

# HOUSE BILL REPORT

## ESHB 2363

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*As Passed House  
February 14, 1992*

**Title:** An act relating to the reduction of nonpoint source pollution in counties with shellfish growing tidelands.

**Brief Description:** Modifying shellfish protection.

**Sponsor(s):** By House Committee on Natural Resources & Parks (originally sponsored by Representatives Sheldon, Brumsickle, Belcher, P. Johnson, Hine, Rasmussen, Ebersole, Fraser, R. Johnson, Dorn, Jones, Heavey, Paris, J. Kohl, Spanel, May, Leonard and Pruitt; by request of Puget Sound Water Quality Authority).

**Brief History:**

Reported by House Committee on:  
Natural Resources & Parks, January 31, 1992, DPS;  
Passed House, February 14, 1992, 93-0.

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**HOUSE COMMITTEE ON  
NATURAL RESOURCES & PARKS**

**Majority Report:** *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Belcher, Chair; Scott, Vice Chair; Beck, Ranking Minority Member; Brumsickle, Assistant Ranking Minority Member; Dellwo; Fraser; Hargrove; Morton; Riley; Sheldon; and Wynne.

**Staff:** Randy Acker (786-7129).

**Background:** Washington's coastal and estuarine waters are among the most productive clam and oyster growing areas in the world and provide significant economic and recreation benefits to residents of the state. In 1989, Washington's wholesale clam and oyster harvest was valued at \$52 million, and annually, more than one million recreational shellfish harvesting trips are made in Puget Sound.

Problems with water quality have raised concerns about the future of the shellfish resource. Shellfish require clean water. If pollutants, such as fecal coliform bacteria, exceed certain levels, then harvest of clams and oysters can be restricted. Production declines due to pollution can be dramatic such as what occurred on Maryland's tidelands in

Chesapeake Bay where production declined by 75 percent between 1985 and 1988. In Washington, prior to 1980, the primary sources of pollution affecting shellfish were point sources, such as municipal sewage treatment plants and industrial discharges. Since 1980, the two most significant causes of shellfish harvest restrictions have been failing on-site sewage systems and poor management of animal wastes. Additional causes of pollution include stormwater runoff and sewage from boaters. Currently about 40 percent of the commercial and recreational shellfish beds in Puget Sound have restrictions on harvest.

In 1985, the Legislature authorized counties to create shellfish protection districts and adopt a program within the district to deal with pollution threats to shellfish. To date, no county has created a shellfish protection district.

**Summary of Bill:** Existing laws authorizing creation of shellfish protection districts are amended so that counties with saltwater tidelands are authorized to create watershed protection districts. The county legislative authority is the governing body of the district and is responsible for adopting a watershed protection program. A watershed protection district may be created by the county legislative authority on their own motion or by submitting the question to the voters in the proposed district. If the district is created by motion, a registered voter residing in the district may file a referendum petition to repeal the district. Incorporated and unincorporated areas may be included in the district. Counties are required to coordinate and cooperate with incorporated areas and water related special districts within their boundaries in establishing districts, and must establish procedures for participation of cities and towns in determining boundaries of the district when a portion of a district lies within an incorporated area.

Counties are required to create a watershed protection district and establish a program within 180 days of a pollution-caused shellfish growing area closure or downgrade.

Counties creating watershed protection districts are required, within available funding, to contract with conservation districts to draft plans to control pollution effects of animal waste.

Counties may finance watershed protection programs through county tax revenues, inspection fees for services performed, charges or rates specified in its protection program, grants, or revenue bonds, general obligation bonds, or other

evidences of indebtedness. Fees and charges under the program may not be assessed to confined animal feeding operations or other facilities permitted and assessed fees under the National Pollutant Discharge Elimination System, or lands classified as forest land under 84.33 RCW or timberland under 84.34 RCW.

Counties that form districts have high priority for financial assistance to implement protection programs, including grants and loans from the water pollution control revolving fund, water quality account, and referendum 39 (waste disposal facilities).

The Growth Management Act is amended so that maintenance and enhancement of the shellfish industry is added to the goals related to natural resource based industries, and the land use element in comprehensive plans is expanded to provide for protection of marine water quality in shellfish growing areas.

**Fiscal Note:** Requested January 16, 1992.

**Effective Date:** Ninety days after adjournment of session in which bill is passed, except Sections 12 and 13, which take effect July 1, 1994.

**Testimony For:** The shellfish industry is extremely important to the state of Washington from both an economic as well as a recreational perspective. It is essential that we provide local governments with the necessary tools and financing mechanisms to adequately protect the health of our watersheds and thereby the health of our shellfish growing areas. This bill provides the tools and the means to finance the steps that must be taken. Unless this is done now, nonpoint pollution problems will only get worse and the value of our shellfish resource may be dramatically reduced.

**Testimony Against:** Residents of cities and towns already contribute to solving shellfish problems through sewer districts and should not have to pay a second time. Many dairy farms are confined animal feeding operations and are treated as point sources of pollution under the National Pollutant Discharge Elimination System. They already pay assessments under this program and should not pay twice.

**Witnesses:** Nancy McKay, Puget Sound Water Quality Authority (supports); Tim Smith, Pacific Coast Oyster Growers Association (supports); Dave McMillin, Olympia Oyster Co. (supports); Tom Bettinger, Taylor United, Inc. (supports); Mike Gibson, Mason County (supports); Linda Hoffman, Thurston County (supports); Rod Mack, Department of Ecology (supports); Eric Slagle, Department of Health (supports);

Russ Wohlers, Ray's Boathouse Restaurant (supports); Jack Pederson, Brooklyn Seafood, Steak and Oyster House (supports); Bob Haberman, Washington Association of Conservation Districts (supports); Jay Gordon, Grays Harbor Conservation District (supports); Dave Williams, Association of Washington Cities (supports concept but concerned about participation of cities in the original bill); Stan Biles, Department of Natural Resources (supports); Marsha Reid, Suquamish Tribe (supports); Judith Freeman, Department of Fisheries (supports); Tom Armentrout, Marine Science Center, Poulsbo (supports); and Dan Coyne, Washington State Dairy Federation (supports concept, but farmers already covered under a point source program should not be assessed duplicate fees).