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**SUBSTITUTE SENATE BILL 5837**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senate Committee on Natural Resources, Parks & Shorelines  
(originally sponsored by Senators T. Sheldon, Swecker, Spanel, Snyder  
and Oke)

READ FIRST TIME 02/27/01.

1 AN ACT Relating to state oyster reserve lands; amending RCW  
2 79.96.110, 43.84.092, and 43.84.092; adding new sections to chapter  
3 77.60 RCW; adding a new section to chapter 90.71 RCW; providing an  
4 effective date; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 77.60 RCW  
7 to read as follows:

8 (1) The department shall initiate a pilot project to evaluate the  
9 feasibility and potential of intensively culturing shellfish on  
10 currently nonproductive oyster reserve land in Puget Sound. The pilot  
11 program shall include no fewer than three long-term lease agreements  
12 with commercial shellfish growers. Except as provided in subsection  
13 (4) of this section, revenues from the lease of such lands shall be  
14 deposited in the oyster reserve land account created in section 2 of  
15 this act.

16 (2) The department shall form one advisory committee each for the  
17 Willapa Bay oyster reserve lands and the Puget Sound oyster reserve  
18 lands. The advisory committees shall make recommendations on  
19 management practices to conserve, protect, and develop oyster reserve

1 lands. The advisory committees may make recommendations regarding the  
2 management practices on oyster reserve lands, in particular to ensure  
3 that they are managed in a manner that will: (a) Increase revenue  
4 through production of high-value shellfish; (b) not be detrimental to  
5 the market for shellfish grown on nonreserve lands; and (c) avoid  
6 negative impacts to existing shellfish populations. The advisory  
7 committees may also make recommendation on the distribution of funds in  
8 section 2(2)(a) of this act. The department shall attempt to structure  
9 each advisory committee to include equal representation between  
10 shellfish growers that participate in reserve sales and shellfish  
11 growers that do not.

12 (3) The department shall submit a brief progress report on the  
13 status of the pilot programs to the appropriate standing committees of  
14 the legislature by January 7, 2003.

15 (4) The department of natural resources, in consultation with the  
16 department of fish and wildlife, shall administer the leases for oyster  
17 reserves entered into under this chapter. In administering the leases,  
18 the department of natural resources shall exercise its authority under  
19 RCW 79.96.090. Vacation of state oyster reserves by the department of  
20 fish and wildlife shall not be a requirement for the department of  
21 natural resources to lease any oyster reserves under this section. The  
22 department of natural resources may recover reasonable costs directly  
23 associated with the administration of the leases for oyster reserves  
24 entered into under this chapter. All administrative fees collected by  
25 the department of natural resources pursuant to this section shall be  
26 deposited into the resource management cost account established in RCW  
27 79.64.020. The department of fish and wildlife may not assess charges  
28 to recover the costs of consulting with the department of natural  
29 resources under this subsection.

30 (5) The Puget Sound pilot program shall not include the culture of  
31 geoduck.

32 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.60 RCW  
33 to read as follows:

34 (1) The oyster reserve land account is created in the state  
35 treasury. All receipts from revenues from the lease of land or sale of  
36 shellfish from oyster reserve lands must be deposited into the account.  
37 Moneys in the account may be spent only after appropriation.

1 Expenditures from the account may be used only as provided in this  
2 section.

3 (2) Funds in the account shall be used for the purposes provided  
4 for in this subsection:

5 (a) Up to forty percent for the management expenses incurred by the  
6 department that are directly attributable to the management of the  
7 oyster reserve lands and for the expenses associated with new research  
8 and development activities at the Pt. Whitney and Nahcotta shellfish  
9 laboratories managed by the department. As used in this subsection,  
10 "new research and development activities" includes an emphasis on the  
11 control of aquatic nuisance species and burrowing shrimp;

12 (b) Up to ten percent may be deposited into the state general fund;  
13 and

14 (c) All remaining funds in the account shall be used for the  
15 shellfish - on-site sewage grant program established in section 3 of  
16 this act.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.71 RCW  
18 to read as follows:

19 (1) The action team shall establish a shellfish - on-site sewage  
20 grant program in Puget Sound and for Pacific and Grays Harbor counties.  
21 The action team shall provide funds to local health jurisdictions to be  
22 used as grants to individuals for improving their on-site sewage  
23 systems. The grants may be provided only in areas that have the  
24 potential to adversely affect water quality in commercial and  
25 recreational shellfish growing areas. A recipient of a grant shall  
26 enter into an agreement with the appropriate local health jurisdiction  
27 to maintain the improved on-site sewage system according to  
28 specifications required by the local health jurisdiction. The action  
29 team shall work closely with local health jurisdictions and shall  
30 endeavor to attain geographic equity between Willapa Bay and the Puget  
31 Sound when making funds available under this program. For the purposes  
32 of this subsection, "geographic equity" means issuing on-site sewage  
33 grants at a level that matches the funds generated from the oyster  
34 reserve lands in that area.

35 (2) In the Puget Sound, the action team shall give first priority  
36 to areas that are:

37 (a) Identified as "areas of special concern" under WAC 246-272-  
38 01001; or

1 (b) Included within a shellfish protection district under chapter  
2 90.72 RCW.

3 (3) In Grays Harbor and Pacific counties, the action team shall  
4 give first priority to preventing the deterioration of water quality in  
5 areas where commercial or recreational shellfish are grown.

6 (4) The action team and each participating local health  
7 jurisdiction shall enter into a memorandum of understanding that will  
8 establish an applicant income eligibility requirement for individual  
9 grant applicants from within the jurisdiction and other mutually  
10 agreeable terms and conditions of the grant program.

11 (5) The action team may recover the costs to administer this  
12 program not to exceed ten percent of the shellfish - on-site sewage  
13 grant program.

14 (6) For the 2001-2003 biennium, the action team may use up to fifty  
15 percent of the shellfish - on-site sewage grant program funds for  
16 grants to local health jurisdictions to establish areas of special  
17 concern under WAC 246-272-01001, or for operation and maintenance  
18 programs therein, where commercial and recreational uses are present.

19 **Sec. 4.** RCW 79.96.110 and 2000 c 11 s 30 are each amended to read  
20 as follows:

21 (1) In ((~~case the director of~~)) the event that the fish and  
22 wildlife ~~commission~~ approves the vacation of the whole or any part of  
23 ((~~said~~)) a reserve, the department of natural resources may vacate and  
24 offer for lease such parts or all of ((~~said~~)) the reserve as it deems  
25 to be for the best interest of the state, and all moneys received for  
26 the lease of such lands shall be paid to the department of natural  
27 resources((~~: PROVIDED, That nothing in RCW 79.96.090 through 79.96.110~~  
28 shall be construed as authorizing the lease of any tidelands which have  
29 heretofore, or which may hereafter, be set aside as)).

30 (2) Notwithstanding RCW 77.60.020, subsection (1) of this section,  
31 or any other provision of state law, the state oyster reserves in Eld  
32 Inlet, Hammersley Inlet, or Totten Inlet, situated in Mason or Thurston  
33 counties((~~: PROVIDED FURTHER, That any portion of Plat 138, Clifton's~~  
34 Oyster Reserve, which has already been vacated, may be leased by the  
35 department)) shall permanently be designated as state oyster reserve  
36 lands.

1       **Sec. 5.** RCW 43.84.092 and 2000 2nd sp.s. c 4 s 5 are each amended  
2 to read as follows:

3       (1) All earnings of investments of surplus balances in the state  
4 treasury shall be deposited to the treasury income account, which  
5 account is hereby established in the state treasury.

6       (2) The treasury income account shall be utilized to pay or receive  
7 funds associated with federal programs as required by the federal cash  
8 management improvement act of 1990. The treasury income account is  
9 subject in all respects to chapter 43.88 RCW, but no appropriation is  
10 required for refunds or allocations of interest earnings required by  
11 the cash management improvement act. Refunds of interest to the  
12 federal treasury required under the cash management improvement act  
13 fall under RCW 43.88.180 and shall not require appropriation. The  
14 office of financial management shall determine the amounts due to or  
15 from the federal government pursuant to the cash management improvement  
16 act. The office of financial management may direct transfers of funds  
17 between accounts as deemed necessary to implement the provisions of the  
18 cash management improvement act, and this subsection. Refunds or  
19 allocations shall occur prior to the distributions of earnings set  
20 forth in subsection (4) of this section.

21       (3) Except for the provisions of RCW 43.84.160, the treasury income  
22 account may be utilized for the payment of purchased banking services  
23 on behalf of treasury funds including, but not limited to, depository,  
24 safekeeping, and disbursement functions for the state treasury and  
25 affected state agencies. The treasury income account is subject in all  
26 respects to chapter 43.88 RCW, but no appropriation is required for  
27 payments to financial institutions. Payments shall occur prior to  
28 distribution of earnings set forth in subsection (4) of this section.

29       (4) Monthly, the state treasurer shall distribute the earnings  
30 credited to the treasury income account. The state treasurer shall  
31 credit the general fund with all the earnings credited to the treasury  
32 income account except:

33       (a) The following accounts and funds shall receive their  
34 proportionate share of earnings based upon each account's and fund's  
35 average daily balance for the period: The capitol building  
36 construction account, the Cedar River channel construction and  
37 operation account, the Central Washington University capital projects  
38 account, the charitable, educational, penal and reformatory  
39 institutions account, the common school construction fund, the county

1 criminal justice assistance account, the county sales and use tax  
2 equalization account, the data processing building construction  
3 account, the deferred compensation administrative account, the deferred  
4 compensation principal account, the department of retirement systems  
5 expense account, the drinking water assistance account, the Eastern  
6 Washington University capital projects account, the education  
7 construction fund, the emergency reserve fund, the federal forest  
8 revolving account, the health services account, the public health  
9 services account, the health system capacity account, the personal  
10 health services account, the state higher education construction  
11 account, the higher education construction account, the highway  
12 infrastructure account, the industrial insurance premium refund  
13 account, the judges' retirement account, the judicial retirement  
14 administrative account, the judicial retirement principal account, the  
15 local leasehold excise tax account, the local real estate excise tax  
16 account, the local sales and use tax account, the medical aid account,  
17 the mobile home park relocation fund, the multimodal transportation  
18 account, the municipal criminal justice assistance account, the  
19 municipal sales and use tax equalization account, the natural resources  
20 deposit account, the oyster reserve land account, the perpetual  
21 surveillance and maintenance account, the public employees' retirement  
22 system plan 1 account, the public employees' retirement system plan 2  
23 account, the Puyallup tribal settlement account, the resource  
24 management cost account, the site closure account, the special wildlife  
25 account, the state employees' insurance account, the state employees'  
26 insurance reserve account, the state investment board expense account,  
27 the state investment board commingled trust fund accounts, the  
28 supplemental pension account, the teachers' retirement system plan 1  
29 account, the teachers' retirement system combined plan 2 and plan 3  
30 account, the tobacco prevention and control account, the tobacco  
31 settlement account, the transportation infrastructure account, the  
32 tuition recovery trust fund, the University of Washington bond  
33 retirement fund, the University of Washington building account, the  
34 volunteer fire fighters' and reserve officers' relief and pension  
35 principal fund, the volunteer fire fighters' and reserve officers'  
36 administrative fund, the Washington judicial retirement system account,  
37 the Washington law enforcement officers' and fire fighters' system plan  
38 1 retirement account, the Washington law enforcement officers' and fire  
39 fighters' system plan 2 retirement account, the Washington school

1 employees' retirement system combined plan 2 and 3 account, the  
2 Washington state health insurance pool account, the Washington state  
3 patrol retirement account, the Washington State University building  
4 account, the Washington State University bond retirement fund, the  
5 water pollution control revolving fund, and the Western Washington  
6 University capital projects account. Earnings derived from investing  
7 balances of the agricultural permanent fund, the normal school  
8 permanent fund, the permanent common school fund, the scientific  
9 permanent fund, and the state university permanent fund shall be  
10 allocated to their respective beneficiary accounts. All earnings to be  
11 distributed under this subsection (4)(a) shall first be reduced by the  
12 allocation to the state treasurer's service fund pursuant to RCW  
13 43.08.190.

14 (b) The following accounts and funds shall receive eighty percent  
15 of their proportionate share of earnings based upon each account's or  
16 fund's average daily balance for the period: The aeronautics account,  
17 the aircraft search and rescue account, the county arterial  
18 preservation account, the department of licensing services account, the  
19 essential rail assistance account, the ferry bond retirement fund, the  
20 grade crossing protective fund, the high capacity transportation  
21 account, the highway bond retirement fund, the highway safety account,  
22 the motor vehicle fund, the motorcycle safety education account, the  
23 pilotage account, the public transportation systems account, the Puget  
24 Sound capital construction account, the Puget Sound ferry operations  
25 account, the recreational vehicle account, the rural arterial trust  
26 account, the safety and education account, the special category C  
27 account, the state patrol highway account, the transportation equipment  
28 fund, the transportation fund, the transportation improvement account,  
29 the transportation improvement board bond retirement account, and the  
30 urban arterial trust account.

31 (5) In conformance with Article II, section 37 of the state  
32 Constitution, no treasury accounts or funds shall be allocated earnings  
33 without the specific affirmative directive of this section.

34 **Sec. 6.** RCW 43.84.092 and 2000 2nd sp.s. c 4 s 6 are each amended  
35 to read as follows:

36 (1) All earnings of investments of surplus balances in the state  
37 treasury shall be deposited to the treasury income account, which  
38 account is hereby established in the state treasury.

1 (2) The treasury income account shall be utilized to pay or receive  
2 funds associated with federal programs as required by the federal cash  
3 management improvement act of 1990. The treasury income account is  
4 subject in all respects to chapter 43.88 RCW, but no appropriation is  
5 required for refunds or allocations of interest earnings required by  
6 the cash management improvement act. Refunds of interest to the  
7 federal treasury required under the cash management improvement act  
8 fall under RCW 43.88.180 and shall not require appropriation. The  
9 office of financial management shall determine the amounts due to or  
10 from the federal government pursuant to the cash management improvement  
11 act. The office of financial management may direct transfers of funds  
12 between accounts as deemed necessary to implement the provisions of the  
13 cash management improvement act, and this subsection. Refunds or  
14 allocations shall occur prior to the distributions of earnings set  
15 forth in subsection (4) of this section.

16 (3) Except for the provisions of RCW 43.84.160, the treasury income  
17 account may be utilized for the payment of purchased banking services  
18 on behalf of treasury funds including, but not limited to, depository,  
19 safekeeping, and disbursement functions for the state treasury and  
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23 distribution of earnings set forth in subsection (4) of this section.

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31 construction account, the Cedar River channel construction and  
32 operation account, the Central Washington University capital projects  
33 account, the charitable, educational, penal and reformatory  
34 institutions account, the common school construction fund, the county  
35 criminal justice assistance account, the county sales and use tax  
36 equalization account, the data processing building construction  
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9 administrative account, the judicial retirement principal account, the  
10 local leasehold excise tax account, the local real estate excise tax  
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12 the mobile home park relocation fund, the multimodal transportation  
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14 municipal sales and use tax equalization account, the natural resources  
15 deposit account, the oyster reserve land account, the perpetual  
16 surveillance and maintenance account, the public employees' retirement  
17 system plan 1 account, the public employees' retirement system combined  
18 plan 2 and plan 3 account, the Puyallup tribal settlement account, the  
19 resource management cost account, the site closure account, the special  
20 wildlife account, the state employees' insurance account, the state  
21 employees' insurance reserve account, the state investment board  
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24 system plan 1 account, the teachers' retirement system combined plan 2  
25 and plan 3 account, the tobacco prevention and control account, the  
26 tobacco settlement account, the transportation infrastructure account,  
27 the tuition recovery trust fund, the University of Washington bond  
28 retirement fund, the University of Washington building account, the  
29 volunteer fire fighters' and reserve officers' relief and pension  
30 principal fund, the volunteer fire fighters' and reserve officers'  
31 administrative fund, the Washington judicial retirement system account,  
32 the Washington law enforcement officers' and fire fighters' system plan  
33 1 retirement account, the Washington law enforcement officers' and fire  
34 fighters' system plan 2 retirement account, the Washington school  
35 employees' retirement system combined plan 2 and 3 account, the  
36 Washington state health insurance pool account, the Washington state  
37 patrol retirement account, the Washington State University building  
38 account, the Washington State University bond retirement fund, the  
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14 essential rail assistance account, the ferry bond retirement fund, the  
15 grade crossing protective fund, the high capacity transportation  
16 account, the highway bond retirement fund, the highway safety account,  
17 the motor vehicle fund, the motorcycle safety education account, the  
18 pilotage account, the public transportation systems account, the Puget  
19 Sound capital construction account, the Puget Sound ferry operations  
20 account, the recreational vehicle account, the rural arterial trust  
21 account, the safety and education account, the special category C  
22 account, the state patrol highway account, the transportation equipment  
23 fund, the transportation fund, the transportation improvement account,  
24 the transportation improvement board bond retirement account, and the  
25 urban arterial trust account.

26 (5) In conformance with Article II, section 37 of the state  
27 Constitution, no treasury accounts or funds shall be allocated earnings  
28 without the specific affirmative directive of this section.

29 NEW SECTION. **Sec. 7.** Section 5 of this act expires March 1, 2002.

30 NEW SECTION. **Sec. 8.** Section 6 of this act takes effect March 1,  
31 2002.

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