

Multiple Agency Fiscal Note Summary

Bill Number: 6027 S SB	Title: Floating residences
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Estimated Cash Receipts

Agency Name	2019-21		2021-23		2023-25	
	GF- State	Total	GF- State	Total	GF- State	Total
Department of Natural Resources	0	(58,000)	0	(116,000)	0	(116,000)
Total \$	0	(58,000)	0	(116,000)	0	(116,000)

Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Local Gov. Total						

Estimated Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Department of Ecology	.0	0	0	.0	0	0	.0	0	0
Department of Natural Resources	.9	0	244,300	.0	0	0	.0	0	0
Total \$	0.9	0	244,300	0.0	0	0	0.0	0	0

Estimated Capital Budget Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Ecology	.0	0	0	.0	0	0	.0	0	0
Department of Natural Resources	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

NONE

Prepared by: Leslie Connelly, OFM	Phone: (360) 902-0543	Date Published: Final 1/31/2020
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Individual State Agency Fiscal Note

Bill Number: 6027 S SB	Title: Floating residences	Agency: 461-Department of Ecology
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Part I: Estimates

☒ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☒ Requires new rule making, complete Part V.

Legislative Contact: Karen Epps	Phone: 360-786-7424	Date: 01/27/2020
Agency Preparation: Jessica Moore	Phone: 360-407-6994	Date: 01/28/2020
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 01/28/2020
OFM Review: Lisa Borkowski	Phone: (360) 902-0573	Date: 01/30/2020

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Compared to SB 6027, SSB 6027 has the following changes:

- Section 1(6)(a) adds that “replaced or remodeled floating on-water residences must be similar to the original residence in size and height”;
- Section 3 is removed.

These changes would not modify Ecology’s fiscal impact estimates compared to the prior bill version.

Under current law, Ecology works in partnership with local governments to implement chapter 90.58 RCW (Shoreline Management Act) to promote public access, encourage water-dependent uses, protect shoreline resources, and develop, adopt, and administer shoreline master programs. The Department of Natural Resources implements chapter 79.105 RCW (Aquatic Lands) to manage the state's ownership interest in aquatic lands, and to establish standards for determining equitable and predictable lease rates for users of state-owned aquatic lands.

This bill would amend RCW 90.58.270 and 79.105.060 related to floating residences.

Section 1 would amend RCW 90.58.270 to add “vessel” to the definition of a “floating on-water residence.” It would also establish that a replaced or remodeled floating on-water residence would be required to be similar to the original residence in size and height.

Section 2 would amend RCW 79.105.060 to add a definition for “water dependent use.”

Ecology updates rules for the Shoreline Management Act on an ongoing cyclical basis. Ecology assumes that rulemaking would be required to add these new definitions in order to be consistent with the statute. These clarifications would be included in Ecology’s next rulemaking effort under the Shoreline Management Act. Therefore, there would be no new fiscal impact from rulemaking as a result of this bill.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Ecology assumes that rulemaking would be required to add these new definitions in order to be consistent with the statute. These clarifications would be included in Ecology's next rulemaking effort under the Shoreline Management Act.

Individual State Agency Fiscal Note

Bill Number: 6027 S SB	Title: Floating residences	Agency: 490-Department of Natural Resources
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2020	FY 2021	2019-21	2021-23	2023-25
Aquatic Lands Enhancement Account-State 02R-1		(29,000)	(29,000)	(58,000)	(58,000)
Resources Management Cost Account-State 041-1		(29,000)	(29,000)	(58,000)	(58,000)
Total \$		(58,000)	(58,000)	(116,000)	(116,000)

Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.0	1.8	0.9	0.0	0.0
Account					
Aquatic Lands Enhancement Account-State 02R-1	0	122,100	122,100	0	0
Resources Management Cost Account-State 041-1	0	122,200	122,200	0	0
Total \$	0	244,300	244,300	0	0

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☒ Requires new rule making, complete Part V.

Legislative Contact: Karen Epps	Phone: 360-786-7424	Date: 01/27/2020
Agency Preparation: Elayne Crow	Phone: 360-902-1121	Date: 01/29/2020
Agency Approval: Katrina Lassiter	Phone: 360-902-1081	Date: 01/29/2020
OFM Review: Leslie Connelly	Phone: (360) 902-0543	Date: 01/31/2020

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 1: Changes the definition of "floating on-water residence" in the Shoreline Management Act to include a vessel. Previously, floating on-water residences were defined as "any floating structure other than a floating home" that is "designed or used primarily as a residence on the water and has detachable utilities, and whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014." This bill amends this language to state that floating on-water residences include a "vessel or any other floating structure other than a floating home..."

Section 2: Amends the Department of Natural Resources (DNR)'s statutory definitions to state that floating on-water residences are considered water dependent uses, provided that the owner-occupant has held an ownership interest in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

This substitute bill eliminates Section 3, which contained a clause making this act apply retroactively to July 1, 2014. DNR does not anticipate issuing any refunds as required by the original bill.

Fiscal impacts will result from this bill for two reasons. The first is that, by categorizing floating on water residences as water-dependent, DNR would collect less revenue when certain lessees no longer pay non-water-dependent rent for the areas floating on water residences occupy.

Secondly, this bill would have a fiscal impact because rulemaking would be required to resolve conflicts it creates with existing definitions within WAC 332-30-106 and WAC 332-30-171, the Residential Use Rule.

- The language in SB 6027 creates a conflict with DNR's definition of "vessel" in WAC 332-30-106(74). Under DNR's definition, a "vessel" can never be "...designed or used primarily as a residence on the water" since DNR's definition states vessels are "...designed primarily for navigation."
- Additionally, SB 6027 conflicts with how DNR manages grandfathered and non-grandfathered floating houses under WAC 332-30-171(7). The WAC does not distinguish between types of floating houses, as DNR only distinguishes between floating houses and vessels. If SB 6027 is enacted, WAC 332-30-171(7) would no longer be applicable to this new floating on-water residence category of floating house.
- Finally, the bill adds a new definition of water dependent use in RCW 79.105.060 to include "a vessel or any other floating structure, other than a floating home as defined in RCW 90.58.270(5)...". Currently, water-dependent use is defined as "a use that cannot logically exist in any location but on the water." By including "any other floating structure" in the definition of water-dependent use, there is a perceived third category of residential use beyond floating homes and vessels as currently defined in WAC 332-30-171.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

This bill converts some lessees who are currently paying non-water-dependent rent to water-dependent rent. Water-dependent rent is significantly less than non-water-dependent, and the calculation for water-dependent rent

is determined by rule in WAC 332-30-123; non-water-dependent rent can be calculated by a number of means, but is meant to represent full market value. Therefore, this would result in an ongoing loss of revenue for DNR. Analysis of Aquatics leasing data has shown that there are approximately 25 floating on-water residences that are currently paying non-water-dependent rent that, as a result of this bill, would then be charged water-dependent rent. The ongoing revenue difference as a result of this change would be a loss of approximately \$58,000 per year, distributed equally between the Aquatic Lands Enhancement Account (ALEA) and Resources Management Cost Account (RMCA).

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

DNR assumes a nine-month rulemaking process with a three-month Environmental Impact Statement process, two public meetings, and the following FTEs dedicated to rulemaking from July 2020 through June 2021:

Property Acquisition Specialist 3 (Land manager, district): .1 FTE

WMS 1 (District manager): .1 FTE

WMS 2 (Assistant division manager, district): .1 FTE

Environmental Planner 4 (Olympia NRB): .5 FE

Environmental Planner 5 (Olympia NRB): .25 FTE

WMS2 (Assistant division manager, NRB): .25 FTE

WMS3 (Division manager, NRB): .1 FTE

Given the considerable staff time involved, DNR assumes that an additional staff hire would be necessary, including a workstation and laptop. Costs for the public meetings are assumed to be \$250 for each room rental, \$200 per meeting for light refreshments, and \$100 per meeting for handouts/meeting materials. The rulemaking process would also require Attorney General review; per communication with the AG's office, this review would be folded into their normal operations.

Total cost for rulemaking and EIS completion are as follows:

FY 2021: \$244,300

Goods and services and travel are calculated on actual program averages per person.

Administrative costs are calculated at 27% of staff salary and benefits and staff-related goods and services and travel. For fiscal note purposes, this cost is represented as a Fiscal Analyst 2 position (.38 FTE)

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
02R-1	Aquatic Lands Enhancement Account	State	0	122,100	122,100	0	0
041-1	Resources Management Cost Account	State	0	122,200	122,200	0	0
Total \$			0	244,300	244,300	0	0

III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years		1.8	0.9		
A-Salaries and Wages		122,800	122,800		
B-Employee Benefits		41,400	41,400		
C-Professional Service Contracts					
E-Goods and Other Services		20,500	20,500		
G-Travel		9,100	9,100		
J-Capital Outlays		2,500	2,500		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements		48,000	48,000		
9-					
Total \$	0	244,300	244,300	0	0

III. C - Operating FTE Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
Environmental Planner 4	83,964		0.5	0.3		
Environmental Planner 5	92,700		0.3	0.1		
Fiscal Analyst 2	52,536		0.4	0.2		
Property and Acquisition Specialist 3	67,248		0.1	0.1		
WMS - Band 1	71,540		0.1	0.1		
WMS - Band 2	85,544		0.4	0.2		
WMS - Band 3	102,963		0.1	0.1		
Total FTEs			1.8	0.9		0.0

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

The language in SB 6027 creates conflicting definitions regarding the classification of residential uses. The bill adds a new definition of water dependent use in RCW 79.105.060 to include "a vessel or any other floating structure, other than a floating home as defined in RCW 90.58.270(5)...". Currently, water-dependent use is defined as "a use that cannot logically exist in any location but on the water." By including "any other floating structure" in the definition of water-dependent use, there is a perceived third category of residential use beyond floating homes and vessels as currently defined in WAC

332-30-171. Additionally, the changes in the bill will likely conflict with the grandfathering scheme created in the residential use rule since those provisions are tied to whether or not the use is being charged water-dependent rent.

DNR would need to undertake rulemaking in order to clarify which uses qualify as residential.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 6027 S SB	Title: Floating residences
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Part I: Jurisdiction—Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☐ Cities:
- ☐ Counties:
- ☐ Special Districts:
- ☐ Specific jurisdictions only:
- ☒ Variance occurs due to: If there is a change in the rent paid for by vessel owners. Paying fair-market value for the land or paying rent based on a statutory formula.

Part II: Estimates

- ☐ No fiscal impacts.
- ☐ Expenditures represent one-time costs:
- ☐ Legislation provides local option:
- ☒ Key variables cannot be estimated with certainty at this time: Number of total vessels; duration of stay.

Estimated revenue impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: Jordan Laramie	Phone: 360-725-5044	Date: 01/31/2020
Leg. Committee Contact: Karen Epps	Phone: 360-786-7424	Date: 01/27/2020
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 01/31/2020
OFM Review: Leslie Connelly	Phone: (360) 902-0543	Date: 01/31/2020

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

CHANGES FROM PREVIOUS VERSION:

6. (a) Adds language that a floating on-water residence which was legally established prior to July 1, 2014, must be replaced or remodeled with a floating on-water residences that is similar to the original residence in size and height.

Removal of Section 3, which stated that this bill would apply retroactively on July 1, 2014

SUMMARY OF CURRENT BILL:

Sec. 1: This bill amends RCW 90.58.270 and 2014 c 56 s 2 which are to read:

This legislation is to include "a vessel or any other floating structure," in the definition for "floating on-water residence," which is a structure, "that is designed or used primarily as a residence on the water and has detached utilities; and whose primary occupant has held ownership interest in marina space; or has held a lease or sublease to use marina space; since prior to July 1, 2014.

(6)(a) A floating on-water residence (FOWR) that was legally established prior to July 1, 2014, must be considered conforming use and in compliance with the regulations of the shoreline master program. The FOWR must also be accommodated through permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing FOWR and their moorages, by rendering these actions impractical. Replaced or remodeled FOWR must be similar to the original residence in size and height.

(b) For the purpose of this subsection, "floating on-water residence" means a vessel or any other floating structure other than a floating home. (i) That is designed or used primarily as a residence on the water and has detachable utilities.

Sec. 2: Amends 79.105.060 and 2005 c 155 s 102 to each to read as follows:

A definition of "water-dependent use" that includes a vessel or any other floating structure, other than a floating home, that is designed primarily as a residence on the water; has detached utilities; who's owners have held ownership interest in a marina; or have leased or subleased from a marina; all prior to July 1, 2014.

(24)(a) "Water-dependent use" means a use that cannot logically exist in any other location but the water.

(b) "Water-dependent use" includes a vessel or any other floating structure, other than a floating home as defined in RCW 90.58.270(5):(a) That is designed or used primarily as a residence on the water and has detachable utilities; and (b) whose owner or primary occupant has held an ownership interest in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

(25) "Water-oriented use" means a use that historically has been dependent on a waterfront location, but with existing technology could be located away from the waterfront. A floating home, as defined in RCW 90.58.270(5)(b)(ii).

BACKGROUND:

The Department of Natural Resources manages and stewards almost 2.6 million acres of state-owned aquatic lands, where boats and vessels can moor on docks and buoys. DNR's operations encourage public use and access to state water-bodies, foster water dependent uses, utilize renewable resources, and ensure environmental protection. To help administrate these goals, the legislature has instructed DNR to charge a rent to the users of state-owned aquatic lands. Rents are charged by different standards, when applied to different use types:

"Non-water dependent uses," are charged the fair market value for the use of the land.

---Maintaining a residence on the water is considered to be a water-oriented use and not a water dependent use.

"Water-dependent uses," are charged rent according to a statutory formula.

---Statutory examples of water-dependent uses include water-borne commerce, watercraft sales, watercraft construction, and aquaculture.

---Floating homes and floating on-water residencies are designated as water-dependent uses as that term applies to the priority use of state-owned aquatic lands.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

NO CHANGE FROM PREVIOUS BILL:

There are no anticipated expenditures, the fiscal impact rests with DNR. For the purposes of analysis, local jurisdictions involvement in the rule making process is assumed to be de minimis.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

CHANGES FROM PREVIOUS VERSION:

Includes language that states only a replaced or remodeled floating on-water residence of similar height and size can replace the original residence.

SUMMARY OF CURRENT BILL:

This provision removes the potential variance in moorage slip fees that are based on vessel size. The revenue that is generated is still indeterminate because these fees will be set by the port authority where the floating on-water residences reside.

This bill attempts to address concerns with rent between water-dependent and non water-dependent. DNR is required to charge rent when allowable private uses of state-owned aquatic lands exclude the general public. Water-dependent uses of state-owned aquatic lands are charged rent based on a statutorily directed formula. Uses that are not water-dependent are charged fair market rent. By adding an amendment that mandates a FOWR to be the same size and length, it helps create stability for the dock, slip, lease, or moorage fees that these residences are charged.

SOURCES:

Department of Natural Resources

Substitute Senate Bill 6027, 2020

House Bill Report 2581, 2014

House Bill Analysis 2581, 2014

https://www.dnr.wa.gov/publications/em_fs13_024.pdf?u3kvvh

<https://app.leg.wa.gov/RCW/default.aspx?cite=90.58.270>

<http://lulaseattle.com/fowr.html>

<https://www.seattle-houseboat.com/fowr/>

<https://www.seattle.gov/DPD/Publications/CAM/cam229.pdf>

<https://www.portseattle.org/sites/default/files/2018-10/Salmon%20Bay%20FOWR%20Agreement%2011%20Sept%202018.pdf>