7. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 11, 1987.

Passed the House April 20, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

CHAPTER 272

[Engrossed Substitute House Bill No. 611]

NAVY HOMEPORT IN EVERETT—HARBOR AREA TO REMAIN UNOBSTRUCTED—FUNDS APPROPRIATED TO OFFSET THE IMPACT OF THE HOMEPORT ON STATE RESPONSIBILITIES AND ACTIVITIES

AN ACT Relating to the fiscal impact of locating a Navy home port in Everett; creating a new section; making appropriations; and declaring an emergency.

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

NEW SECTION. Sec. 1. Whereas the federal government in 1986 authorized the construction of a Navy home port in Everett, Washington, it is therefore the intent of this act to provide funds to state agencies to offset the additional costs imposed by the construction of the port.

NEW SECTION. Sec. 2. It is the intent of the legislature that, except for periods of national emergency, the harbor area outside the U.S. Navy base will remain unobstructed for navigation and commerce in accordance with the Port of Everett/U.S. Navy memorandum of understanding pertaining to the construction and dredging operations at the Everett home port facility.

NEW SECTION. Sec. 3. (1) There is hereby appropriated to the office of financial management for the biennium beginning July 1, 1987, and ending June 30, 1989: