

2 **ESHB 2363** - S COMM AMD
3 By Committee on Environment & Natural Resources

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5 Strike everything after the enacting clause and insert the
6 following:

7 **"NEW SECTION.** **Sec. 1.** A new section is added to chapter 90.72 RCW
8 to read as follows:

9 The legislature finds that shellfish harvesting is important to our
10 economy and way of life. Washington state is an international leader
11 in the cultivation and production of shellfish. However, large
12 portions of the state's productive recreational and commercial
13 shellfish beds are closed to harvesting, and more are threatened,
14 because of water pollution. The legislature finds that the problem of
15 shellfish bed closures demands a public policy solution and that the
16 state, local governments, and individuals must each take strong and
17 swift action or this precious resource will be lost.

18 It is the goal of the legislature to prevent further closures of
19 recreational and commercial shellfish beds, to restore water quality in
20 saltwater tidelands to allow the reopening of at least one restricted
21 or closed shellfish bed each year, and to ensure Washington state's
22 commanding international position in shellfish production.

23 The legislature finds that failing on-site sewage systems and
24 animal waste are the two most significant causes of shellfish bed
25 closures over the past decade. Remedial actions at the local level are
26 required to effectively address these problems.

27 The legislature finds that existing entities, including
28 conservation districts and local health departments, should be used by

1 counties to address the water quality problems affecting the
2 recreational and commercial shellfish harvest.

3 The legislature finds that local action in each watershed where
4 shellfish are harvested is required to protect this vital resource.
5 The legislature hereby encourages all counties having saltwater
6 tidelands within their boundaries to establish shellfish protection
7 districts and programs designed to prevent any further degradation and
8 contamination and to allow for restoration and reopening of closed
9 shellfish growing areas."

10 "Sec. 2. RCW 90.72.030 and 1985 c 417 s 3 are each amended to read
11 as follows:

12 The legislative authority of each county having shellfish tidelands
13 within its boundaries is authorized to establish a shellfish protection
14 district to include areas in which nonpoint pollution threatens the
15 water quality upon which the continuation or restoration of shellfish
16 farming or harvesting is dependent. The legislative authority shall
17 constitute the governing body of the district and shall adopt a
18 shellfish protection program to be effective within the district. The
19 legislative authority may appoint a local advisory council to advise
20 the legislative authority in preparation and implementation of
21 shellfish protection programs. This program ((may)) shall include any
22 elements deemed appropriate to deal with the nonpoint pollution
23 ((threat)) threatening water quality, including, but not limited to,
24 requiring the elimination or decrease of contaminants in storm water
25 runoff, establishing monitoring ((programs)), inspection, and repair
26 elements to ((make sure that septic drainfield)) ensure that on-site
27 sewage systems are adequately maintained and working properly ((and)),
28 assuring that animal grazing and manure management practices are
29 ((appropriate)) consistent with best management practices, and

1 establishing educational and public involvement programs to inform
2 citizens on the causes of the threatening nonpoint pollution and what
3 they can do to decrease the amount of such pollution. An element may
4 be omitted where another program is effectively addressing those
5 sources of nonpoint water pollution. Within the limits of RCW
6 90.72.040 and 90.72.070, the county legislative authority shall have
7 full jurisdiction and authority to manage, regulate, and control its
8 programs and to fix, alter, regulate, and control the fees for services
9 provided and charges or rates as provided under those programs.
10 Programs established under this chapter, may, but are not required to,
11 be part of a system of sewerage as defined in RCW 36.94.010."

12 "Sec. 3. RCW 90.72.040 and 1985 c 417 s 4 are each amended to read
13 as follows:

14 (1) The county legislative authority may create a shellfish
15 protection district on its own motion or by submitting the question to
16 the voters of the proposed district and obtaining the approval of a
17 majority of those voting. The boundaries of the district shall be
18 determined by the legislative authority. The legislative authority may
19 create more than one district. A district may include any area or
20 areas within the county, whether incorporated or unincorporated.
21 Counties shall coordinate and cooperate with cities, towns, and water-
22 related special districts within their boundaries in establishing
23 shellfish protection districts and carrying out shellfish protection
24 programs. Where a portion of the proposed district lies within an
25 incorporated area, the county shall develop procedures for the
26 participation of the city or town in the determination of the
27 boundaries of the district and the administration of the district,
28 including funding of the district's programs. The legislative
29 authority of more than one county may by agreement provide for the

1 creation of a district including areas within each of those counties.
2 County legislative authorities are encouraged to coordinate their plans
3 and programs to protect shellfish growing areas, especially where
4 shellfish growing areas are located within the boundaries of more than
5 one county. The legislative authority or authorities creating a
6 district may abolish a shellfish protection district on its or their
7 own motion or by submitting the question to the voters of the district
8 and obtaining the approval of a majority of those voting.

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

26 After this notification, the petitioner shall have thirty days in
27 which to secure on petition forms the signatures of not less than
28 twenty-five percent of the registered voters residing within the
29 boundaries of the shellfish protection district and file the signed
30 petitions with the county auditor. Each petition form shall contain

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

9 (3) The county legislative authority shall not impose fees, rates,
10 or charges for shellfish protection district programs upon properties
11 on which fees, rates, or charges are imposed to pay for another program
12 to eliminate or decrease contamination in storm water runoff."

13 "NEW SECTION. **Sec. 4.** A new section is added to chapter 90.72 RCW
14 to read as follows:

15 The county legislative authority shall create a shellfish
16 protection district and establish a shellfish protection program to
17 address causes of pollution within one hundred eighty days after the
18 department of health, because of water quality degradation due to
19 ongoing nonpoint sources of pollution, has, after the effective date of
20 this act, closed or downgraded the classification of a recreational or
21 commercial shellfish growing area within the boundaries of the county."

22 "NEW SECTION. **Sec. 5.** A new section is added to chapter 90.72 RCW
23 to read as follows:

24 Within available funding and as specified in the shellfish
25 protection program, counties creating shellfish protection districts
26 shall contract with conservation districts to draft plans with
27 landowners to control pollution effects of animal waste."

1 "**Sec. 6.** RCW 90.72.070 and 1985 c 417 s 7 are each amended to read
2 as follows:

3 The county legislative authority establishing a shellfish
4 protection district may finance the protection program through (1)
5 ((its)) county tax revenues, (2) reasonable inspection fees and similar
6 fees ((or)) for services provided, (3) reasonable charges or rates
7 specified in its protection program, or ((+3)) (4) federal, state, or
8 private grants. Confined animal feeding operations subject to the
9 national pollutant discharge elimination system and implementing
10 regulations shall not be subject to fees, rates, or charges by a
11 shellfish protection district. Facilities permitted and assessed fees
12 for wastewater discharge under the national pollutant discharge
13 elimination system shall not be subject to fees, rates, or charges for
14 wastewater discharge by a shellfish protection district. Lands
15 classified as forest land under chapter 84.33 RCW and timber land under
16 chapter 84.34 RCW shall be subject to a lesser fee, rate, or charge by
17 a shellfish protection district. Counties may collect charges or rates
18 in the manner determined by the county legislative authority."

19 "NEW SECTION. **Sec. 7.** A new section is added to chapter 90.72 RCW
20 to read as follows:

21 Counties that have formed shellfish protection districts shall
22 receive high priority for state water quality financial assistance to
23 implement shellfish protection programs, including grants and loans
24 provided under chapters 43.99F, 70.146, and 90.50A RCW."

25 "NEW SECTION. **Sec. 8.** A new section is added to chapter 88.36 RCW
26 to read as follows:

27 The commission shall seek to provide the most cost efficient and
28 accessible facilities possible for reducing the amount of boat waste

1 entering the state's waters. The commission shall consider providing
2 funding support for portable pumpout facilities in this effort."

3 **"NEW SECTION.** **Sec. 9.** The following acts or parts of acts are
4 each repealed:

- 5 (1) RCW 90.72.010 and 1985 c 417 s 1; and
6 (2) RCW 90.72.050 and 1985 c 417 s 5."

7 **"Sec. 10.** RCW 82.49.030 and 1991 sp.s. c 16 s 925 are each amended
8 to read as follows:

9 (1) The excise tax imposed under this chapter is due and payable to
10 the department of licensing or its agents at the time of registration
11 of a vessel. The department of licensing shall not issue or renew a
12 registration for a vessel until the tax is paid in full.

13 (2) The excise tax collected under this chapter shall be deposited
14 in the general fund.

15 (3) ~~((For the 1993-95 fiscal biennium))~~ Until June 30, 1999, the
16 watercraft excise tax revenues exceeding five million dollars in each
17 fiscal year, but not exceeding six million dollars~~((, may, subject to~~
18 ~~appropriation by the legislature,))~~ shall be used for the purposes
19 specified in RCW 88.36.100."

20 **"NEW SECTION.** **Sec. 11.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected."

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4 On page 1, line 2 of the title, after "tidelands;" strike the
5 remainder of the title and insert "amending RCW 90.72.030, 90.72.040,
6 90.72.070, and 82.49.030; adding new sections to chapter 90.72 RCW;
7 adding a new section to chapter 88.36 RCW; and repealing RCW 90.72.010
8 and 90.72.050."