

HOUSE BILL REPORT

2SHB 2220

As Amended by the Senate

Title: An act relating to shellfish.

Brief Description: Regarding shellfish.

Sponsors: By House Committee on Appropriations (originally sponsored by Representative Lantz).

Brief History:

Committee Activity:

Select Committee on Puget Sound: 2/27/07 [DPS];
Appropriations: 3/3/07 [DP2S(w/o sub PUGT)].

Floor Activity:

Passed House: 3/10/07, 88-9.
Senate Amended.
Passed Senate: 4/12/07, 37-11.
House Refuses to Concur.
Senate Amended.
Passed Senate: 4/20/07, 45-1.

Brief Summary of Second Substitute Bill

- Directs the Sea Grant Program at the University of Washington to review existing research on the potential effects of geoduck aquaculture on the environment.
- Creates the Geoduck Aquaculture Research Account.
- Forms the Shellfish Aquaculture Regulatory Committee.
- Directs the Department of Ecology to develop, by rule, guidelines for the appropriate siting and operation of geoduck aquaculture operations that are to be included in any master programs.

HOUSE SELECT COMMITTEE ON PUGET SOUND

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Upthegrove, Chair; Eickmeyer, Vice Chair; Rolfes, Vice Chair; Sump, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; O'Brien, Pearson and Springer.

Staff: Jason Callahan (786-7117).

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 Select Committee on Puget Sound. Signed by 27 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Cody, Conway, Darneille, Ericks, Fromhold, Grant, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

Minority Report: Do not pass. Signed by 7 members: Representatives Alexander, Ranking Minority Member; Anderson, Buri, Chandler, Dunn, Hinkle and Kretz.

Staff: Alicia Dunkin (786-7178).

Background:

Shorelines Management Act

Under the Shorelines Management Act, certain developments that occur on or near the shorelines of the state are required to be permitted. Permitting for most development is administered at the county level, with standards and requirements outlined in the county's master program. Each county with shorelines within its jurisdiction adopts its own master program, which is a comprehensive use plan for the area. Once a master program is approved by the Department of Ecology (DOE), the county is the entity responsible for final approval of all programs falling within the plan's scope.

Geoduck Aquaculture on State-Owned Aquatic Lands

The Legislature has assigned to the Department of Natural Resources (DNR) the responsibility for managing the state's aquatic lands for the benefit of the public. The DNR manages over two million acres of tidelands, shorelands, and bedlands. This includes the beds of all navigable rivers and lakes, along with the beds below the Puget Sound.

The management of aquatic lands must support a balance of goals, including the encouragement of public access, the fostering of water-dependent uses, the utilization of renewable resources, and the generation of revenue. Revenues generated from the state's aquatic lands are generally directed to be used for public benefits, such as shoreline access, environmental protection, and recreational opportunities. Under current law, the DNR may

lease aquatic lands, exchange state-owned aquatic lands for privately owned lands, and lease aquatic lands for shellfish aquaculture.

In 2003, the Legislature directed the DNR to conduct a study looking into the feasibility of leasing state-owned aquatic lands for geoduck aquaculture. The DNR has initiated a fledgling geoduck aquaculture program and has plans to lease 25 acres of state-owned aquatic lands per year for the next 10 years for geoduck aquaculture.

Summary of Second Substitute Bill:

Geoduck Research

The Sea Grant Program at the University of Washington (Sea Grant) is directed to review existing research on the potential effects of geoduck aquaculture on the environment, and commission new research as necessary. A list of required study elements is provided to the Sea Grant, which includes studies evaluating the structures used in geoduck aquaculture, the effects of harvesting techniques, how aquaculture impacts natural ecological characteristics, and research into the genetic interactions between farm-raised and naturally occurring geoduck. The Sea Grant, with consultation with an oversight committee, may prioritize the listed studies and add or subtract to the listed studies as necessary.

The Geoduck Aquaculture Research Account (Account) is created to fund the required research. Any institution involved in research funded from the Account may not retain more than 15 percent of any funding for administrative overhead.

The final report of the research must be delivered the Legislature by December 1, 2013. However, the Sea Grant is directed to prioritize the studies and report the results of shorter timeline studies prior to 2013.

Department of Natural Resources

The DNR is prohibited from entering into any new leases that would permit the commercial aquaculture of geoducks on state-owned intertidal lands on more than 25 acres a year until December 2014. Any intertidal leases must be conditioned so that the DNR can conduct environmental monitoring on the geoduck operation and so that the leases can be used as part of the research conducted by the Sea Grant.

Shellfish Aquaculture Regulatory Committee

The Shellfish Aquaculture Regulatory Committee (Committee) is formed to serve as the oversight committee for the research conducted by the Sea Grant, develop recommendations for a regulatory system or permit process that integrates local, state, and federal regulations, and develop recommendations for appropriate guidelines for the DOE to include in shorelines master program guidelines.

The members of the Committee are to be appointed by the director of the DOE, and includes state agency representatives, tribal invitees, members of the environmental community, shellfish growers, and property owners.

Initial recommendations from the Committee must be delivered in 2007.

Shorelines Guidelines

The DOE is directed to develop, by rule, guidelines for the appropriate siting and operation of geoduck aquaculture operations that are to be included in any master program. The guidelines must be developed in consultation with the Committee, with the public review and comment period commencing no longer than six months after the Committee delivers its recommendations.

If necessary, the DOE is directed to update the guidelines after the culmination of the research required of the Sea Grant.

EFFECT OF SENATE AMENDMENT(S):

Removes specificity in identifying priority research products, allows the Geoduck Aquaculture Research Account to receive private donations, changes the limit on the number of acres of aquatic lands that the Department of Natural Resources for geoduck aquaculture from 25 to 15, requires the Department of Natural Resources to notify abutting landowners if they choose to lease aquatic lands for geoduck aquaculture, requires the Shorelines Management Act guidelines being developed by the Department of Ecology to consider methods for quantifying marine litter and possible landowner notification requirements, and expands the aquaculture registration program at the Department of Fish and Wildlife to require individual registration numbers for aquaculture growers, and require growers to provide certain information to the state such as name and proof of providing notification to abutting landowners

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony: (Select Committee on Puget Sound)

(In support) There is a perfect storm of property rights, environmental protection, and economic development involved in geoduck aquaculture. This bill is a product of a negotiation process whereby consensus was reached, but total support from either side was not secured. A win-win outcome is possible if the bill is fully funded. The bill set forth a path that will allow everyone to live together. Compromise is required in the legislative process.

It is important to recognize the nexus between new methods of commercially harvesting geoducks in the intertidal zone and the values stated in the Shorelines Management Act in favor of balancing competing interests. The knowledge gained from the research and the work of the Committee will be instructive to state and local government policy makers as they try to strike that balance.

There are no mandates or assumed outcomes in the bill, and each county will still retain the flexibility to make local decisions. The processes in the bill helps with difficulties existing in the current system of regulations.

Good science is an important foundation of regulations. The DNR is already engaged in some monitoring that will assist with the Sea Grant's research. Research must be credible and useful.

(Opposed) Geoduck aquaculture on state-owned aquatic lands should be prohibited until the results of the Sea Grant's research are reported. The costs of this bill are not funded in the Governor's budget.

Staff Summary of Public Testimony: (Appropriations)

None.

Persons Testifying: (Select Committee on Puget Sound) (In support) Representative Lantz, prime sponsor; Jim Jesernig, Pacific Coast Shellfish Growers Association; Rich Doenges, Department of Natural Resources; Laurie Brauneis, Save Our Shoreline; John Vanick; Kurt Sheafe, Washington REALTORS®; and Tom Clingman, Department of Ecology.

(Opposed) Patrick Townsend, Protect Our Shoreline.

Persons Testifying: (Appropriations) None.

Persons Signed In To Testify But Not Testifying: (Select Committee on Puget Sound) Bruce Wishart, People for Puget Sound.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.