

# HOUSE BILL REPORT

## HB 1595

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**As Reported by House Committee On:**  
Puget Sound, Select

**Title:** An act relating to shellfish protection programs.

**Brief Description:** Expanding the protection of shellfish in Puget Sound.

**Sponsors:** Representatives Appleton, Jarrett, Hunt and Lantz.

**Brief History:**

**Committee Activity:**

Select Committee on Puget Sound: 2/14/07, 2/20/07 [DPS].

**Brief Summary of Substitute Bill**

- Requires the creation of shellfish protection districts and shellfish protection programs for tidal and sub-tidal areas whose shellfish beds are closed, downgraded, or threatened.
- Appropriates funds to pay for new shellfish protection districts and shellfish protection programs expressly created for shellfish threatened areas.

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### HOUSE SELECT COMMITTEE ON PUGET SOUND

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Upthegrove, Chair; Eickmeyer, Vice Chair; Rolfes, Vice Chair; O'Brien and Springer.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Sump, Ranking Minority Member; Walsh, Assistant Ranking Minority Member and Pearson.

**Staff:** Karen Rogers (786-7388).

**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

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*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.*

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 (county authorities) are required to create shellfish protection districts and establish shellfish protection programs within 180 days after the DOH closes or downgrades the classification of a tidal shellfish growing area due to nonpoint-source pollution. To date, 12 districts exist, and eight have resulted in classification upgrades and re-openings.

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### **Summary of Substitute Bill:**

Legislative authorities for the 12 counties surrounding Puget Sound (i.e. Clallam, Island, Jefferson, King, Kitsap, Mason, Pierce, San Juan, Skagit, Snohomish, Thurston, and Whatcom) and for Grays Harbor and Pacific counties must establish shellfish protection districts and shellfish protection programs whenever: (1) the DOH closes or downgrades the classification of a tidal or sub-tidal shellfish area due to nonpoint-source water-quality degradation, or (2) a tidal or sub-tidal shellfish area is identified as a "shellfish threatened area."

"Shellfish threatened area," which this bill defines, is 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.

For those counties that need 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 districts and shellfish protection programs, up to two 30-day extensions are allowed. Furthermore, county authorities are required to implement the shellfish protection programs within 60 days after creation of the shellfish protection districts and programs.

A Shellfish Contamination Prevention and Protection Account (Account) is created. One million dollars from the Aquatic Lands Enhancement Account is directed into the Account to fund new shellfish protection districts and programs created expressly for threatened shellfish areas. 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.

A null-and-void clause stipulates that, should funding not be provided by June 30, 2007, section five of the bill, which stipulates the expenditure of funds, is null and void. The other sections of the bill remain.

### **Substitute Bill Compared to Original Bill:**

House Bill 1595 creates shellfish protection districts and programs in the 12 Puget Sound counties whenever nonpoint-source or point-source pollution downgrades or closes shellfish beds in tidal areas. The substitute bill decreases this coverage by limiting contributing pollution to just nonpoint-sources, and increases coverage by adding Grays Harbor and Pacific counties. Other differences are funding and null-and-void clauses. House Bill 1595 provides full funding, and has a null-and-void clause that voids the entire bill should funding not be appropriated by June 30, 2007. The substitute bill provides for matching funds, and its null-and-void clause voids only section five of the bill, which stipulates the expenditure of funds.

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**Appropriation:** The sum of \$1 million as appropriated for the biennium ending June 30, 2007, from the Aquatic Lands Enhancement Account to the DOH.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed. However, section 5 of the bill, relating to the expenditure of funds, is null and void unless funded in the budget.

**Staff Summary of Public Testimony:**

(In support) Shellfish are a valuable natural resource, and it is important that they are healthy. The bill promotes such health by proactively addressing at-risk shellfish beds. It establishes shellfish-protection districts and programs before beds are downgraded or closed for harvest, which helps in two ways. One, it saves taxpayer dollars in that prevention is more affordable than restoring an area once it is downgraded. Two, it protects shellfish areas from being closed in the first place, which helps shellfish growers sustain their businesses.

Environmental triggers are important, and the bill establishes them. It also establishes a dedicated funding source that provides incentives to local jurisdictions, and that is on-going, thereby allowing local jurisdictions to address continual water-quality problems. In addition, greater authority for preventative measures is given. Should the DOH downgrade shellfish beds, the shellfish-protection plans are already in place and available for immediate implementation.

(In support with concerns) The bill provides funds that are not in the Governor's budget proposal. Furthermore, the proposed funds are from the Aquatic Lands Enhancement Account (ALEA), which is an over-utilized account. Using ALEA funds will take funding away from other water programs.

The bill has a null-and-void clause that will void the entire bill should funds not be appropriated. This null-and-void clause should be removed.

(Opposed) None.

**Persons Testifying:** (In support) Representative Appleton, prime sponsor; Kathleen Drew, Office of the Governor; Gregg Grunenfelder, Department of Health; Bill Dewey, Taylor

Shellfish Company; Bruce Wishart, People for Puget Sound; and Josh Baldi, Department of Ecology.

(In support with concerns) Fran McNair, Department of Natural Resources.

**Persons Signed In To Testify But Not Testifying:** None.