

# HOUSE BILL REPORT

## HB 1661

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### As Reported by House Committee On:

Rural Development, Agriculture & Natural Resources

**Title:** An act relating to conserving and restoring kelp forests and eelgrass meadows in Washington state.

**Brief Description:** Conserving and restoring kelp forests and eelgrass meadows in Washington state.

**Sponsors:** Representatives Shewmake, Ryu, Berry, Fitzgibbon, Ramel, Springer, Duerr, Walen, Callan, Goodman, Paul, Peterson, Ramos, Rule, Simmons, Slatter, Tharinger, Kloba, Pollet and Harris-Talley; by request of Department of Natural Resources.

### Brief History:

#### Committee Activity:

Rural Development, Agriculture & Natural Resources: 1/18/22, 1/21/22, 1/25/22 [DPS].

#### Brief Summary of Substitute Bill

- Directs the Department of Natural Resources (DNR) to establish a Native Kelp Forest and Eelgrass Meadow Health and Conservation Plan (Plan).
- Requires the DNR to, by December 1, 2022, provide an initial report to the Office of Financial Management and the Legislature that includes a map and justification of identified priority areas, an approach to monitoring, and describes actions to be undertaken consistent with the Plan.
- Requires the DNR to submit a final draft of the Plan by December 1, 2023.
- Requires the DNR to submit a report to the Legislature by December 1, 2024, and by December 1 of each subsequent even-numbered year, that describes the native kelp forest and eelgrass meadow conservation

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

priority areas, monitoring approaches, and findings.

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## HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon, Klicker, Kloba, Kretz, Lekanoff, McEntire, Morgan, Orcutt, Ramos, Schmick and Springer.

**Staff:** Rebecca Lewis (786-7339).

### **Background:**

The Department of Natural Resources.

The Department of Natural Resources (DNR) manages a number of different categories of land on behalf of the State of Washington, each for a specific purpose and under different management requirements. One category of lands managed through the DNR is aquatic lands. The DNR manages more than 2.6 million acres of state-owned aquatic lands and must support a balance of use demands and statutory goals such as public use, environmental protections, trade, transportation, and generating revenue consistent with those goals.

Community Engagement Plans.

Pursuant to legislation enacted in 2021, the DNR and certain other state agencies must create and adopt a community engagement plan that describes planned engagement with overburdened communities and vulnerable populations for purposes of implementing the agency's environmental justice responsibilities. This plan must include best practices for outreach and communication, the use of special screening tools, processes that facilitate the inclusion of community members affected by agency decision-making, and methods for outreach and communication.

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### **Summary of Substitute Bill:**

Native Kelp Forest and Eelgrass Meadow Health and Conservation Plan.

Subject to available funding, the Department of Natural Resources (DNR) must establish a

Kelp Forest and Eelgrass Meadow Health and Conservation Plan (Plan) with the goal to conserve and restore at least 10,000 acres of kelp forests and eelgrass meadows by 2040. In developing the various elements of the Plan, the DNR must engage with impacted communities using the community engagement plan that the DNR and other state agencies are required to develop related to overburdened communities and vulnerable populations and must also consult with a variety of other partners, including impacted federally recognized tribes, state and federal agencies, and stakeholder groups that may have vested and direct interest in the outcomes of the Plan.

The Plan must assess and prioritize areas for coordinated conservation and restoration actions, and must consist of four elements: assessment and prioritization; identifying coordinated actions and success measures; monitoring; and reporting.

The DNR must develop a framework to identify and prioritize native kelp forests and eelgrass meadow areas in greatest need. The framework must incorporate conservation of native kelp forests and eelgrass meadows, mapping and prioritization of kelp forest and eelgrass meadow areas, and identification of potential stressors impacting the health and vitality of native kelp forests and eelgrass meadows.

#### Reporting.

By December 1, 2022, the DNR must provide a report to the Office of Financial Management (OFM) and the appropriate committees of the Legislature that includes community engagement plans and a schedule for Plan development. The DNR must finalize and submit the Plan to the Legislature and the OFM by December 1, 2023, including a map and justification of identified priority areas based on collaboratively developed criteria, a list of potential tools and actions for conservation or restoration of the priority areas, and a monitoring plan based on identified success measures.

The DNR must submit a report to the Legislature that describes the kelp forest and eelgrass meadow conservation priority areas and monitoring approaches and findings. Beginning December 1, 2024, and by December 1 of each subsequent even-numbered year, the DNR must provide the OFM and the appropriate committees of the Legislature with:

- an updated map of distributions and trends with a summary of success measures and findings, including relevant information from the prioritization process;
- an updated list summarizing potential stressors, prioritized areas, corresponding coordinated actions and success measures, and any barriers to Plan implementation with legislative or administrative recommendations to address the barriers;
- an update on the number of acres of kelp forests and eelgrass meadows conserved by region, including restoration or loss in priority areas;
- an update on consultation with impacted federally recognized tribal nations and local communities by region; and
- an update on the DNR's community engagement plans developed as a part of the DNR's statutory environmental justice responsibilities.

## **Substitute Bill Compared to Original Bill:**

The substitute bill makes the following changes to the underlying bill:

- modifies the Kelp Forest and Eelgrass Meadow Conservation Plan (Plan) to focus on addressing native species;
- requires the Plan to address awareness, action, and engagement tools being used by public and private entities in the Puget Sound region to raise awareness of native kelp forest and eelgrass meadow conservation;
- requires the framework developed under the Plan to identify research necessary to analyze and assess potential benefits of aquaculture of native seaweed species;
- requires the Department of Natural Resources (DNR) to engage with state and federal agencies and representatives from other stakeholder groups that may have vested and direct interest in the outcomes of the plan. The requirement that DNR consult with federally recognized tribal nations and involve impacted communities using the DNR's community engagement plan is maintained; and
- makes the following changes to the December 1, 2022, reporting requirement;
  - requires the report to include community engagement plans and a schedule for Plan development;
  - requires the contents of the report to be based on collaboratively based criteria; and
  - adds that the report must include a monitoring plan based on identified success measures.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on January 25, 2022.

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

### **Staff Summary of Public Testimony:**

(In support) Kelp is an amazing plant. Kelp forests help sequester carbon, provide habitat to important aquatic species, and help prevent ocean acidification. Kelp is also edible and can be used in a variety of ways for both human and livestock food. Kelp forests and eelgrass meadows have seen a 36 percent decline in the decade between 2006 and 2016. Kelp and eelgrass decline has impacted shellfish farmers' ability to propagate oyster seed. This bill proposes solutions to address these losses and builds on work that the Department of Natural Resources (DNR) has already done. The Kelp Forest and Eelgrass Meadow Conservation Plan (Plan) includes a collaborative planning process with engagement with a broad coalition of partners and makes targeted investments to improve kelp forests and eelgrass meadows in the state. The results of the Plan will help inform other efforts in the future. It would be a good idea to ensure the Plan preserves native kelp and eelgrass rather

than nonnative and invasive species. Amendment language has been shared with the prime sponsor and with the DNR.

(Opposed) None.

(Other) Oyster growers support the goal of protecting and enhancing important species of kelp and eelgrass. Burrowing shrimp continues to devastate kelp and eelgrass in southwest Washington. The bill should specify that the Plan is directed at protecting and enhancing native kelp and eelgrass species, and not nonnative or invasive species. Oyster growers would like to see a voluntary stewardship program that is designed like the program that is currently in place for terrestrial farming.

**Persons Testifying:** (In support) Representative Sharon Shewmake, Prime Sponsor; Hilary Franz and Brian Considine, Department of Natural Resources; Bill Dewey, Taylor Shellfish Farms; Justin Allegro, The Nature Conservancy; and Fred Felleman, Port of Seattle.

(Other) Troy Nichols, Willapa Grays Harbor Oyster Growers Association.

**Persons Signed In To Testify But Not Testifying:** Helen Berry, Department of Natural Resources; and Darcy Nonemacher.