

SENATE BILL REPORT

SB 6059

AS OF JANUARY 17, 1992

Brief Description: Creating new programs to protect shellfish habitat.

SPONSORS: Senators M. Kreidler, Metcalf, Owen and Conner

SENATE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Staff: Gary Wilburn (786-7453)

Hearing Dates: January 21, 1992

BACKGROUND:

Washington State's coastal and estuarine waters support one of the most productive oyster and clam growing areas in the world. The 1989 shellfish harvest was estimated at a wholesale value of \$52 million. Commercial shellfish growing and processing accounts for one in twelve jobs in Pacific County; shellfish production is the number two industry in Mason County. Additionally, it is estimated that more than 1.3 million recreational shellfish harvesting trips are taken each year in Puget Sound alone.

Shellfish feed by pumping large amounts of water through their systems and thus concentrate harmful bacteria and viruses, estimated at levels tenfold that of the water column. For that reason they are particularly sensitive to pollutants and thus serve as an indicator species for the overall health of marine waters. Most shellfish reproduce and grow only in estuaries, where rivers empty to the sea and where wastes from upstream sources ultimately arrive.

Increasing growth and development in upland areas has increased levels of pollutants in shellfish growing waters, resulting in a significant rise in shellfish contamination in the past ten years. A 1991 report indicated that since 1981 the state Department of Health has downgraded the classification of 16,113 acres of commercial shellfish beds, restricting or prohibiting harvest from these areas. More than 40 percent of Puget Sound's commercial shellfish acreage is now closed or restricted; this figure was 17 percent in 1980. Fifty-seven of Puget Sound's 146 recreational shellfish beds are closed to harvest, and 35 more are threatened with near-term closure.

Since 1980, failing on-site sewage systems and poor animal keeping practices have been identified as the primary cause of commercial harvest restrictions. Other sources of pollutants include storm water runoff, outfall from sewage treatment plants, marine mammals, and boat waste.

In 1985 the Legislature authorized local governments to create shellfish protection districts to fund programs to reduce pollutants in shellfish tidelands. However, there has not been a single such special district created under this authority. Additionally, state and local governments administer a variety of programs to address sources of pollutants to the state's waters, including shellfish growing areas. The Puget Sound Water Quality Management Plan includes several initiatives for shellfish protection, including improved data on shellfish bed condition, enhanced public education, increased testing on toxicity, and development of a strategy to respond to existing closures of growing areas.

SUMMARY:

1. Watershed management areas. Counties are authorized to create watershed management areas for the purpose of funding water resource protection. The procedures for public participation in the formation of the area are described. The concurrence by interlocal agreement of a city or town with jurisdiction over a portion of the area must be obtained. Revenues may be derived from a broad variety of methods, including fees for services, fees for water withdrawal or discharge of water, and property taxes.

Revenues may be used to fund any activity, program or project related to water resource protection, such as sewage treatment, ground water and drinking water protection, storm water runoff control, and nonpoint water pollution control.

2. Priority action areas. The state Department of Health is directed to prepare a ranked list of downgraded or threatened shellfish areas. The ranking shall be done based upon criteria such as the value of the resource, magnitude of the pollution problem, extent of knowledge of the problem, and capability to restore or protect the area relative to other areas on the list.

From the highest ranked areas the department's secretary is to designate no less than four areas for priority action, the total number being determined based upon state funding committed to meet the targets set in the legislation. Counties having jurisdiction over the designated areas are to submit a plan for corrective action by April 1, 1993. The plans are to specify actions necessary to restore the area to an approved or conditionally approved status, setting a target restoration date of July 1, 1995. The state Department of Health is to work with local governments in developing a schedule for preparation of action plans for those listed areas not designated as priority areas, including target dates for implementation and area restoration.

An enforcement policy is to be included in each priority action plan. A watershed action plan sufficient to meet the targets of the act may be submitted as the county's priority plan. Local governments submitting a plan for priority action areas are entitled to state financial assistance authorized under the act. The state Department of Health or any

aggrieved person may apply for a judicial order where a local government fails to submit a plan or to implement a plan. The court may in addition impose civil penalties or a permit moratorium.

3. State financial assistance. A shellfish financial assistance program is created within the Department of Ecology to assist in implementing priority action plans. Until June 30, 1995, a portion of the nonpoint source funding category of the water quality account is allocated for the purpose of implementing priority action plans. In addition, until June 30, 1995, 5 percent of funds available under the state revolving fund shall be available for the purpose of implementing priority action plans by establishing local government revolving loan programs for corrective action and implementing best management practices.

4. Watershed protection account. The watershed protection account is created. Revenues to the account are derived from the excise tax on the commercial possession of shellfish. The tax is increased to 2.0 percent from 0.7 percent, and is made applicable to both bivalve and nonbivalve shellfish. Funds appropriated from the account are to be used for: (1) 80 percent for grants to local governments for the administration of shellfish protection-related programs and watershed protection, provided that a local revolving loan program has been established; and (2) 20 percent to the Department of Health for shellfish protection programs.

5. Boat waste. The state Parks and Recreation Commission is directed to seek the most cost efficient and accessible facilities for boat waste pumpout, including portable facilities. The allocation of a portion of watercraft excise tax revenues for this purpose is extended from 1995 to 1999, and is provided a stronger dedication.

Appropriation: unspecified

Revenue: yes

Fiscal Note: requested January 17, 1992

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