

**E2SHB 1595** - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature recognizes the importance  
4 of shellfish to Washington's environment, economy, and heritage, and  
5 further recognizes that certain locations merit additional protective  
6 measures than currently exist. This act intends to expand the  
7 protection of shellfish to Clallam, Grays Harbor, Island, Jefferson,  
8 King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish,  
9 Thurston, and Whatcom counties.

10 **Sec. 2.** RCW 90.72.020 and 1985 c 417 s 2 are each amended to read  
11 as follows:

12 ~~((For purposes of this chapter,))~~ The definitions in this section  
13 apply throughout this chapter unless the context clearly requires  
14 otherwise.

15 (1) "Shellfish areas" means all saltwater areas, whether tidal or  
16 subtidal, containing shellfish species typically grown or harvested for  
17 human consumption.

18 (2) "Shellfish threatened area" means:

19 (a) Those commercial shellfish areas classified by the department  
20 of health as approved or conditionally approved that meet the following  
21 conditions:

22 (i) Are compliant with existing health standards;

23 (ii) Have at least one additional water quality sampling station in  
24 the area that the department of health determines exceeds the ninetieth  
25 percentile value of thirty fecal coliforms per one hundred milliliters  
26 of water using the department of health's bacterial standards; and

27 (iii) Have been classified for at least five years; or

28 (b) Those recreational shellfish areas classified as open that meet

1 the same conditions as specified in (a)(i), (ii), and (iii) of this  
2 subsection.

3 (3) "Shellfish tidelands" means all saltwater tidelands on which  
4 shellfish are grown or harvested for human consumption.

5 (4) "Specified county" means Clallam, Grays Harbor, Island,  
6 Jefferson, King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit,  
7 Snohomish, Thurston, and Whatcom counties.

8 **Sec. 3.** RCW 90.72.030 and 1992 c 100 s 2 are each amended to read  
9 as follows:

10 For specified counties, the following applies to the legislative  
11 authority of each county having shellfish areas within its boundaries:

12 (1) The legislative authority (~~((of each county having shellfish~~  
13 ~~tidelands within its boundaries))~~) is authorized to establish a  
14 shellfish protection district to include areas in which (~~((nonpoint))~~)  
15 pollution (~~((threatens the water quality upon which the continuation or~~  
16 ~~restoration of shellfish farming or harvesting is dependent))~~) impacts  
17 the water quality upon which the continuation or restoration of  
18 shellfish farming or harvesting is dependent, or when the department of  
19 health identifies a shellfish-threatened area as defined in this  
20 chapter.

21 (2) The legislative authority (~~((shall))~~) constitutes the governing  
22 body of the district and shall adopt a shellfish protection program to  
23 be effective within the district.

24 (3) The legislative authority may appoint a local advisory council  
25 to advise the legislative authority in preparation and implementation  
26 of shellfish protection programs.

27 (~~((This))~~) (4) The shellfish protection program (~~((shall))~~) must  
28 include any elements deemed appropriate to deal with the nonpoint  
29 pollution threatening water quality, including, but not limited to, the  
30 following:

31 (a) Requiring the elimination or decrease of contaminants in storm  
32 water runoff(~~(( $\tau$ ))~~);

33 (b) Establishing monitoring, inspection, and repair elements to  
34 ensure that on-site sewage systems are adequately maintained and  
35 working properly(~~(( $\tau$ -assuring))~~);

36 (c) Ensuring that animal grazing and manure management practices  
37 are consistent with best management practices(~~(( $\tau$ ))~~); and

1        (d) Establishing educational and public involvement programs to  
2 inform citizens on the causes of the ((threatening)) nonpoint pollution  
3 and what ((they can)) citizens may do to decrease the amount of  
4 ((such)) the pollution. ((An element may be omitted where another  
5 program is effectively addressing those sources of nonpoint water

6 pollution. Within the limits of RCW 90.72.040 and 90.72.070, the  
7 county legislative authority shall have full jurisdiction and authority  
8 to manage, regulate, and control its programs and to fix, alter,  
9 regulate, and control the fees for services provided and charges or  
10 rates as provided under those programs.))

11        (5) The legislative authority shall consult with the department of  
12 health, the department of ecology, the department of agriculture, the  
13 department of natural resources, or the conservation commission as  
14 appropriate as to the elements of the program.

15        (6) If the legislative authority is effectively addressing failing  
16 on-site sewage systems within an existing marine recovery area, as  
17 provided in RCW 70.118A.040, then such effective actions satisfy the  
18 corresponding element requirement in the shellfish protection district.

19        (7) The legislative authority has full jurisdiction and authority,  
20 within the limits of RCW 90.72.040 and 90.72.070, to do the following:

21        (a) Manage, regulate, and control its shellfish protection program;  
22 and

23        (b) Fix, alter, regulate, and control the fees for services  
24 provided and charges or rates as provided under those programs.

25        (8) The department of health shall grant funds to legislative  
26 authorities, as available, to assist with the costs of creating,  
27 establishing, implementing, and enforcing the provisions of shellfish  
28 protection programs formed for shellfish-threatened areas within the  
29 specified counties.

30        (9) Programs established under this chapter((7)) may, but are not  
31 required to, be part of a system of sewerage as defined in RCW  
32 36.94.010.

33        **Sec. 4.** RCW 90.72.045 and 1992 c 100 s 4 are each amended to read  
34 as follows:

35        (1) The county legislative authority in a specified county shall  
36 create a shellfish protection district and establish a shellfish  
37 protection program ((to address causes of pollution within one hundred

1 ~~eighty days after the department of health, because of water quality~~  
2 ~~degradation due to ongoing nonpoint sources of pollution, has, after~~  
3 ~~June 11, 1992, closed or downgraded the classification of a~~  
4 ~~recreational or commercial shellfish growing area within the boundaries~~  
5 ~~of the county)), as provided in RCW 90.72.030, to address the causes or~~  
6 suspected causes of pollution within one hundred eighty days after the  
7 department of health, because of water quality degradation due to  
8 ongoing sources of pollution, has closed, or downgraded the  
9 classification of, a shellfish area.

10 (2) The department of health may grant an extension to the one  
11 hundred eighty-day time limit to create a shellfish protection district  
12 and establish a shellfish protection program, provided that all of the  
13 following conditions are met:

14 (a) Each extension may not be more than thirty days;

15 (b) No more than two extensions may be granted for each shellfish  
16 area; and

17 (c) The legislative authority requires additional time to establish  
18 a taxing or fee district, or a funding account or source, to pay for  
19 the cost of creating, implementing, or enforcing the shellfish  
20 protection program.

21 (3) The county legislative authority is encouraged to implement  
22 elements of the shellfish protection program as soon as practicable  
23 following the department of health action requiring the formation of  
24 the shellfish protection district.

25 (4) The county legislative authority shall initiate implementation  
26 of all elements of the shellfish protection program no later than one  
27 year after it is established.

28 (5) If water quality sampling or shoreline sanitary surveys  
29 conducted by the department of health indicate that nonpoint sources of  
30 pollution that are causing the closure of, or have caused the  
31 downgraded classification or status of, a shellfish-threatened area  
32 have been corrected prior to the deadline for creating a shellfish  
33 protection district, then the requirement to form the district is  
34 waived.

35 (6) The county legislative authority shall enforce the provisions  
36 of shellfish protection programs upon implementation.

37 (7) A copy of the shellfish protection program must be provided to  
38 the departments of health, ecology, and agriculture, to the applicable

1 local conservation districts, and to the conservation commission. An  
2 agency that has regulatory authority for any of the sources of nonpoint  
3 pollution regulated by the shellfish protection program shall cooperate  
4 with the county in its implementation. The county legislative  
5 authority shall submit a written report to the department of health  
6 annually that describes the status and progress of the shellfish  
7 protection program.

8 NEW SECTION. Sec. 5. A new section is added to chapter 90.72 RCW  
9 to read as follows:

10 The department of health shall allocate available funding from the  
11 shellfish contamination prevention and protection account, created in  
12 section 6 of this act, with the following conditions:

13 (1) Funding to the specified counties must be restricted to the  
14 creation, establishment, implementation, and enforcement of shellfish  
15 protection districts for shellfish areas that have been identified as  
16 shellfish-threatened areas for greater than one year.

17 (2) Specified counties that apply for one-time funding from the  
18 department of health are eligible to receive matching funds. For these  
19 matching funds, the department of health shall contribute one dollar  
20 for every one dollar spent by the county.

21 (3) Specified counties that establish ongoing funding through a  
22 taxing or fee district are eligible to receive matching funds from the  
23 department of health. For these matching funds, the department of  
24 health shall contribute two dollars for every one dollar spent by the  
25 county.

26 (4) Specified counties that demonstrate, to the department of  
27 health, an economic hardship and an inability to afford the county's  
28 matching share under:

29 (a) Subsection (2) of this section, are eligible, and may apply  
30 for, full one-time funding from the department of health; and

31 (b) Subsection (3) of this section, are eligible, and may apply  
32 for, full ongoing funding from the department of health.

33 (5) Applications for full one-time funding and for full ongoing  
34 funding, as provided in this section, must be separate applications.  
35 Economic hardship must be demonstrated separately for each application.

36 (6) The department of health may reimburse itself for

1 administrative and technical assistance costs incurred under sections  
2 3 and 4 of this act.

3 (7) Reimbursement to the department of health, as specified in  
4 subsection (6) of this section, may be no more than ten percent of the  
5 total funds provided for the purposes of sections 3 through 5 of this  
6 act.

7 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.72 RCW  
8 to read as follows:

9 The shellfish contamination prevention and protection account is  
10 created in the state treasury. Moneys from the aquatic lands  
11 enhancement account that are directed for deposit to the shellfish  
12 contamination prevention and protection account must be deposited into  
13 the account. Moneys in the account may be spent only after  
14 appropriation. Expenditures from the account may be used only for the  
15 purposes of this act.

16 NEW SECTION. **Sec. 7.** If specific funding for the purposes of this  
17 act, referencing this act by bill or chapter number, is not provided by  
18 June 30, 2007, in the omnibus appropriations act, this act is null and  
19 void."

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20 On page 1, line 1 of the title, after "programs;" strike the  
21 remainder of the title and insert "amending RCW 90.72.020, 90.72.030,  
22 and 90.72.045; adding new sections to chapter 90.72 RCW; and creating  
23 new sections."

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