

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 25, 2011
POSITION: Neutral

BILL NUMBER: SB 152
AUTHOR: F. Pavley

BILL SUMMARY: Public Lands: General Leasing Law: Littoral Landowners

This bill would repeal existing law, which prohibits rent from being charged for a private recreational pier on state lands and require the State Lands Commission (Commission) to charge rent for these piers.

FISCAL SUMMARY

The Commission indicates that the bill would generate \$112,500 General Fund in Fiscal Year 2011-12 and increase by an additional \$225,000 annually, thereafter. The Commission estimates that rent revenues from these private recreational piers will generate \$2.25 million annually General Fund after a 10 year transition period during which leases are secured. The Commission indicates the workload will increase from 900 leases being billed to 2,200 leases. This increase in workload would require the addition of two positions, a Public Land Management Specialist position, \$118,000 fully reimbursed, and an Accounting Technician position beginning in 2012-13 at an annual cost of \$65,000 General Fund.

COMMENTS

Finance is neutral on the bill because it would: (1) generate General Fund revenues and (2) addresses an unconstitutional gift of state lands for private recreation piers. However, we note that in order to accommodate the increased workload the Commission may require additional staff.

Existing law prohibits rent from being charged for private recreational piers constructed on state lands but does require the landowner to pay the Commission's expenses when issuing a lease or a permit for the state lands.

In 1976 the Attorney General issued an opinion which concluded that the issuance of a rent-free lease to a littoral landowner, for a private recreational pier, on state land is an unconstitutional gift of public property. In 1977 the Legislature adopted findings that there is a public benefit from the private recreational piers because they provide a safe anchorage for distressed vessels. The Commission points out that the private recreational piers and buoys are used exclusively for private purposes and many times are fenced, which can also block access to public areas.

This bill would require owners of private recreational piers that extend onto state lands to pay a fair rent for that privilege. Commercial uses of piers on state lands such as marinas and commercial piers pay rent for the use of state lands. As such, the author believes the bill would repeal an arbitrary and unfair practice, as well as eliminate what can be construed as a gift of public funds.

The bill could affect approximately 1,250 piers, buoys, and other mooring structures.

Analyst/Principal (0651) M. Almy	Date	Program Budget Manager Karen Finn	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)**Form DF-43****AUTHOR****AMENDMENT DATE****BILL NUMBER**

F. Pavley

April 25, 2011

SB 152

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)								Fund Code
	LA	(Dollars in Thousands)								
	CO	PROP								
	RV	98	FC	2010-2011	FC	2011-2012	FC	2012-2013		
1522/Rent St Prop	RV	No	U	\$113	U	\$338	U	\$563		0001
3560/Lands Comm	SO	No		--		--	C	\$65		0001
3560/Lands Comm	SO	No	C	\$59	C	\$118	C	\$118		0995
<u>Fund Code</u>	<u>Title</u>									
0001	General Fund									
0995	Reimbursements									