
HOUSE BILL 2018

State of Washington

54th Legislature

1995 Regular Session

By Representative Sheldon

Read first time 02/22/95. Referred to Committee on Natural Resources.

1 AN ACT Relating to improving the management of shellfish protection
2 districts; amending RCW 90.72.030, 90.72.040, and 90.72.070; adding new
3 sections to chapter 90.72 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** In order to protect the interests of local
6 communities and to provide greater accountability regarding the policy
7 and funding decisions made by local authorities in the course of
8 managing shellfish protection districts, the legislature finds it
9 necessary to incorporate the management improvements contained in this
10 act.

11 **Sec. 2.** RCW 90.72.030 and 1992 c 100 s 2 are each amended to read
12 as follows:

13 The legislative authority of each county having shellfish tidelands
14 within its boundaries is authorized to establish a shellfish protection
15 district to include areas in which identified nonpoint pollution
16 threatens the water quality upon which ~~((the continuation or~~
17 ~~restoration of))~~ shellfish farming or harvesting is dependent. The
18 ~~((legislative authority))~~ commissioners elected pursuant to this

1 chapter shall constitute the governing body of the district and shall
2 adopt a shellfish protection program to be effective within the
3 district. The (~~legislative authority~~) commissioners may appoint a
4 local advisory council of citizens living within the district to advise
5 the (~~legislative authority~~) commissioners in preparation and
6 implementation of shellfish protection programs. This program
7 (~~shall~~) may include any elements deemed appropriate to deal with the
8 nonpoint pollution threatening water quality, including, but not
9 limited to, requiring the elimination or decrease of contaminants in
10 storm water runoff, establishing monitoring, inspection, and repair
11 elements to ensure that on-site sewage systems are adequately
12 maintained and working properly, assuring that animal grazing and
13 manure management practices are consistent with best management
14 practices, and establishing educational and public involvement programs
15 to inform citizens on the causes of the threatening nonpoint pollution
16 and what they can do to decrease the amount of such pollution. An
17 element may be omitted where another program is effectively addressing
18 those sources of nonpoint water pollution. Within the limits of RCW
19 90.72.040 and 90.72.070, the (~~county legislative authority~~) shellfish
20 protection district commissioners shall have full jurisdiction and
21 authority to manage, regulate, and control (~~its~~) the shellfish
22 protection programs and to fix, alter, regulate, and control the fees
23 for services provided and charges or rates as provided under those
24 programs. Programs established under this chapter, may, but are not
25 required to, be part of a system of sewerage as defined in RCW
26 36.94.010.

27 **Sec. 3.** RCW 90.72.040 and 1992 c 100 s 3 are each amended to read
28 as follows:

29 (1) The county legislative authority may create a shellfish
30 protection district (~~on its own motion or~~) by submitting the question
31 to the voters of the proposed district and obtaining the approval of a
32 majority of those voting. The boundaries of the district shall be
33 determined by the legislative authority. The legislative authority may
34 create more than one district, with voter approval. A district may
35 include any area or areas within the county, (~~whether~~) incorporated
36 or unincorporated, where identified nonpoint pollution directly
37 threatens the water quality upon which shellfish farming or harvesting
38 is dependent. Counties shall coordinate and cooperate with cities,

1 towns, and water-related special districts within their boundaries in
2 establishing shellfish protection districts and carrying out shellfish
3 protection programs. Where a portion of the proposed district lies
4 within an incorporated area, the county shall develop procedures for
5 the participation of the city or town in the determination of the
6 boundaries of the district and the administration of the district,
7 including funding of the district's programs. The legislative
8 authority of more than one county may by agreement provide for the
9 creation of a district including areas within each of those counties.
10 ~~((County legislative authorities))~~ Shellfish protection district
11 commissioners are encouraged to coordinate their plans and programs to
12 protect shellfish growing areas, especially where shellfish growing
13 areas are located within the boundaries of more than one county. The
14 legislative authority or authorities creating a district may abolish a
15 shellfish protection district ~~((on its or their own motion or))~~ by
16 submitting the question to the voters of the district and obtaining the
17 approval of a majority of those voting.

18 (2) If the county legislative authority creates a shellfish
19 protection district ~~((by its own motion))~~, any registered voter
20 residing within the boundaries of the shellfish protection district may
21 file a referendum petition to repeal the ordinance that created the
22 district. Any referendum petition to repeal the ordinance creating the
23 shellfish protection district shall be filed with the county auditor
24 within seven days of passage of the ordinance. Within ten days of the
25 filing of a petition, the county auditor shall confer with the
26 petitioner concerning form and style of the petition, issue an
27 identification number for the petition, and write a ballot title for
28 the measure. The ballot title shall be posed as a question so that an
29 affirmative answer to the question and an affirmative vote on the
30 measure results in creation of the shellfish protection district and a
31 negative answer to the question and a negative vote on the measure
32 results in the shellfish protection district not being created. The
33 petitioner shall be notified of the identification number and ballot
34 title within this ten-day period.

35 After this notification, the petitioner shall have ~~((thirty))~~ one
36 hundred twenty days in which to secure on petition forms the signatures
37 of not less than ~~((twenty-five))~~ ten percent of the registered voters
38 residing within the boundaries of the shellfish protection district and
39 file the signed petitions with the county auditor. Each petition form

1 shall contain the ballot title and full text of the measure to be
2 referred. The county auditor shall verify the sufficiency of the
3 signatures on the petitions. If sufficient valid signatures are
4 properly submitted, the county auditor shall submit the referendum
5 measure to the registered voters residing in the shellfish protection
6 district in a special election no later than one hundred twenty days
7 after the signed petition has been filed with the county auditor. The
8 special election may be conducted by mail ballot as provided for in
9 chapter 29.36 RCW.

10 (3) Within three years after a shellfish protection district is
11 created pursuant to this section, and every three years thereafter for
12 the duration of the district's existence, the county legislative
13 authority shall put to the voters within the district the question of
14 whether to continue the district. This question may be submitted to
15 the voters by mail ballot as provided for in chapter 29.36 RCW. If the
16 voters choose not to continue the district, the county legislative
17 authority shall abolish the district at the earliest reasonable time
18 but no later than six months after the election result. Any funds
19 collected by the county legislative authority for the district's
20 protection program must be used for the purposes of the protection
21 program even if the district is abolished.

22 (4) The ((~~county legislative authority~~)) shellfish protection
23 district commissioners shall not impose fees, rates, or charges for
24 shellfish protection district programs upon properties on which fees,
25 rates, or charges are imposed to pay for another program to eliminate
26 or decrease contamination in storm water runoff.

27 NEW SECTION. Sec. 4. A new section is added to chapter 90.72 RCW
28 to read as follows:

29 If a shellfish protection district has been created, the county
30 legislative authority shall provide for the election of three shellfish
31 protection district commissioners. Candidates for these positions must
32 be residents and registered voters living within the boundaries of the
33 district. Candidates shall run for one of three separate commissioner
34 positions. A special filing period shall be opened as provided in RCW
35 29.15.170 and 29.15.180. The person receiving the greatest number of
36 votes for each position shall be elected to that position.

37 The newly elected shellfish protection district commissioners shall
38 assume office immediately when they are elected and qualified.

1 Staggering of the terms of office for the new commissioners shall be
2 accomplished as follows: (1) The person who is elected receiving the
3 greatest number of votes shall be elected to a three-year term of
4 office; (2) the person who is elected receiving the next greatest
5 number of votes shall be elected to a two-year term of office; and (3)
6 the other person who is elected shall be elected to a one-year term of
7 office. The terms of office shall be calculated from the first day of
8 January in the year following the election.

9 Thereafter, commissioners shall be elected to three-year terms of
10 office. Commissioners shall serve until their successors are elected
11 and qualified and assume office in accordance with RCW 29.04.170 or
12 until the district is abolished.

13 The commissioners shall annually elect one of their number as
14 president and another as secretary. The commissioners shall by
15 resolution adopt rules governing the transaction of its business. All
16 proceedings shall be by resolution recorded in a book kept for that
17 purpose, which shall be a public record.

18 **Sec. 5.** RCW 90.72.070 and 1992 c 100 s 6 are each amended to read
19 as follows:

20 The (~~county legislative authority establishing a shellfish~~
21 ~~protection district~~) shellfish protection district commissioners may
22 finance the protection program through (1) county tax revenues, (2)
23 reasonable inspection fees and similar fees for services provided, (3)
24 reasonable charges or rates specified in its protection program, or (4)
25 federal, state, or private grants. Funds collected in the form of
26 taxes, fees, charges, or rates for the purpose of financing the
27 protection program shall not exceed two hundred thousand dollars per
28 year. Any funds collected for the protection program must be used
29 within fifteen months after collection. Funds collected for the
30 protection program may not be used for any purpose other than the
31 protection program, and the first priority for expenditure of these
32 funds shall be for the inspection of failing septic systems. Funds may
33 not be transferred between districts.

34 Confined animal feeding operations subject to the national
35 pollutant discharge elimination system and implementing regulations
36 shall not be subject to fees, rates, or charges by a shellfish
37 protection district. Facilities permitted and assessed fees for
38 wastewater discharge under the national pollutant discharge elimination

1 system shall not be subject to fees, rates, or charges for wastewater
2 discharge by a shellfish protection district. Lands classified as
3 forest land under chapter 84.33 RCW and timber land under chapter 84.34
4 RCW shall not be subject to fees, rates, or charges by a shellfish
5 protection district. On those properties where rates, fees, or charges
6 are assessed, the rate, fee, or charge shall be the same regardless of
7 whether the property is publicly or privately owned. Counties may
8 collect charges or rates in the manner determined by the county
9 legislative authority.

10 At least every three years and more frequently if necessary, the
11 shellfish protection district commissioners shall contract with
12 qualified, independent professionals to conduct an impartial financial
13 and performance audit of the district's programs. The audit may be
14 paid for with funds collected under this section.

15 NEW SECTION. Sec. 6. A new section is added to chapter 90.72 RCW
16 to read as follows:

17 The shellfish protection district commissioners shall conduct
18 business regarding the shellfish protection district in an open manner
19 pursuant to the open public meetings act, chapter 42.30 RCW. The
20 commissioners shall conduct public meetings regarding the shellfish
21 protection district at locations within the boundaries of the district.

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