

HOUSE BILL REPORT

ESSB 6132

*As Passed House
March 4, 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 Senate Committee on Environment & Natural Resources (originally sponsored by Senators Metcalf, Owen, Oke, M. Kreidler, Snyder and Conner; by request of Puget Sound Water Quality Authority).

Brief History:

Reported by House Committee on:
Natural Resources & Parks, February 27, 1992, DP;
Passed House, March 4, 1992, 95-0.

**HOUSE COMMITTEE ON
NATURAL RESOURCES & PARKS**

Majority Report: *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 state's coastal and estuarine waters support one of the most productive oyster and clam growing areas in the world. The 1989 shellfish harvest was estimated at a wholesale value of \$52 million. Commercial shellfish growing and processing account for one in 12 jobs in Pacific County; shellfish production is the number two industry in Mason County. Additionally, it is estimated that more than 1.3 million recreational shellfish harvesting trips are taken each year in Puget Sound alone.

Shellfish feed by pumping large amounts of water through their systems, and thus retaining a concentration of harmful bacteria and viruses, estimated at levels tenfold that of the water column. For that reason they are particularly sensitive to pollutants and thus serve as an indicator species for the overall health of marine waters. Most shellfish reproduce and grow only in estuaries, where rivers

empty to the sea and where wastes from upstream sources ultimately arrive.

Increasing growth and development in upland areas have increased levels of pollutants in shellfish growing waters, resulting in a significant rise in shellfish contamination in the past 10 years. A 1991 report indicated that since 1981 the state Department of Health has downgraded the classification of 16,113 acres of commercial shellfish beds, restricting or prohibiting harvest from these areas. More than 40 percent of Puget Sound's commercial shellfish acreage is now closed or restricted compared to 17 percent in 1980. Of Puget Sound's 146 recreational shellfish beds, 57 are closed to harvest, while 35 more are threatened with near-term closure.

Since 1980, failing on-site sewage systems and poor animal keeping practices have been identified as the primary cause of commercial harvest restrictions. Other sources of pollutants include storm water runoff, outfall from sewage treatment plants, marine mammals, and boat waste.

In 1985, the Legislature authorized local governments to create shellfish protection districts to fund programs to reduce pollutants in shellfish tidelands. However, there has not been a single such special district created under this authority. Additionally, state and local governments administer a variety of programs to address sources of pollutants to the state's waters, including shellfish growing areas. The Puget Sound water quality management plan includes several initiatives for shellfish protection, including improved data on shellfish bed conditions, enhanced public education, increased testing on toxicity, and development of a strategy to respond to existing closures of growing areas.

Summary of Bill: Existing laws authorizing creation of shellfish protection districts are revised. Duplicative provisions of existing law are repealed. The county legislative authority may create the district on its own motion or refer the question to the voters. A district formed on the motion of the county legislative authority is subject to a referendum procedure by the voters within the district. Deadlines are established for filing the petition, for securing signatures of at least 25 percent of the registered voters residing within the district, and for conducting the special election.

The legislative authority shall constitute the governing body of the district, and may appoint a local advisory council to assist in development of implementation of the district's programs. Counties are directed to cooperate

with incorporated areas in establishing the districts and to coordinate with other counties where growing areas are located in more than one county. Where a portion of a proposed district lies within an incorporated area, the county shall allow the city or town to participate in the boundary determination and in administration of the district's program.

The county legislative authority has full jurisdiction to fix, alter and control the fees, charges or rates provided under the programs. Funding for district programs may be derived through county tax revenues, fees for services performed, charges or rates, and federal, state or private grants.

Fees, rates or charges for district programs shall not be imposed on properties upon which charges are imposed for other storm water runoff programs. Fees, rates or charges shall not be imposed by districts on the following: (1) confined animal feeding operations subject to the national pollutant discharge elimination system (NPDES); (2) other facilities permitted and assessed fees under the NPDES; (3) timberlands classified under state timber and open space tax laws.

Counties forming districts are to receive high priority for state water quality grants and loans for shellfish protection programs. They are encouraged within available funding to contract with conservation districts to draft plans to address animal waste pollution. A shellfish protection district must be formed within 180 days after the state Department of Health has closed or downgraded a shellfish growing area because of water quality degradation due to nonpoint pollution.

The State Parks and Recreation Commission is directed to seek the most cost efficient and accessible facilities for boat waste pumpout.

Fiscal Note: Requested February 24, 1992.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The impact of non-point source pollution on water quality is increasing and needs to be addressed. Since shellfish are an indicator of water quality, it is appropriate to focus on shellfish protection. This bill contains the essential pieces of a shellfish protection program. It provides authority to adopt programs, incentives to do so, and the requirement that such programs

be adopted if a shellfish growing area is closed or downgraded.

Testimony Against: None.

Witnesses: Nancy McKay and Chris Hedrick, Puget Sound Water Quality Authority (in favor); Bill Taylor, Pacific Coast Oyster Growers Association (in favor); Jack Swanberg, Northwest Marine Trade Association (in favor, but would like an amendment to provide funding from the watercraft excise tax); Linda Hoffman, Thurston County (in favor, but amend to allow counties discretion to set fees for timberlands); Duane Colby, Island County Commissioner (in favor, but supports original bill that was broader); and Karen VanDusen, Department of Health (in favor).