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ENGROSSED SUBSTITUTE HOUSE BILL 2819

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State of Washington

57th Legislature

2002 Regular Session

By House Committee on Natural Resources (originally sponsored by Representatives Doumit, Buck, Hatfield and Linville)

Read first time 02/06/2002. Referred to Committee on .

1 AN ACT Relating to Bush act and Callow act lands; adding a new  
2 section to chapter 79.90 RCW; adding a new section to chapter 79.96  
3 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature declares that shellfish  
6 farming provides a consistent source of quality food, offers  
7 opportunities of new jobs, increases farm income stability, and  
8 improves balance of trade. The legislature also finds that many areas  
9 of the state of Washington are scientifically and biologically suitable  
10 for shellfish farming, and therefore the legislature has encouraged and  
11 promoted shellfish farming activities, programs, and development with  
12 the same status as other agricultural activities, programs, and  
13 development within the state. It being the policy of this state to  
14 encourage the development and expansion of shellfish farming within the  
15 state and to promote the development of a diverse shellfish farming  
16 industry, the legislature finds that the uncertainty surrounding  
17 reversionary clauses contained in Bush act and Callow act deeds is  
18 interfering with this policy. The legislature finds that uncertainty  
19 of the grant of rights for the claim and other shellfish culture as

1 contained in chapter 166, Laws of 1919 must be fully and finally  
2 resolved. It is not the intent of this act to impair any vested rights  
3 in shellfish cultivation or current shellfish aquaculture activities to  
4 which holders of Bush act and Callow act lands are entitled.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 79.90 RCW  
6 to read as follows:

7 (1) A person in possession of real property conveyed by the state  
8 of Washington pursuant to the authority of chapter 24, Laws of 1895  
9 (Bush act) or chapter 25, Laws of 1895 (Callow act), wherein such lands  
10 are subject to a possibility of reversion, shall heretofore have and  
11 are granted the further right to use all of the property for the  
12 purpose of cultivating and propagating clams and any shellfish.

13 (2) The rights granted under subsection (1) of this section do not  
14 include the right to use subtidal portions of Bush act and Callow act  
15 lands for the harvest and cultivation of any species of shellfish that  
16 had not commenced prior to December 31, 2001.

17 (3) For the purposes of this section, harvest and cultivation of  
18 any species of shellfish shall not be deemed to have commenced unless  
19 the subtidal portions of the land had been planted with that species of  
20 shellfish prior to December 31, 2001.

21 (4) No vested rights in shellfish cultivation may be impaired by  
22 any of the provisions of this act, nor is anything other than what is  
23 stated in subsection (2) of this section intended to grant any further  
24 rights in the subtidal lands than what was originally included under  
25 the intent of the Bush and Callow acts.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 79.96 RCW  
27 to read as follows:

28 Beds of navigable waters held under contract or deed from the state  
29 of Washington upon which a private party is harvesting or cultivating  
30 geoduck shall be surveyed by the private party and a record of survey  
31 filed in compliance with chapter 58.09 RCW prior to harvest. Property  
32 corners will be placed in sufficient quantity and location to aid in  
33 relocation of the oyster tract lines occurring or extending below  
34 extreme low tide. Buoys on anchors must be placed intervisibly along  
35 and at angle points on any ownership boundaries that extend below  
36 extreme low tide, for the harvest term. The survey of privately owned  
37 beds of navigable waters will be established on the Washington

- 1 coordinate system in compliance with chapter 58.20 RCW and property
- 2 corners labeled with their coordinates on the record of survey.

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