SENATE BILL REPORT
SB 6279

As of February 16, 2012

Title: An act relating to improving water quality to support shellfish resources.

Brief Description: Improving water quality to support shellfish resources.

Sponsors: Senator Nelson.

Brief History:
Committee Activity: Environment: 1/18/12.

SENATE COMMITTEE ON ENVIRONMENT

Staff: Karen Epps (786-7424)

Background: The Department of Ecology (Ecology) is charged with controlling and preventing the pollution of surface and ground waters of the state. Ecology is also the designated water pollution control agency for all purposes of the federal Clean Water Act. Ecology has the authority to adopt rules and regulations related to its water pollution control authority and may, with the assistance of the Attorney General, bring appropriate legal actions to fulfill its responsibilities.

It is unlawful to discharge or to permit the discharge of organic or inorganic matters that, as determined by Ecology, cause or tend to cause pollution in waters of the state. However, the disposal or discharge of solid or liquid waste material into the waters of the state may be allowed by commercial or industrial operations through permits issued by Ecology or local governments that have been granted permitting authority.

On December 9, 2011, Governor Gregoire announced the Washington State Shellfish Initiative (Shellfish Initiative). The Shellfish Initiative is a convergence of the National Oceanic and Atmospheric Administration's (NOAA) National Shellfish Initiative and the State's interest in promoting a critical clean water industry. The Shellfish Initiative has three broad goals:

- create a public/private partnership for shellfish aquaculture;
- promote native shellfish restoration and recreational shellfish harvest; and
- ensure clean water to protect and enhance shellfish beds.

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.

Summary of Bill: Ecology must cooperate with other entities conducting research on and evaluating the potential for mitigating water pollution in impaired water bodies through natural methods. Ecology may implement pollutant credit and trading mechanisms as an element of a water quality clean-up plan.

Ecology must submit a report to the Legislature by December 31, 2012, on the following:

- a progress report on the review by the Washington sea grant of the scientific basis for management decisions to balance land use interests, environmental protection, and coastal development needs;
- a progress report on the pilot projects and the model permitting program established as part of the Washington shellfish initiative;
- a progress report on the work by local governments to create sustainable pollution identification and correction programs;
- an update on the pollution action team and its efforts to improve water quality protections; and
- the evaluation to date by Ecology of the potential for implementing pollutant trading and credit mechanisms.

Appropriation: None.

Fiscal Note: Requested on January 16, 2012.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: After the Governor declared the Shellfish Initiative on December 9, 2011, there appears to be a missing piece, a report to the Legislature to see if the Initiative improves water quality, remediates on-site sewage systems which are failing, and protecting habitat. It is important to take a look at what progress is being made under the Initiative. This bill provides the Legislature with a role in the Initiative. This bill is a positive way to support the Initiative. Bivalves, as filter-feeders, remove nitrogen from the water, which is one way to improve water quality. The bivalves are then turned into compost and conveyed back up into the watershed as poultry feed. It is important to mitigate pollution but also not create new pollution from bivalves. Conceptually, a credit system could be used in Budd Inlet to restore oysters, to provide natural filtration and complex habitat to support other species, and be used to assist a water treatment plant to meet more stringent nitrogen requirements. Chesapeake Bay is reintroducing oysters and using shellfish farming to mitigate the nitrogen. Virginia has made great strides in establishing a nitrogen trading program. Totten Inlet is probably the most intensively farmed inlet for shellfish, but a recent environmental impact statement showed that the inlet can support more shellfish. The Initiative addresses water quality and establishes a model permitting program. The nutrient trading program is a win-win for everyone. Mollusk farming actually reduces nitrogen pollution. Restoring the Olympia oyster, providing healthy native shellfish beds, and providing well-managed farms provide important ecosystem services.

Persons Testifying: PRO: Senator Nelson, prime sponsor; Margaret Barrette, Pacific Coast Shellfish Growers Assn.; Betsy Peabody, Puget Sound Restoration Fund; Jonathan Davis, Puget Sound Restoration Fund, Taylor Shellfish; Bill Dewey, Taylor Shellfish; Jim Gibbons, Seattle Shellfish; Don Seeberger, Ecology; Bill Robinson, Nature Conservancy; Bruce Wishart, People for Puget Sound.