

2 SSB 6132 - S AMD  
3 By Senators Anderson and Metcalf

4 ADOPTED 2/18/92

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 90.72 RCW  
8 to read as follows:

9 The legislature finds that shellfish harvesting is important to our  
10 economy and way of life. Washington state is an international leader  
11 in the cultivation and production of shellfish. However, large  
12 portions of the state's productive recreational and commercial  
13 shellfish beds are closed to harvesting, and more are threatened,  
14 because of water pollution. The legislature finds that the problem of  
15 shellfish bed closures demands a public policy solution and that the  
16 state, local governments, and individuals must each take strong and  
17 swift action or this precious resource will be lost.

18 It is the goal of the legislature to prevent further closures of  
19 recreational and commercial shellfish beds, to restore water quality in  
20 saltwater tidelands to allow the reopening of at least one restricted  
21 or closed shellfish bed each year, and to ensure Washington state's  
22 commanding international position in shellfish production.

23 The legislature finds that failing on-site sewage systems and  
24 animal waste are the two most significant causes of shellfish bed  
25 closures over the past decade. Remedial actions at the local level are  
26 required to effectively address these problems.

27 The legislature finds that existing entities, including  
28 conservation districts and local health departments, should be used by

1 counties to address the water quality problems affecting the  
2 recreational and commercial shellfish harvest.

3 The legislature finds that local action in each watershed where  
4 shellfish are harvested is required to protect this vital resource.  
5 The legislature hereby encourages all counties having saltwater  
6 tidelands within their boundaries to establish shellfish protection  
7 districts and programs designed to prevent any further degradation and  
8 contamination and to allow for restoration and reopening of closed  
9 shellfish growing areas."

10 "Sec. 2. RCW 90.72.030 and 1985 c 417 s 3 are each amended to read  
11 as follows:

12 The legislative authority of each county having shellfish tidelands  
13 within its boundaries is authorized to establish a shellfish protection  
14 district to include areas in which nonpoint pollution threatens the  
15 water quality upon which the continuation or restoration of shellfish  
16 farming or harvesting is dependent. The legislative authority shall  
17 constitute the governing body of the district and shall adopt a  
18 shellfish protection program to be effective within the district. The  
19 legislative authority may appoint a local advisory council to advise  
20 the legislative authority in preparation and implementation of  
21 shellfish protection programs. This program (~~(may)~~) shall include any  
22 elements deemed appropriate to deal with the nonpoint pollution  
23 (~~((threat))~~) threatening water quality, including, but not limited to,  
24 requiring the elimination or decrease of contaminants in storm water  
25 runoff, establishing monitoring (~~((programs))~~), inspection, and repair  
26 elements to (~~((make sure that septic drainfield))~~) ensure that on-site  
27 sewage systems are adequately maintained and working properly (~~((and))~~),  
28 assuring that animal grazing and manure management practices are  
29 (~~((appropriate))~~) consistent with best management practices, and

1 establishing educational and public involvement programs to inform  
2 citizens on the causes of the threatening nonpoint pollution and what  
3 they can do to decrease the amount of such pollution. An element may  
4 be omitted where another program is effectively addressing those  
5 sources of nonpoint water pollution. Within the limits of RCW  
6 90.72.040 and 90.72.070, the county legislative authority shall have  
7 full jurisdiction and authority to manage, regulate, and control its  
8 programs and to fix, alter, regulate, and control the fees for services  
9 provided and charges or rates as provided under those programs.  
10 Programs established under this chapter, may, but are not required to,  
11 be part of a system of sewerage as defined in RCW 36.94.010."

12       **"Sec. 3.** RCW 90.72.040 and 1985 c 417 s 4 are each amended to read  
13 as follows:

14       (1) The county legislative authority may create a shellfish  
15 protection district on its own motion or by submitting the question to  
16 the voters of the proposed district and obtaining the approval of a  
17 majority of those voting. The boundaries of the district shall be  
18 determined by the legislative authority. The legislative authority may  
19 create more than one district. A district may include any area or  
20 areas within the county, whether incorporated or unincorporated.  
21 Counties shall coordinate and cooperate with cities, towns, and water-  
22 related special districts within their boundaries in establishing  
23 shellfish protection districts and carrying out shellfish protection  
24 programs. Where a portion of the proposed district lies within an  
25 incorporated area, the county shall develop procedures for the  
26 participation of the city or town in the determination of the  
27 boundaries of the district and the administration of the district,  
28 including funding of the district's programs. The legislative  
29 authority of more than one county may by agreement provide for the

1 creation of a district including areas within each of those counties.  
2 County legislative authorities are encouraged to coordinate their plans  
3 and programs to protect shellfish growing areas, especially where  
4 shellfish growing areas are located within the boundaries of more than  
5 one county. The legislative authority or authorities creating a  
6 district may abolish a shellfish protection district on its or their  
7 own motion or by submitting the question to the voters of the district  
8 and obtaining the approval of a majority of those voting.

9 (2) If the county legislative authority creates a shellfish  
10 protection district by its own motion, any registered voter residing  
11 within the boundaries of the shellfish protection district may file a  
12 referendum petition to repeal the ordinance that created the district.  
13 Any referendum petition to repeal the ordinance creating the shellfish  
14 protection district shall be filed with the county auditor within seven  
15 days of passage of the ordinance. Within ten days of the filing of a  
16 petition, the county auditor shall confer with the petitioner  
17 concerning form and style of the petition, issue an identification  
18 number for the petition, and write a ballot title for the measure. The  
19 ballot title shall be posed as a question so that an affirmative answer  
20 to the question and an affirmative vote on the measure results in  
21 creation of the shellfish protection district and a negative answer to  
22 the question and a negative vote on the measure results in the  
23 shellfish protection district not being created. The petitioner shall  
24 be notified of the identification number and ballot title within this  
25 ten-day period.

26 After this notification, the petitioner shall have thirty days in  
27 which to secure on petition forms the signatures of not less than  
28 twenty-five percent of the registered voters residing within the  
29 boundaries of the shellfish protection district and file the signed  
30 petitions with the county auditor. Each petition form shall contain

1 the ballot title and full text of the measure to be referred. The  
2 county auditor shall verify the sufficiency of the signatures on the  
3 petitions. If sufficient valid signatures are properly submitted, the  
4 county auditor shall submit the referendum measure to the registered  
5 voters residing in the shellfish protection district in a special  
6 election no later than one hundred twenty days after the signed  
7 petition has been filed with the county auditor. The special election  
8 may be conducted by mail ballot as provided for in chapter 29.36 RCW.

9 (3) The county legislative authority shall not impose fees, rates,  
10 or charges for shellfish protection district programs upon properties  
11 on which fees, rates, or charges are imposed to pay for another program  
12 to eliminate or decrease contamination in storm water runoff."

13 "NEW SECTION. Sec. 4. A new section is added to chapter 90.72 RCW  
14 to read as follows:

15 The county legislative authority shall create a shellfish  
16 protection district and establish a shellfish protection program to  
17 address causes of pollution within one hundred eighty days after the  
18 department of health, because of water quality degradation due to  
19 ongoing nonpoint sources of pollution, has, after the effective date of  
20 this act, closed or downgraded the classification of a recreational or  
21 commercial shellfish growing area within the boundaries of the county."

22 "NEW SECTION. Sec. 5. A new section is added to chapter 90.72 RCW  
23 to read as follows:

24 Within available funding and as specified in the shellfish  
25 protection program, counties creating shellfish protection districts  
26 shall contract with conservation districts to draft plans with  
27 landowners to control pollution effects of animal waste."

1       **"Sec. 6.** RCW 90.72.070 and 1985 c 417 s 7 are each amended to read  
2 as follows:

3       The county legislative authority establishing a shellfish  
4 protection district may finance the protection program through (1)  
5 ~~((its))~~ county tax revenues, (2) reasonable inspection fees and similar  
6 fees ~~((or))~~ for services provided, (3) reasonable charges or rates  
7 specified in its protection program, or ~~((+3))~~ (4) federal, state, or  
8 private grants. Confined animal feeding operations subject to the  
9 national pollutant discharge elimination system and implementing  
10 regulations shall not be subject to fees, rates, or charges by a  
11 shellfish protection district. Facilities permitted and assessed fees  
12 for wastewater discharge under the national pollutant discharge  
13 elimination system shall not be subject to fees, rates, or charges for  
14 wastewater discharge by a shellfish protection district. Lands  
15 classified as forest land under chapter 84.33 RCW and timber land under  
16 chapter 84.34 RCW shall not be subject to fees, rates, or charges by a  
17 shellfish protection district. Counties may collect charges or rates  
18 in the manner determined by the county legislative authority."

19       "NEW SECTION. **Sec. 7.** A new section is added to chapter 90.72 RCW  
20 to read as follows:

21       Counties that have formed shellfish protection districts shall  
22 receive high priority for state water quality financial assistance to  
23 implement shellfish protection programs, including grants and loans  
24 provided under chapters 43.99F, 70.146, and 90.50A RCW."

25       "NEW SECTION. **Sec. 8.** A new section is added to chapter 88.36 RCW  
26 to read as follows:

27       The commission shall seek to provide the most cost efficient and  
28 accessible facilities possible for reducing the amount of boat waste

1 entering the state's waters. The commission shall consider providing  
2 funding support for portable pumpout facilities in this effort."

3 "NEW SECTION. Sec. 9. The following acts or parts of acts are  
4 each repealed:

5 (1) RCW 90.72.010 and 1985 c 417 s 1; and

6 (2) RCW 90.72.050 and 1985 c 417 s 5."

7 "NEW SECTION. Sec. 10. If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected."

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14 On page 1, line 2 of the title, after "tidelands;" strike the  
15 remainder of the title and insert "amending RCW 90.72.030, 90.72.040,  
16 and 90.72.070; adding new sections to chapter 90.72 RCW; adding a new  
17 section to chapter 88.36 RCW; and repealing RCW 90.72.010 and  
18 90.72.050."