

# HOUSE BILL REPORT

## SSB 5837

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### As Reported by House Committee On:

Natural Resources  
Appropriations

**Title:** An act relating to state oyster reserve lands.

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

**Sponsors:** By Senate Committee on Natural Resources, Parks & Shorelines (originally sponsored by Senators T. Sheldon, Swecker, Spanel, Snyder and Oke).

### Brief History:

#### Committee Activity:

Natural Resources: 3/30/01 [DPA];  
Appropriations: 3/31/01, 4/2/01 [DPA(NR)].

#### Brief Summary of Substitute Bill (As Amended by House Committee)

- 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 state wildlife fund 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.

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### HOUSE COMMITTEE ON NATURAL RESOURCES

**Majority Report:** Do pass as amended. Signed by 12 members: Representatives Doumit, Democratic Co-Chair; Sump, Republican Co-Chair; Pearson, Republican Vice Chair; Rockefeller, Democratic Vice Chair; Buck, G. Chandler, Edwards, Eickmeyer, Ericksen, Jackley, Murray, and Pennington

**Staff:** Bill Lynch (786-7092).

**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 the 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.

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**Summary of Amended Bill:**

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 state wildlife fund used by the DFW 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.

Proceeds from the lease of land or sale of shellfish from oyster reserve lands must be deposited into the state wildlife fund. Moneys in the state wildlife fund attributable to oyster reserve lands 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.

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.

**Amended Bill Compared to Substitute Bill:**

The oyster reserve account is deleted. Moneys are deposited into the state wildlife fund.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

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

**Testimony For:** Many oyster reserve areas that were originally classified as unproductive can now be made productive with new technology that has been developed. 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.

**Testimony Against:** None.

**Testified:** (In support) Senator Sheldon, prime sponsor; Morris Barker, Department of Fish and Wildlife; and Terry Hull, Puget Sound Water Quality Action Team.

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**HOUSE COMMITTEE ON APPROPRIATIONS**

**Majority Report:** Do pass as amended 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, Grant, Kagi, Keiser, Kenney, Kessler, Lambert, Linville, Mastin, McIntire, Mulliken, Pearson, Pflug, Ruderman, D. Schmidt, Schual-Berke, Talcott and Tokuda.

**Staff:** Jeff Olsen (786-7157).

**Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Natural Resources:**

No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** This bill helps the shellfish industry, improves water quality, helps fight the invasion of aquatic nuisance species, and should result in a net positive impact to the general fund this biennium. Over the next several biennia, the bill should have a significant net positive effect on the state general fund.

**Testimony Against:** None.

**Testified:** Rick Anderson, Pacific Coast Shellfish Growers Association.