

HOUSE BILL REPORT

E2SHB 1658

As Passed Legislature

Title: An act relating to state oyster reserve lands.

Brief Description: Establishing a pilot project culturing shellfish on nonproductive oyster reserve land.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Buck, Doumit, Ericksen, Linville, Haigh, G. Chandler, Cooper and Dunshee).

Brief History:

Committee Activity:

Natural Resources: 2/12/01, 2/21/01 [DPS];
Appropriations: 3/8/01 [DP2S(w/o sub NR)].

Floor Activity:

Passed House: 3/13/01, 96-0.
Senate Amended.
Passed Senate: 4/11/01, 48-0.
House Concurred.
Passed House: 4/17/01, 93-0.
Passed Legislature.

Brief Summary of Engrossed Second Substitute Bill

- A pilot program is created to evaluate the feasibility of growing shellfish on non-productive oyster reserve lands in Puget Sound.
- Revenues from these lands are deposited into the oyster reserve land account and used for managing oyster reserve lands, new research and development activities at the Pt. Whitney and Nahcotta shellfish laboratories, the state general fund, and the shellfish-on-site sewage grant program.
- The Puget Sound Action Team is directed to establish a shellfish-on-site sewage grant program to improve on-site sewage systems in areas that could adversely affect water quality in commercial and recreational shellfish growing areas.

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Doumit, Democratic Co-Chair; Sump, Republican Co-Chair; Pearson, Republican Vice Chair; Rockefeller, Democratic Vice Chair; Buck, Eickmeyer, Ericksen, Jackley, Murray and Pennington.

Staff: Bill Lynch (786-7092).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Natural Resources. Signed by 31 members: Representatives Sehlin, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; Lisk, Republican Vice Chair; Alexander, Benson, Boldt, Buck, Clements, Cody, Cox, Dunshee, Fromhold, Gombosky, Grant, Kagi, Keiser, Kenney, Kessler, Lambert, Linville, McIntire, Mulliken, Pearson, Pflug, Ruderman, D. Schmidt, Schual-Berke, Talcott and Tokuda.

Staff: Jeff Olsen (786-7157).

Background:

The state established oyster reserves in the Puget Sound and Willapa Harbor to furnish shellfish to growers and processors and to stock public beaches. In 1985 the Legislature directed the Department of Fisheries to develop an oyster reserve management plan so that the oyster reserves could be managed on a sustained yield basis. As part of this management plan, the following five management zones were created: 1) native Olympia oyster broodstock reserves; 2) commercial shellfish harvesting zones; 3) commercial shellfish propagation zones designated for long-term leasing to private aquaculturist; 4) public recreational shellfish harvesting zones; and 5) unproductive land.

In 1985 the state also authorized the director of the Department of Fisheries to reestablish dike cultivated production of Olympia oysters on a trial basis on the oyster reserves. No intensive pilot project has been attempted to culture shellfish on currently nonproductive oyster reserves.

The Department of Natural Resources (DNR) may lease first or second class tidelands that have been set aside as oyster reserves. If DNR receives an application for the lease of such oyster reserves, the director of the Department of Fish and Wildlife (DFW) must cause an inspection of the reserve to determine whether the reserve or any part of the reserve should be retained or vacated. If the director of the DFW approves the vacation of any part or the whole of the reserve, and the Fish and Wildlife Commission recommends the disposal or lease, the DNR may vacate the land and offer the reserve

for lease. All moneys received from leasing such land is paid to the DNR.

Failing on-site septic systems have been identified as a threat to aquatic resources and public health. Although some assistance is available to replace failing systems, it is not great enough to address the need.

Summary:

Oyster Reserve Pilot Program. A pilot program is created to evaluate the feasibility of growing shellfish on non-productive oyster reserve lands in Puget Sound. This pilot program may not include the culture of geoduck. The DFW is directed to enter into at least three long-term lease agreements with commercial shellfish growers in the Puget Sound area. The department must submit a brief progress report on the status of the pilot program to the appropriate legislative committees by January 7, 2003.

The DFW is required to form an advisory committee for the Willapa Bay oyster reserve lands and an advisory committee for the Puget Sound oyster reserve lands. Each advisory committee must try to include an equal representation between shellfish growers that participate in reserve sales and those growers who do not participate in reserve sales.

The advisory committees must make recommendations on management practices to conserve, protect, and develop these oyster reserve lands. The advisory committees may also make recommendations regarding the use of funds in the oyster reserve land account for managing the oyster reserve lands and for new research and development activities at the Pt. Whitney and Nahcotta shellfish laboratories. In addition, they may develop recommendations on ways to increase revenue from these lands by producing high-value shellfish, managing the oyster reserve lands so that they won't be detrimental to the market for shellfish grown on nonreserve lands, and avoiding negative impacts to existing shellfish populations.

The DNR is responsible for administering leases for oyster reserves in consultation with the DFW. The DNR may lease the oyster reserves without vacating them. The DNR may recover reasonable administrative costs for administering the leases for the oyster reserves.

Oyster Reserve Land Revenues. Proceeds from the lease of land or sale of shellfish from oyster reserve lands must be deposited into the oyster reserve land account. Moneys in this account must be used in the following manner: 1) up to 40 percent of the funds may be used for management expenses by the DFW directly attributable to managing oyster reserve lands and for new research and development activities at the Pt. Whitney and Nahcotta shellfish laboratories; 2) up to 10 percent of the funds may be deposited into the state general fund; and 3) the remaining funds must be used for the shellfish-on-site sewage grant program. Moneys in the oyster reserve land account may

only be spent after appropriation.

Shellfish-On-site Sewage Grant Program. The Puget Sound Action Team is directed to establish a shellfish-on-site sewage grant program in Puget Sound and for Pacific and Grays Harbor counties. The grants must be given to improve on-site sewage systems in areas that could adversely affect water quality in commercial and recreational shellfish growing areas. A grant recipient must enter an agreement to maintain the system according to local health jurisdiction requirements.

In providing funds for the shellfish-on-site sewage grant program, the action team must work closely with local health jurisdictions and must try to attain geographic equity between Willapa Bay and the Puget Sound areas. Attaining geographic equity means issuing grants in an area at a level that matches the funds generated from the oyster reserve lands from that area.

The action team must give first priority in the Puget Sound area to property located within shellfish protection districts or that have been designated as an area of special concern in accordance with the Department of Health rules. The action team must give first priority in Grays Harbor and Pacific counties to preventing the deterioration of water quality in areas where commercial or recreational shellfish are grown.

The action team must enter into a memorandum of understanding with each participating local health jurisdiction that establishes income eligibility requirements for individual grant applicants and other terms and conditions of the grant program.

The action team may recover administrative costs for the grant program not to exceed 10 percent of the grant program. For the 2001-03 biennium, the department may use up to one-half of the grant program funds for grants to local health jurisdictions to establish areas of special concern, or for operation and maintenance programs therein, where commercial and recreational uses are present.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (Natural Resources) (Substitute bill) Many oyster reserve areas that were originally classified as unproductive can now be made productive with new technology that has been developed. Only about 10 percent of the oyster reserve lands in Willapa Harbor are now productive, and the percentage in Puget Sound is much less. This is a great opportunity to get more production out of these lands while also providing more money for research that will help the shellfish industry. The on-site sewage treatment assistance portion of the bill is important to help guard against failing systems.

This legislation is consistent with provisions of the Puget Sound management plan prepared by the Puget Sound Action Team.

(Concerns, substitute bill) The requirement for the DFW to enter into long-term leases before July 1, 2002 is not workable. The DNR should not give up its jurisdiction over these lands because there are a number of issues associated with aquatic lands such as contaminated sediments and nuisance aquatic weeds. The DNR should be able to continue to receive revenue by vacating these lands for lease. The pilot program should initially begin in Puget Sound and include Willapa Harbor later because there are some distinct differences between management of shellfish in Willapa Harbor and in Puget Sound. Damage could occur to shellfish growers in Willapa Harbor if a pilot is not managed carefully.

Testimony For: (Appropriations) This bill represents an opportunity for the state to make money, and also improve water quality and benefit the shellfish industry. Currently state oyster reserve lands are not managed to maximize efficiency. The substitute version of the bill represents progress made by negotiations with all stakeholders and provides a mechanism to improve management of oyster reserve lands. In seven to ten years, there can be significant revenues from these currently unproductive oyster reserves.

Testimony Against: (Natural Resources) None.

Testimony Against: (Appropriations) None.

Testified: (Natural Resources) Dick Sheldon, Northern Oyster Company; Terry Hull, Puget Sound Water Quality Action Team; Bill Dewey, Pacific Coast Shellfish Growers Association; and Loren Stern, Department of Natural Resources.

(With concerns) Morris Barker, Department of Fish and Wildlife.

Testified: (Appropriations) Representative Buck, prime sponsor; Terry Hull, Puget Sound Water Quality Action Team; Morris Barker and Loren Stern, Department of Fish and Wildlife; and Rick Anderson, Pacific Coast Shellfish Growers Association.