

HOUSE BILL REPORT

SHB 2676

As Passed House:
February 14, 2008

Title: An act relating to dairy farm nutrient management.

Brief Description: Exempting dairy farms subject to the national pollutant discharge elimination system from shellfish protection district charges.

Sponsors: By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Morris, Quall, Linville and Pearson).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/23/08, 2/5/08 [DPS].

Floor Activity:

Passed House: 2/14/08, 93-1.

Brief Summary of Substitute Bill

- Removes the National Pollutant Discharge Elimination System permit exemption for shellfish protection district assessments, fees, and charges and limits the assessments that may be levied against dairies with certified dairy nutrient management plans to \$500.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Blake, Chair; Van De Wege, Vice Chair; Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Eickmeyer, Grant, Kristiansen, Lantz, Loomis, Nelson, Newhouse and Orcutt.

Minority Report: Do not pass. Signed by 1 member: Representative McCoy.

Staff: Colleen Kerr (786-7168).

Background:

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.

County legislative authorities may create a shellfish protection district and adopt shellfish protection programs to address water quality issues affecting growing and harvesting shellfish. Counties must coordinate and cooperate with cities, towns, and water-related special districts within their boundaries in establishing shellfish protection districts and carrying out shellfish protection programs. Counties must also consult with the departments of Health, Ecology, Agriculture, or the Conservation Commission about the elements of the shellfish protection program. Twelve districts exist to date, and eight have resulted in classification upgrades and re-openings.

Counties may finance a shellfish protection program through county tax revenues, inspection fees and other fees for provided services, rates specified in the protection program, or with federal, state, or private grants. Fees, rates or charges must not be imposed by districts on the following: (1) confined animal feeding operations subject to the National Pollutant Discharge Elimination System (NPDES); (2) other facilities permitted and assessed fees under the NPDES; and (3) timberlands classified under state timber and open space tax laws.

All dairy animal feeding operations are required to adopt a dairy nutrient management plan to assure the dairy does not discharge into state waters. These plans must be approved and certified by the local conservation district.

Summary of Substitute Bill:

County shellfish protection district activities should focus on actions targeting shellfish protection. The NPDES permit exemption for shellfish protection district assessments, fees, and charges is removed from statute. The assessments that may be levied against dairies with certified dairy nutrient management plans is limited to \$500.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) Currently, dairy farms subject to the National Pollutant Discharge Elimination System (NPDES) are exempt from paying fees to shellfish protection districts. However, smaller dairy farms not subject to the NPDES, but subject to state dairy nutrient management regulations, are not exempt. This bill would exempt those smaller dairy farmers to create an even playing field.

The bill is the result of several state legislators meeting with local farmers regarding the current exemptions and trying to come to a solution for those farmers who are not exempt and should be. This year, farmers have been surprised at their current property tax rates. The

shellfish district assessment is an additional burden and appears to be the result of legislative oversight in reconciling the state regulations with the assessment. Helping to remedy this discrepancy will be beneficial to these smaller farmers.

In both Washington and Oregon, the states have implemented regulations that protect both shellfish farmers and dairy farmers. These are higher standards than the national regulations because if you have a NPDES then you have had a discharge, yet these farms are exempt. It is a law with disproportionate impact. Local districts have filed an appeal of this situation, but the only way to fix it is through legislation.

(With concerns) Shellfish must have clean water to be harvested. The state has lost many, many acres of beds in the last 10 years due to pollution. The current regulations have provided needed protections for this industry and growers are uncomfortable with a blanket exemption. An equal cap for all dairy farmers would be a more appropriate method to address this issue.

Persons Testifying: (In support) Representative Morris, prime sponsor; Jay Gordon and Ron Wesin, Washington State Dairy Federation; and Nels Lagerlund.

(With concerns) Bruce Wishart, People for Puget Sound.

Persons Signed In To Testify But Not Testifying: (With concerns) Ed Owens, Willapa-Grays Harbor Oyster Growers Association.