

SENATE BILL REPORT

E2SSB 5633

As Passed Senate, March 10, 1995

Title: An act relating to weed control.

Brief Description: Attempting to limit the growth and spread of the noxious weed spartina.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Snyder, Swecker, Hargrove, Haugen, Morton, Hochstatter, Owen and Rasmussen).

Brief History:

Committee Activity: Natural Resources: 2/16/95, 2/23/95 [DPS-WM].

Ways & Means: 3/3/95, 3/6/95 [DP2S].

Passed Senate, 3/10/95, 45-1.

SENATE COMMITTEE ON NATURAL RESOURCES

Majority Report: That Substitute Senate Bill No. 5633 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Drew, Chair; Spanel, Vice Chair; A. Anderson, Haugen, Morton, Oke, Owen, Snyder, Strannigan and Swecker.

Staff: Vic Moon (786-7469)

Background: Spartina is an aquatic plant native to the Atlantic coast. It was inadvertently introduced to the West Coast by unknown means, possibly arriving in packing material surrounding East Coast seed oysters. It is currently growing in Willapa Bay, a conservancy shoreline environment within a shoreline of statewide significance.

Spartina naturalizes in both salt and fresh water. It spreads through rhizomes and seeds. The rhizomes grow laterally underground, growing into dense "meadows" that displace intertidal plants, animals, fish, and birds. The meadows also block drainage and alter water flows. Tidal movement breaks Spartina clumps from meadows and carries them to other areas where they establish and spread. Spartina seeds spread through both water and air and can establish miles from the seed source.

Numerous interested parties and several state agencies have worked together to produce an integrated Spartina management plan for Willapa Bay. The plan calls for manual and mechanical methods to remove Spartina, as well as for application of glyphosate. Glyphosate, the active ingredient in the herbicide Rodeo, is the only herbicide labeled for use on Spartina and the only herbicide approved by the Environmental Protection Agency for application in estuarine waters.

The Departments of Agriculture, Ecology, Natural Resources, and Fish and Wildlife adopted a final Environmental Impact Statement (EIS) in November 1993. The EIS selected the integrated Spartina management plan as the preferred method of Spartina control. The

Pacific County Department of Community Development reviewed the EIS and, pursuant to the requirements of the State Environmental Protection Act (SEPA), issued a Determination of No Significance (DNS) in February 1994. After the statutorily required notification and hearings had occurred, the Pacific County Planning Commission granted a shoreline substantial development permit to the Pacific County Weed Board. The commission's decision was affirmed by the Pacific County Board of Commissioners.

Opponents of the integrated Spartina management plan appealed the commission's decision to the Shorelines Hearing Board and the Pollution Control Board. Before the appeal was heard, the parties reached a settlement that includes the conditions under which Rodeo may be used on Spartina. The settlement also requires each landowner or applicator to obtain a water quality modification permit from the Department of Ecology before undertaking any Spartina control that includes the use of Rodeo.

Summary of Bill: The Legislature finds that Spartina presents a significant hydrological threat to Washington, as well as to other states and Canadian provinces. It also finds that current laws and regulations designed to protect the environment from detrimental human alteration are not designed to respond to emergency situations.

The Department of Agriculture is responsible for a unified effort to control Spartina. The Department of Natural Resources reports quarterly to the Legislature on the progress of the program and on the funds spent.

Aquatic noxious weeds are defined to include all species designated by the State Weed Board.

The Department of Ecology is directed to issue a short-term water quality modifications to applicants who intend to use federally-approved herbicides and surfactants for invasive noxious aquatic weed control. The process of removal and control of Spartina is not considered a hydraulic project requiring a hydraulic permit from the Department of Fish and Wildlife. Spartina removal includes restoration of the intertidal land, and agencies of state government and affected land owners develop a restoration plan. The Department of Fish and Wildlife develops a brochure which may be used in lieu of a permit for purple loosestrife and water milfoil. The process of removal or control of Spartina through the use of an approved herbicide is not considered a substantial development requiring a substantial development permit.

An EIS addressing an integrated noxious weed management control program is sufficient to meet the requirements of SEPA.

State agencies and local governments are prohibited from using permitting requirements, regulatory authority, or legal mechanisms to override the intent and provisions of this act.

State agencies are responsible for control on their lands.

There is a standard severability clause.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: The state and counties need to start eradicating Spartina. There has been sufficient time and money spent on studies.

Testimony Against: Pesticide use is dangerous. Fish need to be protected.

Testified: PRO: O.K. Rosenberg; Kent Lebsack, Cattlemen; Laurie Penders, State Weed Board; Stan Biles, Department of Natural Resources; Craig Jacobson, Shoalwater Indian Tribe; James Sayce, Pat Hamilton, county commissioner; CON: Edward Cohen, Andrew Wiegardt, Willapa Bay Coalition; Cyreis Schmitt, Department of Fish and Wildlife.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5633 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Bauer, Cantu, Drew, Finkbeiner, Fraser, Gaspard, Hargrove, Hochstatter, Johnson, Long, Moyer, Pelz, Roach, Sheldon, Snyder, Spanel, Strannigan, West, Winsley and Wojahn.

Staff: Tracy Cox (786-7437)

Testimony For: It is vital to do something about Spartina. If something is not done, Willapa Bay will be lost and the oyster industry there destroyed.

Testimony Against: Funding for private lands should come from the general fund. There is concern about how the provisions of this legislation would apply to other aquatic noxious weeds. Agriculture as the lead agency should handle funding.

Testified: PRO: Senator Snyder, prime sponsor; CON: Craig Partridge, DNR; Cyreis Schmitt, DFW.

House Amendment(s): References to purple loosestrife are added to clarify the bill and the authority of the Department of Ecology to issue water quality modification permits is expanded. Removal of purple loosestrife with hand-held tools and equipment carried by a person will not require a hydraulic project approval.