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HOUSE BILL 1894

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State of Washington

63rd Legislature

2013 Regular Session

By Representatives Seaquist, Blake, Haigh, Takko, Lytton, Tharinger, and MacEwen

Read first time 02/14/13. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to shellfish aquaculture research; amending RCW  
2 28B.30.632, 28B.30.634, 28B.20.475, and 28B.20.476; amending 2007 c 216  
3 s 4 (uncodified); adding a new section to chapter 43.21A RCW; creating  
4 a new section; and repealing RCW 43.21A.681.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that shellfish  
7 aquaculture is a dynamic and rapidly evolving industry that is  
8 important to the economy, history, and identity of western Washington  
9 and many of its rural coastal communities.

10 (2) The legislature further finds that research conducted at its  
11 direction under the oversight of Washington sea grant since 2007 has  
12 considerably improved the existing scientific knowledge of the  
13 environmental effects of shellfish culture and with that knowledge, and  
14 at the direction of the legislature, state and local regulatory  
15 structures have been or are in the process of being updated to  
16 adequately regulate culture activities.

17 (3) The legislature further finds that in addition to state and  
18 local regulation, the United States army corps of engineers, the  
19 national marine fisheries service, and the United States fish and

1 wildlife service provide federal oversight and regulation of shellfish  
2 aquaculture and that these federal permits are periodically reviewed  
3 and updated based on evolving scientific knowledge.

4 (4) The legislature further finds that shellfish aquaculture is a  
5 dynamic industry, with culture methods continually evolving in response  
6 to changing markets and technology, and as such, continued investment  
7 in research can help develop and maintain a thriving industry and a  
8 healthy ecosystem.

9 **Sec. 2.** RCW 28B.30.632 and 2007 c 341 s 64 are each amended to  
10 read as follows:

11 (1) The sea grant and cooperative extension shall jointly  
12 administer a program to provide field agents to work with local  
13 governments, property owners, and the general public to increase the  
14 propagation of shellfish, and to address Puget Sound water quality  
15 problems within Kitsap, Mason, and Jefferson counties that may limit  
16 shellfish propagation potential. The sea grant and cooperative  
17 extension shall each make available the services of no less than two  
18 agents within these counties for the purposes of this section.

19 (2) The responsibilities of the field agents shall include but not  
20 be limited to the following:

21 (a) Provide technical assistance to property owners, marine  
22 industry owners and operators, and others, regarding methods and  
23 practices to address nonpoint and point sources of pollution of Puget  
24 Sound;

25 (b) Provide technical assistance to address water quality problems  
26 limiting opportunities for enhancing the recreational harvest of  
27 shellfish;

28 (c) Provide technical assistance in the management and increased  
29 production of shellfish to facility operators or to those interested in  
30 establishing an operation;

31 (d) Assist local governments to develop and implement education and  
32 public involvement activities related to Puget Sound water quality;

33 (e) Assist in coordinating local water quality programs with  
34 region-wide and statewide programs;

35 (f) Provide information and assistance to local watershed  
36 committees.

1 (3) The sea grant and cooperative extension shall mutually  
2 coordinate their field agent activities to avoid duplicative efforts  
3 and to ensure that the full range of responsibilities under RCW  
4 28B.30.632 through 28B.30.636 are carried out. They shall consult with  
5 the Puget Sound partnership, created in RCW 90.71.210, and ensure  
6 consistency with any of the Puget Sound partnership's water quality  
7 management plans.

8 (4) Recognizing the special expertise of both agencies, the sea  
9 grant and cooperative extension shall cooperate to divide their  
10 activities as follows:

11 (a) Sea grant shall have primary responsibility to address water  
12 quality issues related to activities within Puget Sound, and to provide  
13 assistance regarding the management and improvement of shellfish  
14 production; and

15 (b) Cooperative extension shall have primary responsibility to  
16 address upland and freshwater activities affecting Puget Sound water  
17 quality and associated watersheds.

18 (5) In addition to the other responsibilities of this section, the  
19 sea grant program must establish a shellfish aquaculture public  
20 information center to provide the following services:

21 (a) Develop a repository of information on sustainable aquaculture  
22 practices;

23 (b) Work with private growers to provide technical assistance  
24 regarding sustainable aquaculture practices and permit and regulation  
25 compliance;

26 (c) Develop educational materials, kiosks, interpretative centers,  
27 and other forums regarding the history, importance, and sustainability  
28 of the shellfish industry;

29 (d) Serve as a single point of contact for the public and as a  
30 public ombuds regarding questions about shellfish aquaculture  
31 permitting, enforcement, and concerns;

32 (e) Liaison with state and county governments to assist in  
33 resolving or explaining public questions and concerns;

34 (f) Seek federal funding for aquaculture research and development;

35 (g) Serve as an information clearinghouse for aquaculture  
36 activities and regulations;

37 (h) Serve as a point of contact and a public clearinghouse  
38 regarding abandoned aquaculture sites, including investigations into

1 any known owners with site restoration responsibilities and other  
2 clean-up options when responsible owners are unknown or nonexistent;  
3 and  
4 (i) Fulfill other duties deemed relevant to the assistance of a  
5 vibrant, sustainable, shellfish aquaculture industry.

6 **Sec. 3.** RCW 28B.30.634 and 1990 c 289 s 3 are each amended to read  
7 as follows:

8 Except for the shellfish aquaculture public information center  
9 required under RCW 28B.30.632, the sea grant and cooperative extension  
10 shall require a match from nonstate sources of at least twenty-five  
11 percent of the cost of the services provided, and not exceeding fifty  
12 percent of the cost. The match may be either monetary compensation or  
13 in-kind services, such as the provision for office space or clerical  
14 support. Only direct costs of providing the services, excluding costs  
15 of administrative overhead, may be included in the estimate of costs.

16 **Sec. 4.** RCW 28B.20.475 and 2007 c 216 s 1 are each amended to read  
17 as follows:

18 (1) The sea grant program at the University of Washington shall,  
19 consistent with this section, commission ~~((a series of))~~ scientific  
20 research studies that examine ~~((s))~~ the possible negative and positive  
21 effects, including the cumulative effects ~~((, of the current prevalent~~  
22 ~~geoduck aquaculture techniques and practices on the natural environment~~  
23 ~~in and around Puget Sound, including the Strait of Juan de Fuca))~~ and  
24 the economic contribution of evolving shellfish aquaculture techniques  
25 and practices on Washington's economy and marine ecosystems. The sea  
26 grant program shall use funding provided from the ~~((geoduck))~~ shellfish  
27 aquaculture research account created in RCW 28B.20.476 to review  
28 existing literature, ~~((directly perform))~~ competitively select research  
29 studies identified as needed, ~~((or to))~~ and enter into and manage  
30 contracts with scientific organizations or institutions to ~~((accomplish~~  
31 ~~these results))~~ conduct these studies.

32 (2) Prior to entering into a contract with a scientific  
33 organization or institution, the sea grant program must:

34 (a) Analyze ~~((, through peer review,))~~ the credibility of the  
35 proposed party to the contract, including whether the party has

1 credible experience and knowledge and has access to the facilities  
2 necessary to fully execute the research required by the contract; and

3 (b) Require that all proposed parties to a contract fully disclose  
4 any past, present, or planned future personal or professional  
5 connections with the shellfish industry or public interest groups.

6 (3) To the degree appropriate, research conducted under this  
7 section should be coordinated with any research efforts by the sea  
8 grant and other university programs related to ocean acidification.

9 (4) All research commissioned under this section must be subjected  
10 to a rigorous peer review process prior to being accepted and reported  
11 by the sea grant program.

12 ((+4)) (5) In prioritizing and directing research under this  
13 section, the sea grant program shall meet with the department of  
14 ecology at least annually and ((rely on)) consider guidance submitted  
15 by the department of ecology. The department of ecology shall convene  
16 the shellfish aquaculture ((regulatory)) committee created in section  
17 ((4, chapter 216, Laws of 2007)) 6 of this act as necessary to serve as  
18 ((an oversight)) a steering committee to formulate the guidance  
19 provided to the sea grant program. The objective of the ((oversight))  
20 steering committee, and the resulting guidance provided to the sea  
21 grant program, is to ensure that the research required under this  
22 section ((satisfies)) assists the planning, permitting, and data  
23 management needs of the state, to assist in the prioritization of  
24 research ((given limited funding)), and to help identify any research  
25 that ((is beneficial to complete other than what is listed in  
26 subsection (5) of this section)) helps to develop and maintain a  
27 thriving industry and a healthy ecosystem.

28 ((+5)) (6) To satisfy the minimum requirements of subsection (1)  
29 of this section, the sea grant program shall review all scientific  
30 research that is existing or in progress that examines the possible  
31 effect of currently prevalent geoduck practices((7)) on the natural  
32 environment((7)) and prioritize and conduct new studies as needed, to  
33 measure and assess the following:

34 (a) The environmental effects of structures commonly used in the  
35 aquaculture industry to protect juvenile geoducks from predation;

36 (b) The environmental effects of commercial harvesting of geoducks  
37 from intertidal geoduck beds, focusing on current prevalent harvesting

1 techniques, including a review of the recovery rates for benthic  
2 communities after harvest;

3 (c) The extent to which geoducks in standard aquaculture tracts  
4 alter the ecological characteristics of overlying waters while the  
5 tracts are submerged, including impacts on species diversity, and the  
6 abundance of other benthic organisms;

7 (d) Baseline information regarding naturally existing parasites and  
8 diseases in wild and cultured geoducks, including whether and to what  
9 extent commercial intertidal geoduck aquaculture practices impact the  
10 baseline;

11 (e) Genetic interactions between cultured and wild geoduck,  
12 including measurements of differences between cultured geoducks and  
13 wild geoducks in terms of genetics and reproductive status; and

14 (f) The impact of the use of sterile triploid geoducks and whether  
15 triploid animals diminish the genetic interactions between wild and  
16 cultured geoducks.

17 ~~((+6))~~ (7) If adequate funding is not made available for the  
18 completion of all research required under this section, the sea grant  
19 program shall consult with the shellfish aquaculture ~~((regulatory))~~  
20 committee, via the department of ecology, to prioritize which of the  
21 enumerated research projects have the greatest cost/benefit ratio in  
22 terms of providing information important for regulatory decisions;  
23 however, the study identified in subsection ~~((+5))~~ (6)(b) of this  
24 section shall receive top priority. The prioritization process may  
25 include the addition of any new studies that may be appropriate in  
26 addition to, or in place of, studies listed in this section.

27 ~~((+7))~~ (8) When appropriate, all research commissioned under this  
28 section must address localized and cumulative effects of geoduck  
29 aquaculture.

30 ~~((+8))~~ (9) The sea grant program and the University of Washington  
31 are prohibited from retaining greater than fifteen percent of any  
32 funding provided to implement this section for administrative overhead  
33 or other deductions not directly associated with conducting the  
34 research required by this section.

35 ~~((+9))~~ (10) Individual commissioned contracts under this section  
36 may address single or multiple components listed for study under this  
37 section.

1        ~~((10) All))~~ (11) The research commissioned under this section must  
2 be ~~((completed and the results))~~ reported to the ~~((appropriate~~  
3 ~~committees of the))~~ legislature ~~((by December 1, 2013. In addition,~~  
4 ~~the sea grant program shall provide the appropriate committees of the~~  
5 ~~legislature with annual reports updating the status and progress of the~~  
6 ~~ongoing studies that are completed in advance of the 2013 deadline))~~  
7 consistent with RCW 43.01.036 periodically upon request.

8        **Sec. 5.** RCW 28B.20.476 and 2007 c 216 s 2 are each amended to read  
9 as follows:

10        The ~~((geoduck))~~ shellfish aquaculture research account is created  
11 in the custody of the state treasurer. All receipts from any  
12 legislative appropriations, the aquaculture industry, or any other  
13 private or public source directed to the account must be deposited in  
14 the account. Expenditures from the account may only be used by the sea  
15 grant program for the ~~((geoduck))~~ shellfish aquaculture research  
16 projects identified by RCW 28B.20.475. Only the president of the  
17 University of Washington or the president's designee may authorize  
18 expenditures from the account. The account is subject to the allotment  
19 procedures under chapter 43.88 RCW, but an appropriation is not  
20 required for expenditures.

21        **Sec. 6.** 2007 c 216 s 4 (uncodified) is amended to read as follows:

22        (1) The shellfish aquaculture ~~((regulatory))~~ committee is  
23 established to, consistent with this section, serve as an advisory body  
24 to the department ~~((of ecology on regulatory processes and approvals~~  
25 ~~for all current and new shellfish aquaculture activities, and the~~  
26 ~~activities conducted pursuant to RCW 90.58.060, as the activities~~  
27 ~~relate to shellfish))~~ with regard to the research conducted pursuant to  
28 RCW 28B.20.475. The shellfish aquaculture ~~((regulatory))~~ committee is  
29 advisory in nature, and no vote or action of the committee may overrule  
30 existing statutes, regulations, or local ordinances nor bind the  
31 decision-making process required of the University of Washington's sea  
32 grant program under RCW 28B.20.475.

33        (2) ~~((The shellfish aquaculture regulatory committee shall develop~~  
34 ~~recommendations as to:~~

35        ~~(a) A regulatory system or permit process for all current and new~~

1 shellfish aquaculture projects and activities that integrates all  
2 applicable existing local, state, and federal regulations and is  
3 efficient both for the regulators and the regulated; and

4 ~~(b) Appropriate guidelines for geoduck aquaculture operations to be~~  
5 ~~included in shoreline master programs under section 5 of this act.~~  
6 ~~When developing the recommendations for guidelines under this~~  
7 ~~subsection, the committee must examine the following:~~

8 ~~(i) Methods for quantifying and reducing marine litter; and~~

9 ~~(ii) Possible landowner notification policies and requirements for~~  
10 ~~establishing new geoduck aquaculture farms.~~

11 ~~(3))~~(a) The members of the shellfish aquaculture ((regulatory))  
12 committee shall be appointed by the director of the department ((of  
13 ecology)) as follows:

14 (i) Two representatives of county government, one from a county  
15 located on the Puget Sound, and one from a county located on the  
16 Pacific Ocean;

17 (ii) Two individuals who are professionally engaged in the  
18 commercial aquaculture of shellfish, one who owns or operates an  
19 aquatic farm in Puget Sound, and one who owns or operates an aquatic  
20 farm in state waters other than the Puget Sound;

21 (iii) Two representatives of organizations representing the  
22 environmental community;

23 (iv) Two individuals who own shoreline property, one of which does  
24 not have a commercial ((geoduck)) shellfish operation on his or her  
25 property and one of which who does have a commercial ((geoduck))  
26 shellfish operation on his or her property; and

27 (v) One representative each from the following state agencies: The  
28 department of ecology, the department of fish and wildlife, the  
29 department of agriculture, and the department of natural resources.

30 (b) In addition to the other participants listed in this  
31 subsection, the governor shall invite the full participation of two  
32 tribal governments, at least one of which is located within the  
33 drainage of the Puget Sound.

34 ((+4)) (3) The department ((of—ecology)) shall provide  
35 administrative and clerical assistance to the shellfish aquaculture  
36 ((regulatory)) committee and all agencies listed in subsection ((+3))  
37 (2) of this section shall provide technical assistance.



1        ~~((+5))~~ (4) Nonagency members of the shellfish aquaculture  
2        ~~((regulatory))~~ committee will not be compensated, but are entitled to  
3        be reimbursed for travel expenses in accordance with RCW 43.03.050 and  
4        43.03.060.

5        ~~((+6))~~ (5) Any participation by a Native American tribe on the  
6        shellfish aquaculture ~~((regulatory))~~ committee shall not, under any  
7        circumstances, be viewed as an admission by the tribe that any of its  
8        activities, or those of its members, are subject to any of the  
9        statutes, regulations, ordinances, standards, or permit systems  
10       reviewed, considered, or proposed by the committee.

11       ~~((+7))~~ (6) The shellfish aquaculture ~~((regulatory))~~ committee is  
12       authorized to form technical advisory panels as needed and appoint to  
13       them members not on the shellfish aquaculture ~~((regulatory))~~ committee.

14       ~~((+8) The department of ecology shall report the recommendations  
15       and findings of the shellfish aquaculture regulatory committee to the  
16       appropriate committees of the legislature by December 1, 2007, with a  
17       further report, if necessary, by December 1, 2008.))~~

18       NEW SECTION.    **Sec. 7.**    Section 6 of this act is codified as a new  
19       section in chapter 43.21A RCW.

20       NEW SECTION.    **Sec. 8.**    RCW 43.21A.681 (Geoduck aquaculture  
21       operations--Guidelines--Rules) and 2007 c 216 s 5 are each repealed.

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