

SENATE BILL REPORT

ESHB 2363

AS REPORTED BY COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES,  
FEBRUARY 24, 1992

**Brief Description:** Modifying shellfish protection.

**SPONSORS:** 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)

**HOUSE COMMITTEE ON NATURAL RESOURCES & PARKS**

**SENATE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES**

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Metcalf, Chairman; Oke, Vice Chairman; Amondson, Conner, Owen, Snyder, Sumner, and Sutherland.

**Staff:** Gary Wilburn (786-7453)

**Hearing Dates:** February 24, 1992

**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 twelve 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 has increased levels of pollutants in shellfish growing waters, resulting in a significant rise in shellfish contamination in the past ten 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. Fifty-seven of Puget Sound's 146 recreational shellfish beds 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:**

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 Chapter 84.33 RCW or timberland under Chapter 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.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**Effective Date:** Sections 12 and 13 takes effect July 1, 1994.

**SUMMARY OF PROPOSED SENATE AMENDMENTS:**

The name of the districts is retained under the existing law as "shellfish protection districts." Water quality purposes of the district are required to be related to protecting shellfish growing areas. The requirement is deleted that shellfish growing areas be protected as critical areas under state growth management laws. It changes the exemption of timberlands from district fees, rates or charges to provide that such lands be subject to a lesser fee, rate or charge. Authority to fund district programs through bond issuance is deleted. Until June 30, 1999, a specified portion of watercraft excise tax revenues shall be used for the boat sewage pumpout facilities and other purposes of Chapter 88.36 RCW.

**TESTIMONY FOR:**

The bill improves local government authority to create local funding sources and programs. It provides greater flexibility to address nonpoint water pollution that are causes of the closure of shellfish beds.

**TESTIMONY AGAINST:** None

**TESTIFIED:** PRO: Representative Sheldon, prime sponsor; Karen Van Dusen, Dept. of Health; Linda Hoffman, Thurston County/WA State Assn. of Counties; Bill Taylor, Pacific Coast Oyster Growers Assn.; Duane Fagergren, PSWQA