

SENATE BILL REPORT

SB 6279

As Reported by Senate Committee On:
Environment, February 1, 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, 2/01/12 [DPS, DNP, w/oRec].

SENATE COMMITTEE ON ENVIRONMENT

Majority Report: That Substitute Senate Bill No. 6279 be substituted therefor, and the substitute bill do pass.

Signed by Senators Nelson, Chair; Rolfes, Vice Chair; Chase, Fraser, Morton, Pridemore and Sheldon.

Minority Report: Do not pass.

Signed by Senator Ericksen, Ranking Minority Member.

Minority Report: That it be referred without recommendation.

Signed by Senator Honeyford.

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.

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.

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.

Summary of Bill (Recommended Substitute): Ecology must submit a report to the Governor and the Legislature by December 1, 2012, on:

- the baseline water quality impacts of natural populations on unimpaired waters;
- the relationship of intensified shellfish populations due to farming, on both unimpaired and impaired waters;
- descriptions of and evaluations of projects using shellfish to improve marine water quality; and
- the effectiveness of strategies for preventing and apprehending shellfish poachers and recommendations on whether improvements are needed or will be needed as the industry grows

Ecology must submit a report to the Governor and the Legislature by December 1, 2012, on:

- research by the Washington Sea Grant Program and NOAA on the scientific basis for a variety of current and potential shellfish farming practices that ensure ecosystem health;
- recommendations for and examples of methods for achieving balance between new shellfish farms and the following: nearby terrestrial land uses; marine water space utilization; bedland and tideland uses; habitat for other marine species; environmental protection; and coastal development;
- a summary of the shellfish restoration priorities of the Puget Sound Partnership including a description of the goal for upgrading 10,800 acres of harvestable quantities of additional shellfish harvest;
- the proposed model permitting program and associated pilot projects established as part of the Shellfish Initiative;
- the plan to restore 19 historic Puget Sound Olympia oyster beds;
- the plan for bolstering pinto abalone populations;
- recommendations for improving and increasing public access to shellfish on public tidelands for tribal and recreational harvest;
- improving water quality in commercial, recreational, and tribal shellfish growing areas;
- creation of a pollution identification and correction program in cooperation with local governments;
- implementation of a pollution action team to respond quickly when water quality problems threaten shellfish harvest areas;
- a summary of the estimated impact of the shellfish industry in Washington, both currently and as projected from results of the Shellfish Initiative and the federal shellfish initiatives;
- improved effectiveness of on-site sewage management programs;

- reductions in agricultural run-off affecting marine water quality; and
- a summary of the activities of the Blue Ribbon Panel on Ocean Acidification established under the Initiative.

EFFECT OF CHANGES MADE BY ENVIRONMENT COMMITTEE (Recommended Substitute): Removes the provisions requiring Ecology to cooperate with other entities conducting research on and evaluating the potential for mitigating water pollution in impaired water bodies through natural methods. Removes the provisions that allow Ecology to implement pollutant credit and trading mechanisms as an element of a water quality clean-up plan. Requires Ecology to submit a report to the Governor and the Legislature by December 1, 2012, on shellfish farming and water quality. Requires Ecology to submit a report to the Governor and the Legislature by December 1, 2012, on various aspects of the Initiative.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: 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.