

SENATE BILL REPORT

ESSB 5400

As Passed Senate, March 19, 2003

Title: An act relating to geoducks.

Brief Description: Creating a geoduck aquaculture research project.

Sponsors: Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senator Swecker).

Brief History:

Committee Activity: Natural Resources, Energy & Water: 1/31/03, 3/5/03 [DPS-WM].
Ways & Means: 3/10/03 [DPS (NR), DNP].
Passed Senate: 3/19/03, 39-10.

SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

Majority Report: That Substitute Senate Bill No. 5400 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Morton, Chair; Hewitt, Vice Chair; Doumit, Fraser, Hale, Hargrove, Honeyford, Oke and Regala.

Staff: Genevieve Pisarski (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5400 as recommended by Committee on Natural Resources, Energy & Water be substituted therefor, and the substitute bill do pass.

Signed by Senators Rossi, Chair; Hewitt, Vice Chair; Zarelli, Vice Chair; Doumit, Hale, Honeyford, Johnson, Parlette, Roach, Sheahan and Winsley.

Minority Report: Do not pass.

Signed by Senators Brown, Fraser, Regala and B. Sheldon.

Staff: Richard Ramsey (786-7412)

Background: The geoduck (*Panopea abrupta*), one of the world's largest clams, is found along the Pacific Coast of the United States from California to Alaska. Quantities sufficient for commercial harvest are found mainly in the inland waters of Washington, British Columbia, and Alaska.

Commercial harvest of geoduck clams on state-owned aquatic lands is managed jointly by the Department of Natural Resources (DNR), the Department of Fish and Wildlife (DFW), and, as a result of a federal court decision, the Puget Sound Treaty Indian Tribes. The federal court affirmed the tribes' right to 50 percent of the annual commercial harvest of geoducks

and established cooperative shellfish resource management requirements for the state and the tribes. The state and the tribes are responsible for estimating geoduck population size, determining sustainable yield, and minimizing adverse effects to the environment.

DNR is required to manage geoducks as valuable materials, and commercial harvest rights are auctioned. Half of the revenue supports management of state-owned aquatic lands and resources, and the other half supports the Aquatic Lands Enhancement Account for public access and habitat restoration. DFW is authorized to issue geoduck fishery licenses for commercial harvest, license divers, and establish harvest rates. DNR and DFW have civil and criminal enforcement authority for state laws, regulations, and contract conditions that apply to commercial harvest.

Summary of Bill: The Department of Natural Resources and the Department of Fish and Wildlife, in cooperation with the Geoduck Harvesters Association, holders of aquatic farm registrations, and treaty tribes, must undertake research projects to examine subtidal geoduck aquaculture, using scientific methods to determine sustainability and assess environmental impacts. A cooperation agreement must be initiated by January 1, 2004, for a term of ten years, renewable for an additional ten years. The Department of Natural Resources must lease the use of up to five areas of aquatic land, of approximately 10 acres each and comprising approximately 50 acres, for a fee that does not exceed \$1,000 per acre. The lessee must provide seed from hatcheries located in the state, materials, and labor. The size and location of the areas and the project design must be determined jointly. The density of geoduck clams in the areas must be below the level that constitutes a natural bed, pursuant to applicable federal court order, with the tribes retaining the right to inspect the areas. An annual progress report must be made to the Legislature.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For (Natural Resources, Energy & Water): Reseeding is necessary for the renewal of the resource. Opening additional lands to harvesting will result in a substantial increase in returns. State lands have been over-harvested. Natural regeneration takes from 60 to 100 years; reseeded produces harvestable geoducks in four to ten years. Geoduck aquaculture methods have improved greatly over those used in a previous state study which indicated that geoduck aquaculture was not cost-effective. Geoduck aquaculture is proving successful in Alaska and British Columbia.

Testimony Against (Natural Resources, Energy & Water): Geoduck aquaculture has not been successful in the past. The benefits and the impacts are unknown. The cost of requiring the state to reseed has not been taken into account. The state does not have jurisdiction to require tribes to reseed. Because any state lands would be available for leasing and seeding, more of the natural geoduck beds could be buried under planted beds, increasing the destruction of evidence for implementing the federal court order. The proposal is contrary to protocols in the federal court order and would lead to further litigation.

Testified (Natural Resources, Energy & Water): PRO: Brad Nelson, John Lentz, WA Geoduck Harvest Assn.; Chris Cheney, WA Shellfish, Inc.; Casey Bakker, CB, Inc.; CON: Jim Jesernig, Pacific Coast Shellfish Growers; Fran McNar, DNR; Ian Child, Squaxin Island Tribe; Kelly Croman, Squaxin Island Tribe; OTHER: Doug McRae, WAS; Bill Taylor, Taylor Shellfish; David P. Hearn, Alaska Ice Seafoods.

Testimony For (Ways & Means): There is serious overharvesting occurring on commercial beds. This bill is a test -- to prove to DNR that subtidal reseeded will work. The industry wants the ground -- no funding is required. Twenty years of harvesting has decimated beds. Culturing geoducks is occurring in British Columbia. Think of reseeded as comparable to replanting after a forest clearcut. The departments seem to want an expensive project.

Testimony Against (Ways & Means): The project lacks biological detail. We need to know how and if we should grow geoducks. Shellfish growers are not included and they should be. There are concerns about the source of the seed. The project may be delayed by a federal court order that prohibits planting seed on top of natural beds. The research project does not meet the needs of federally recognized treaty tribes. The cost of the study is way too high. Perhaps it is appropriate to examine these issues over the interim, per HB 1239.

Testified (Ways & Means): Jim Jesernig, Pacific Coast Shellfish Growers (concerns); Leigh Espy, Department of Natural Resources (support with concerns); Kelly Croman, Squaxin Island Tribe (con); Brad Nelson, Geoduck Harvesters Assn. (support with concerns); Chris Cheney, WA Shellfish, Inc. (pro/concerns).