

# HOUSE BILL REPORT

## ESB 5603

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**As Passed House:**  
April 16, 2013

**Title:** An act relating to establishing the Washington coastal marine advisory council and the Washington marine resources advisory council.

**Brief Description:** Establishing the Washington coastal marine advisory council and the Washington marine resources advisory council.

**Sponsors:** Senators Hatfield, Kohl-Welles, Shin and Ranker.

**Brief History:**

**Committee Activity:**

Environment: 3/26/13, 3/27/13 [DPA];

Appropriations Subcommittee on General Government: 4/4/13 [DP(w/oENVI amd)].

**Floor Activity:**

Passed House: 4/16/13, 82-14.

**Brief Summary of Engrossed Bill**

- Establishes the Washington Coastal Marine Advisory Council within the Office of the Governor to serve as an advisory body and forum for communication on coastal marine water issues.
- Establishes the Washington Marine Resources Advisory Council within the Office of the Governor to coordinate and implement certain activities pertaining to the impacts of ocean acidification through June 2017.

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### HOUSE COMMITTEE ON ENVIRONMENT

**Majority Report:** Do pass as amended. Signed by 10 members: Representatives Uptegrove, Chair; McCoy, Vice Chair; Short, Ranking Minority Member; Farrell, Fey, Kagi, Liias, Morris, Nealey and Tharinger.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Pike, Assistant Ranking Minority Member; Overstreet.

**Staff:** Jacob Lipson (786-7196).

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*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.*

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## HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT

**Majority Report:** Do pass without amendment by Committee on Environment. Signed by 5 members: Representatives Hudgins, Chair; Dunshee, Hunt, Pedersen and Springer.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Parker, Ranking Minority Member; Buys, Chandler and Taylor.

**Staff:** Michael Bennion (786-7118).

### **Background:**

#### Marine Management and Planning Efforts in Washington.

The 2006 Ocean Action Plan (Plan), funded by a 2005 budget proviso, was the product of a work group comprising of state agencies and other stakeholders. The Plan included recommendations on a variety of ocean and coastal scientific and management topics. Per the recommendation of the Plan, the State Ocean Caucus was established as an interagency state group. The State Ocean Caucus is coordinated by the Department of Ecology (DOE) and is charged with developing and carrying out a work plan to implement the Plan's recommendations and communicating with non-state governmental entities and other stakeholders regarding ocean and outer coast management.

In 2010 the Legislature passed a law directing the development of a comprehensive state marine management plan, including the use of marine spatial planning by an interagency team. Working in conjunction with representatives from tribal governments, federal agencies, and coastal Marine Resource Committees (volunteer citizen organizations coordinated by the Department of Fish and Wildlife), the State Ocean Caucus issued its marine spatial planning report to the Legislature in January 2011.

The 2010 legislative action requiring the marine management and marine spatial planning activity also established the Marine Resources Stewardship Trust Account (MRSTA) within the State Treasury to be used for marine management planning, marine spatial planning, research, monitoring, implementation of the state's marine management plan, and for the restoration or enhancement of marine habitat or resources. Funds in the MRSTA may originate with state legislative appropriations, as well as grants, gifts, or donations.

In 2011 the DOE established the Washington Coastal Marine Advisory Council as a stakeholder group to advise the State Ocean Caucus. Washington Coastal Marine Advisory Council members are appointed by the Director of the DOE, and represent a variety of stakeholder interests, including commercial and recreational fishing, conservation, economic development, energy, recreation, and shellfish aquaculture.

In 2012 the Legislature passed additional legislation relevant to marine planning and management. This legislation, among other provisions, created a Washington State Coastal Solutions Council within the Office of the Governor. The Washington State Coastal Solutions Council consisted of the voting members of the DOE's Washington State Marine Advisory Council, as it existed on December 2011, with additional nonvoting state agency

representation. The Governor vetoed the provisions which would have created the Washington State Coastal Solutions Council.

### Ocean Acidification.

Ocean acidification is the term given to the changes in seawater chemistry resulting primarily from the world's oceans absorbing carbon dioxide (CO<sub>2</sub>) from the atmosphere. Local sources of acidification from wastewater discharges and runoff from land-based activities can also contribute to ocean acidification in marine waters.

In 2011 former Governor Gregoire convened the Washington State Blue Ribbon Panel on Ocean Acidification (Panel), whose membership included tribal, state, federal, and local policymakers, scientific experts, and industry representatives. The Panel was charged with developing recommendations to address ocean acidification, reviewing current scientific knowledge, and identifying needed research and monitoring to increase scientific understanding and improve resource management. In November 2012 the Panel submitted a report which assessed the vulnerability of the state's marine waters and associated economic activities, such as aquaculture, and issued a series of recommendations to mitigate negative impacts of ocean acidification. After the Panel's report was issued, former Governor Gregoire issued an Executive Order directing the DOE, among other agencies, to take certain actions including the coordination of the implementation of the Panel's recommendations.

### **Summary of Bill:**

#### Washington Coastal Marine Advisory Council.

The Washington Coastal Marine Advisory Council (WCMAC) is created in statute and housed in the Office of the Governor. The WCMAC membership and operating procedures are as follows:

- the membership of the WCMAC is appointed by the Governor and is specified to include representatives of several state agencies, as well as the membership of the WCMAC established by the Department of Ecology (DOE), as it existed on January 15, 2013;
- members serve four-year terms and may be reappointed;
- additional entities, including local and federal governments, may also designate liaisons to the WCMAC;
- the WCMAC chair must be nominated and elected by a majority of its members;
- the term of the chair is one year, and the chair is eligible for reelection;
- the WCMAC meeting agendas must be developed collaboratively, and decisions reached by consensus, or, failing that, by a vote of members; and
- the WCMAC must develop bylaws, including guidelines for consensus and voting procedures.

The WCMAC's duties include directives to:

- serve as a forum for communication concerning coastal waters issues;
- serve as a point of contact and collaboration with other governmental entities regarding coastal waters issues;
- provide a forum to discuss, mediate, and recommend principles related to coastal waters resource policy, planning, and management; and

- make recommendations to the Governor, the Legislature, and state and local agencies on coastal waters resource management issues, which may address expenditures from the Marine Resources Stewardship Trust Account (MRSTA), the implementation of Washington's 2006 Coastal Action Plan, and the development and implementation of coast-wide goals, including marine spatial planning.

The DOE must provide primary staff and support to the WCMAC. In addition, subject to the availability of resources, the WCMAC may hire a neutral convener to assist with facilitation, agendas, and other WCMAC duties.

Washington Coastal Marine Advisory Council Recommendation Alignment with Marine Resources Stewardship Trust Account Expenditures.

State expenditures from the MRSTA on projects and activities relating to the state's coastal waters must be made consistent with WCMAC's recommendations, to the maximum extent possible. If the MRSTA expenditures are inconsistent with WCMAC's recommendations, the responsible agency receiving the appropriation must provide the WCMAC and appropriate legislative committees a written explanation.

Washington Marine Resources Advisory Council.

The Washington Marine Resources Advisory Council (WMRAC) is created within the Office of the Governor, and is to be chaired by the Governor or the Governor's designee. In addition to the Governor, the WMRAC is composed of a statutorily specified membership list, including legislators, representatives of government agencies and other governmental entities, and Governor-appointed representatives from a variety of marine business sectors.

The WMRAC's first meeting must be scheduled by November 1, 2013. The WMRAC is directed to meet at least twice per calendar year, and meetings must include an opportunity for public comment on agenda items. The WMRAC's duties are:

- to coordinate the work of governmental and non-governmental bodies to address the impacts of ocean acidification;
- to advise and work with the University of Washington to conduct technical analysis of ocean acidification and identify actions necessary to implement ocean acidification recommendations;
- to deliver recommendations, including minority reports if requested by a member of the WMRAC, to the Governor and appropriate legislative committees;
- to seek private and public funding and resources for technical analysis to support the council's recommendations; and
- to assist in public education about ocean acidification.

The WMRAC dissolves in June 2017.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony (Environment):**

(In support) Coastal marine waters are critical to the state economy. Good fisheries management and the mitigation of ocean acidification are both critical to the continuation of the coastal lifestyle. These councils establish bottom-up advisory processes for current marine management issues, which will help ensure that government money is spent in useful ways and that good decisions are made in the future. The presence of agency representatives on the councils will not disrupt the councils' balance. There is no regulatory component of either council. There are many marine planning efforts and councils, but the two councils established by this bill will each have an important role.

The Washington Coastal Marine Advisory Council (WCMAC) allows for local control of ocean zoning and advisory input into marine spatial planning. By placing the current WCMAC in the Office of the Governor, it gives it a stronger voice. Marine spatial planning is a critical management activity to undertake, and will be central to the WCMAC's duties. Marine spatial planning minimizes conflicts between potentially competing uses like energy development and fisheries activities. The tribes are key players, but there is some question as to the specific role tribes want to have in relation the WCMAC.

The Washington Marine Resources Advisory Council (WMRAC) will work to carry out the recommendations of the 2012 Blue Ribbon Panel on Ocean Acidification (Panel) and continue the Panel's good work. Ocean acidification should not be solely left up to the WCMAC since it is a problem affecting Puget Sound and inland marine waters not represented on the WCMAC. The WMRAC addresses deficiencies in the Panel by adding representatives from business and agriculture, which will bring balance to the conversation. Business and agriculture are two of the sectors that will likely be impacted by any recommendations to address ocean acidification.

(Opposed) None.

**Staff Summary of Public Testimony (Appropriations Subcommittee on General Government):**

(In support) The Washington Coastal Marine Advisory Council (WCMAC) is not a new council. The bill is designed to make the WCMAC better so the citizens of the coast can give better and unfiltered advice to the Office of the Governor. The bill also contains ocean acidification research which the Coalition of Coastal Fisheries believes needs to be studied and is a valuable use of state resources. The citizen members of the WCMAC will not ask for any pay or per diem expenses, nor is it the intent of the bill proponents for the bill to have any fiscal impact. The bigger picture of the bill is that it allows stakeholders to advise how funds for coastal marine spatial planning are spent. The four coastal treaty tribes were involved in the WCMAC in the original draft of the bill, however they indicated that they did not need the seats. The bylaws of the WCMAC permits the addition of WCMAC members if needed and if the Governor appoints them.

The Puget Sound and coastal marine waters are an important part of our state's economy and are becoming a national and international issue. The bill addresses how the state organizes its constituents and stakeholders along those waters to have a common vision of what the

uses of the waters are going to be to avoid future conflicts. The Nature Conservancy has raised \$900,000 from private foundations to help this process along and some of the funds can be used for the costs identified in the fiscal note. The state should get in front of the curve on ocean acidification, address problems early on, and avoid future costs that would result from having to remedy the avoidable impacts of acidification.

The key thing to remember about the councils identified in the bill are that they are advisory, not regulatory. The coastal waters are busy now and will get busier, and marine spatial planning is about figuring out how to zone the ocean and avoid future conflicts. The federal government will soon be zoning coastal waters and the state should be involved. The bill strikes a balance with all stakeholders and helps local citizens, crabbers, commercial fishermen, shellfish growers, and people on the coast have a say in their future and a common voice along with the state. In respect to ocean acidification, clams and oysters cannot get from larvae to juveniles because they dissolve and cannot first form a shell. However, the problem is bigger than oysters. Thirty percent of the food chain are calcifiers and the same thing is happening to them. Up until the last year, there had been no natural seed set in Washington for eight years for oysters. The shellfish industry needs to understand that there is not much that can be done about the ocean acidification that is occurring, but the state can figure out where it is at, and how to adapt and manage around it. The research that could be set up at the University of Washington will help people of what is going on and help in avoiding mistakes as the state tries to deal with it.

(Opposed) None.

**Persons Testifying** (Environment): Tom Echols and Dale Beasley, Coalition of Coastal Fisheries; Ray Toste, Washington Dungeness Crab Fishermen's Association and Coalition of Coastal Fisheries; Michele Culver, Department of Fish and Wildlife; Tom Davis, Washington Farm Bureau; Mark Cedergreen, Westport Charter Boat Association and Coalition of Coastal Fisheries; Bill Robinson, The Nature Conservancy; Mike Cassinelli, City of Ilwaco; Brandon Housekeeper, Association of Washington Business; Brian Lynn, Department of Ecology; Jim Jesernic, Pacific Coast Shellfish Growers; and Bill Dewey, Taylor Shellfish Farms.

**Persons Testifying** (Appropriations Subcommittee on General Government): Tom Echols, Coalition of Coastal Fisheries; Bill Robinson, The Nature Conservancy; and Jim Jesernic, Pacific Coast Shellfish Growers.

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

**Persons Signed In To Testify But Not Testifying** (Appropriations Subcommittee on General Government): None.