SENATE BILL REPORT
SB 5400

As Reported By Senate Committee On:
Natural Resources, Energy & Water, March 5, 2003
Ways & Means, March 10, 2003

Title: An act relating to geoducks.

Brief Description: Concerning geoducks.

Sponsors: 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].

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.

The geoduck fishery on state-owned aquatic lands in Washington is managed jointly by the Department of Natural Resources (DNR), the Department of Fish and Wildlife (WDFW), and, as a result of a federal court decision ("the Rafeedie decision"), the Puget Sound Treaty Indian Tribes. The Rafeedie decision affirmed the tribes' right to 50 percent of the annual

commercial harvest of geoducks within the tribes' usual and accustomed grounds and stations on state-owned aquatic lands and defined cooperative shellfish resource management requirements for the state and the tribes. The Rafeedie decision also affirmed the tribes' right to 50 percent of the shellfish that would naturally be present on private growers' beds, if the growers had done no enhancement.

The state and the tribes are responsible for estimating geoduck population size, determining sustainable yield, and minimizing adverse effects to the environment. Regional management agreements and annual harvest plans are negotiated and signed by the state and the tribes. DNR and WDFW have civil and criminal enforcement responsibility for state laws, regulations, and contract conditions that apply to the state's geoduck fishery. The tribes are not governed by state law and manage the tribal fishery independently of state law. The tribes and the state currently harvest seaward of the -18 feet depth, corrected for tide, and shoreward of -70 feet, uncorrected. Tribal harvest is not restricted to 200 yards from shore, as is the state harvest.

Under the provisions of Chapter 79.90 RCW, the state portion of the commercial geoduck harvest is managed by DNR as valuable materials, and the right to harvest geoducks is auctioned to private companies and individuals. Over the last ten years, the geoduck fishery has generated $60 million of revenue to the state. Half of the revenue supports management of state-owned aquatic lands and resources, and the other half supports the Aquatic Lands Enhancement Account (ALEA) for public access and habitat restoration.

Summary of Substitute Bill: The Department of Natural Resources and the Department of Fish and Wildlife, by agreement with the Geoduck Harvesters Association and in coordination with treaty tribes, undertake a geoduck aquaculture research project. The agreement is initiated by January 1, 2004, for a term of ten years, renewable for an additional ten years. The project uses scientific methods to determine sustainability of geoduck aquaculture and assess environmental impacts. The Department of Natural Resources provides use of up to five areas of aquatic land, comprising approximately 50 acres. The association provides seed, materials, and labor. The size and location of the areas and the project design is determined jointly. Harvest of naturally occurring geoduck clams from the project areas is subject to tribal treaty fishing rights. There is an annual progress report to the Legislature.

Substitute Bill Compared to Original Bill: The geoduck aquaculture research project replaces requirements for reseeding of harvested state lands, leasing of harvested state lands to private parties for aquaculture, leasing lands below 70 feet mean low water for harvesting, and making a geoduck the property of the landowner on whose property it settles.

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; reseeding 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): Doug McRae, WAS; Brad Nelson, John Lentz, WA Geoduck Harvest Assn. (pro); Bill Taylor, Taylor Shellfish; Chris Cheney, WA Shellfish, Inc. (pro); Jim Jesernig, Pacific Coast Shellfish Growers (con); Fran McNar, DNR (con); Ian Child, Squaxin Island Tribe (con); David P. Hearn, Alaska Ice Seafoods; Casey Bakker, CB, Inc. (pro); Kelly Croman, Squaxin Island Tribe (con).

Testimony For (Ways & Means): There is serious overharvesting occurring on commercial beds. This bill is a test -- to prove to DNR that subtidal reseeding 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 reseeding as comparable to replanting after a forest clearcut. The departments seem to want an expensive project.

Testimony Against (Ways & Means): The projects 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).