

SENATE BILL REPORT

E2SHB 1595

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, March 29, 2007

Title: An act relating to shellfish protection programs.

Brief Description: Regarding shellfish protection.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Appleton, Jarrett, Hunt and Lantz).

Brief History: Passed House: 3/12/07, 65-30.

Committee Activity: Natural Resources, Ocean & Recreation: 3/26/07, 3/29/07 [DPA-WM].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Poulsen, Spanel, Stevens and Swecker.

Staff: Kim Johnson (786-7346)

Background: The Department of Health (DOH) issues licenses to commercial shellfish operations and certifies shellfish harvest sites. The commercial harvest of shellfish must be from a growing area that is classified as "approved" or "conditionally approved" according to provisions of the National Shellfish Sanitation Program Model Ordinance. Shellfish growing areas that the DOH classifies as "restricted" may be harvested, but only under certain circumstances. Shellfish growing areas that the DOH classifies as "prohibited" may not be harvested either commercially or recreationally.

County legislative authorities may create a shellfish protection district and adopt shellfish protection programs to address water quality issues affecting growing and harvesting shellfish. However, within 180 days of the DOH closing or downgrading the classification of a tidal shellfish growing area due to nonpoint-source pollution, a county is required to create a shellfish protection district and establish a shellfish protection program to address the causes of pollution. To date, 12 districts exist, and eight have resulted in classification upgrades and re-openings.

Counties may finance a shellfish protection program through county tax revenues, inspection fees and other fees for provided services, rates specified in the protection program, or with federal, state, or private grants.

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 Engrossed Second Substitute Bill: Jefferson, King, Kitsap, Mason, Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom, Grays Harbor, and Pacific counties must establish shellfish protection districts and shellfish protection programs within 180 days, whenever: (1) the DOH closes or downgrades the classification of a shellfish area because of water-quality degradation due to on-going pollution, or (2) a shellfish area is identified as a "shellfish threatened area" for greater than one year.

"Shellfish threatened area" is defined as an area that is currently compliant with existing DOH health standards, that has at least one nearby water-quality sampling station where fecal coliform levels exceed standards, and that has been classified for at least five years.

The DOH may grant up to two 30-day extensions for any county that needs additional time to establish a taxing or fee district, or a funding account or source to pay for the creation of the additional shellfish protection district and shellfish protection program. A county is required to implement and enforce the provisions of the shellfish protection program within 60 days after creation of the program.

The Shellfish Contamination Prevention and Protection Account (Account) is created. Monies from the Aquatic Lands Enhancement Account (ALEA) that are directed for deposit to the Shellfish Contamination Prevention and Protection Account will be deposited into this Account. The DOH controls the Account, and will provide: (1) one-time, 1-to-1 matching funds; (2) 2-to-1 matching funds for on-going taxing or fee districts, or for a funding account or source; and (3) full funding to local authorities that demonstrate economic hardship. The DOH is also authorized to reimbursement from the Account for administrative and technical assistance costs.

A null-and-void clause stipulates that, should funding not be provided by June 30, 2007, section 5 of the bill, which stipulates how the DOH must distribute funds from the Account, is null and void. The null and void clause does not apply to the other sections of the bill.

EFFECT OF CHANGES MADE BY RECOMMENDED AMENDMENT(S) AS PASSED COMMITTEE (Natural Resources, Ocean & Recreation): The null and void clause is changed so that it applies to the entire bill. The requirement that a county create a shellfish protection district and program after a shellfish area has been identified as a shellfish-threatened area for greater than one-year by the DOH is removed.

The deadline for a county to both implement and enforce the elements of the shellfish protection program is extended to one year from the establishment of the shellfish protection district and creation of the protection program.

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: PRO: Shellfish are so very important to the economy of the Puget Sound. I wanted to take shellfish protection districts a step further. Counties need to plan more ahead of time and not wait until the tidelands are downgraded or closed to

start trying to address pollution. It costs taxpayers a lot more to clean up a beach after its been downgraded, instead of being more preventative and starting to address the problems earlier in the process.

The Department of Natural Resources (DNR) supports the bill, but feels that funds for the grant program should not be provided from the ALEA account. There other more appropriate funding sources available.

OTHER: We support the concept, but with all of the additional other environmental and health related legislation that has passed at the state and federal level over the past couple of years our counties do not have the resources to implement this bill. There is a significant amount of work that goes into creating these districts and without additional resources is a heavy burden on already struggling local health departments.

Persons Testifying: PRO: Representative Appleton, prime sponsor; Rich Doenges, DNR.

OTHER: Vicki Kirkpatrick, Washington Association of Counties; Sharon Wylie, Kitsap County.