
ENGROSSED SUBSTITUTE SENATE BILL 6132

State of Washington

52nd Legislature

1992 Regular Session

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)

Read first time 01/23/92.

1 AN ACT Relating to the reduction of nonpoint source pollution in
2 counties with shellfish growing tidelands; amending RCW 90.72.030,
3 90.72.040, and 90.72.070; adding new sections to chapter 90.72 RCW;
4 adding a new section to chapter 88.36 RCW; and repealing RCW 90.72.010
5 and 90.72.050.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

1 shellfish bed closures demands a public policy solution and that the
2 state, local governments, and individuals must each take strong and
3 swift action or this precious resource will be lost.

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

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

13 The legislature finds that existing entities, including
14 conservation districts and local health departments, should be used by
15 counties to address the water quality problems affecting the
16 recreational and commercial shellfish harvest.

17 The legislature finds that local action in each watershed where
18 shellfish are harvested is required to protect this vital resource.
19 The legislature hereby encourages all counties having saltwater
20 tidelands within their boundaries to establish shellfish protection
21 districts and programs designed to prevent any further degradation and
22 contamination and to allow for restoration and reopening of closed
23 shellfish growing areas.

24 **Sec. 2.** RCW 90.72.030 and 1985 c 417 s 3 are each amended to read
25 as follows:

26 The legislative authority of each county having shellfish tidelands
27 within its boundaries is authorized to establish a shellfish protection
28 district to include areas in which nonpoint pollution threatens the
29 water quality upon which the continuation or restoration of shellfish

1 farming or harvesting is dependent. The legislative authority shall
2 constitute the governing body of the district and shall adopt a
3 shellfish protection program to be effective within the district. The
4 legislative authority may appoint a local advisory council to advise
5 the legislative authority in preparation and implementation of
6 shellfish protection programs. This program (~~(may)~~) shall include any
7 elements deemed appropriate to deal with the nonpoint pollution
8 (~~((threat))~~) threatening water quality, including, but not limited to,
9 requiring the elimination or decrease of contaminants in storm water
10 runoff, establishing monitoring (~~((programs))~~), inspection, and repair
11 elements to (~~((make sure that septic drainfield))~~) ensure that on-site
12 sewage systems are adequately maintained and working properly (~~((and))~~),
13 assuring that animal grazing and manure management practices are
14 (~~((appropriate))~~) consistent with best management practices, and
15 establishing educational and public involvement programs to inform
16 citizens on the causes of the threatening nonpoint pollution and what
17 they can do to decrease the amount of such pollution. An element may
18 be omitted where another program is effectively addressing those
19 sources of nonpoint water pollution. Within the limits of RCW
20 90.72.040 and 90.72.070, the county legislative authority shall have
21 full jurisdiction and authority to manage, regulate, and control its
22 programs and to fix, alter, regulate, and control the fees for services
23 provided and charges or rates as provided under those programs.
24 Programs established under this chapter, may, but are not required to,
25 be part of a system of sewerage as defined in RCW 36.94.010.

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

28 (1) The county legislative authority may create a shellfish
29 protection district on its own motion or by submitting the question to

1 the voters of the proposed district and obtaining the approval of a
2 majority of those voting. The boundaries of the district shall be
3 determined by the legislative authority. The legislative authority may
4 create more than one district. A district may include any area or
5 areas within the county, whether incorporated or unincorporated.
6 Counties shall coordinate and cooperate with cities, towns, and water-
7 related special districts within their boundaries in establishing
8 shellfish protection districts and carrying out shellfish protection
9 programs. Where a portion of the proposed district lies within an
10 incorporated area, the county shall develop procedures for the
11 participation of the city or town in the determination of the
12 boundaries of the district and the administration of the district,
13 including funding of the district's programs. The legislative
14 authority of more than one county may by agreement provide for the
15 creation of a district including areas within each of those counties.
16 County legislative authorities are encouraged to coordinate their plans
17 and programs to protect shellfish growing areas, especially where
18 shellfish growing areas are located within the boundaries of more than
19 one county. The legislative authority or authorities creating a
20 district may abolish a shellfish protection district on its or their
21 own motion or by submitting the question to the voters of the district
22 and obtaining the approval of a majority of those voting.

23 (2) If the county legislative authority creates a shellfish
24 protection district by its own motion, any registered voter residing
25 within the boundaries of the shellfish protection district may file a
26 referendum petition to repeal the ordinance that created the district.
27 Any referendum petition to repeal the ordinance creating the shellfish
28 protection district shall be filed with the county auditor within seven
29 days of passage of the ordinance. Within ten days of the filing of a
30 petition, the county auditor shall confer with the petitioner

1 concerning form and style of the petition, issue an identification
2 number for the petition, and write a ballot title for the measure. The
3 ballot title shall be posed as a question so that an affirmative answer
4 to the question and an affirmative vote on the measure results in
5 creation of the shellfish protection district and a negative answer to
6 the question and a negative vote on the measure results in the
7 shellfish protection district not being created. The petitioner shall
8 be notified of the identification number and ballot title within this
9 ten-day period.

10 After this notification, the petitioner shall have thirty days in
11 which to secure on petition forms the signatures of not less than
12 twenty-five percent of the registered voters residing within the
13 boundaries of the shellfish protection district and file the signed
14 petitions with the county auditor. Each petition form shall contain
15 the ballot title and full text of the measure to be referred. The
16 county auditor shall verify the sufficiency of the signatures on the
17 petitions. If sufficient valid signatures are properly submitted, the
18 county auditor shall submit the referendum measure to the registered
19 voters residing in the shellfish protection district in a special
20 election no later than one hundred twenty days after the signed
21 petition has been filed with the county auditor. The special election
22 may be conducted by mail ballot as provided for in chapter 29.36 RCW.

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

27 NEW SECTION. Sec. 4. A new section is added to chapter 90.72 RCW
28 to read as follows:

1 The county legislative authority shall create a shellfish
2 protection district and establish a shellfish protection program to
3 address causes of pollution within one hundred eighty days after the
4 department of health, because of water quality degradation due to
5 ongoing nonpoint sources of pollution, has, after the effective date of
6 this act, closed or downgraded the classification of a recreational or
7 commercial shellfish growing area within the boundaries of the county.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.72 RCW
9 to read as follows:

10 Within available funding and as specified in the shellfish
11 protection program, counties creating shellfish protection districts
12 shall contract with conservation districts to draft plans with
13 landowners to control pollution effects of animal waste.

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

16 The county legislative authority establishing a shellfish
17 protection district may finance the protection program through (1)
18 ~~((its))~~ county tax revenues, (2) reasonable inspection fees and similar
19 fees ~~((or))~~ for services provided, (3) reasonable charges or rates
20 specified in its protection program, or ~~((+3))~~ (4) federal, state, or
21 private grants. Confined animal feeding operations subject to the
22 national pollutant discharge elimination system and implementing
23 regulations shall not be subject to fees, rates, or charges by a
24 shellfish protection district. Facilities permitted and assessed fees
25 for wastewater discharge under the national pollutant discharge
26 elimination system shall not be subject to fees, rates, or charges for
27 wastewater discharge by a shellfish protection district. Lands
28 classified as forest land under chapter 84.33 RCW and timber land under

1 chapter 84.34 RCW shall not be subject to fees, rates, or charges by a
2 shellfish protection district. Counties may collect charges or rates
3 in the manner determined by the county legislative authority.

4 NEW SECTION. Sec. 7. A new section is added to chapter 90.72 RCW
5 to read as follows:

6 Counties that have formed shellfish protection districts shall
7 receive high priority for state water quality financial assistance to
8 implement shellfish protection programs, including grants and loans
9 provided under chapters 43.99F, 70.146, and 90.50A RCW.

10 NEW SECTION. Sec. 8. A new section is added to chapter 88.36 RCW
11 to read as follows:

12 The commission shall seek to provide the most cost efficient and
13 accessible facilities possible for reducing the amount of boat waste
14 entering the state's waters. The commission shall consider providing
15 funding support for portable pumpout facilities in this effort.

16 NEW SECTION. Sec. 9. The following acts or parts of acts are
17 each repealed:

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

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

20 NEW SECTION. Sec. 10. If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.