

SENATE BILL REPORT

2SHB 2220

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, March 29, 2007

Title: An act relating to shellfish.

Brief Description: Regarding shellfish aquaculture.

Sponsors: House Committee on Appropriations (originally sponsored by Representative Lantz).

Brief History: Passed House: 3/10/07, 88-9.

Committee Activity: Natural Resources, Ocean & Recreation: 3/19/07, 3/29/07 [DPA-WM, DNP].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Poulsen, Spanel and Stevens.

Minority Report: Do not pass.

Signed by Senator Swecker.

Staff: Kim Johnson (786-7346)

Background: Shorelines Management Act: Under the Shorelines Management Act, certain developments that occur on or near the shorelines of the state are required to be permitted. Permitting for most development is administered at the county level, with standards and requirements outlined in the county's master program. Each county with shorelines within its jurisdiction adopts its own master program, which is a comprehensive use plan for the area. Once a master program is approved by the Department of Ecology (DOE), the county is the entity responsible for final approval of all programs falling within the plan's scope.

Geoduck Aquaculture on State-Owned Aquatic Lands: The Legislature has assigned to the Department of Natural Resources (DNR) the responsibility for managing the state's aquatic lands for the benefit of the public. The DNR manages over two million acres of tidelands, shorelands, and bedlands. This includes the beds of all navigable rivers and lakes, along with the beds below the Puget Sound.

The management of aquatic lands must support a balance of goals, including the encouragement of public access, the fostering of water-dependent uses, the utilization of renewable resources, and the generation of revenue. Revenues generated from the state's

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.

aquatic lands are generally directed to be used for public benefits, such as shoreline access, environmental protection, and recreational opportunities. Under current law, the DNR may lease aquatic lands, exchange state-owned aquatic lands for privately-owned lands, and lease aquatic lands for shellfish aquaculture.

In 2003, the Legislature directed the DNR to conduct a study looking into the feasibility of leasing state-owned aquatic lands for geoduck aquaculture. The DNR has initiated a geoduck aquaculture program and has plans to lease 25 acres of state-owned aquatic lands per year for the next ten years for geoduck aquaculture.

Summary of Second Substitute Bill: Geoduck Research: The Sea Grant Program at the University of Washington (Sea Grant) is directed to review existing research on the potential effects of geoduck aquaculture on the environment, and commission new research as necessary. A list of required study elements is provided to the Sea Grant, which includes studies evaluating the structures used in geoduck aquaculture, the effects of harvesting techniques, how aquaculture impacts natural ecological characteristics, and research into the genetic interactions between farm-raised and naturally occurring geoduck. The Sea Grant, with consultation with an oversight committee, may prioritize the listed studies and add or subtract to the listed studies as necessary.

The Geoduck Aquaculture Research Account (Account) is created to fund the required research. Any institution involved in research funded from the Account may not retain more than 15 percent of any funding for administrative overhead.

The final report of the research must be delivered to the Legislature by December 1, 2013. However, the Sea Grant is directed to prioritize the studies and report the results of shorter timeline studies prior to 2013.

Department of Natural Resources: The DNR is prohibited from entering into any new leases that would permit the commercial aquaculture of geoducks on state-owned intertidal lands on more than 25 acres a year until December 2014. Any intertidal leases must be conditioned so that the DNR can conduct environmental monitoring on the geoduck operation and so that the leases can be used as part of the research conducted by the Sea Grant.

Shellfish Aquaculture Regulatory Committee: The Shellfish Aquaculture Regulatory Committee (Committee) is formed to serve as the oversight committee for the research conducted by the Sea Grant, develop recommendations for a regulatory system or permit process that integrates local, state, and federal regulations, and develop recommendations for appropriate guidelines for the DOE to include in shorelines master program guidelines.

The members of the Committee are to be appointed by the Director of the DOE, and include state agency representatives, tribal invitees, members of the environmental community, shellfish growers, and property owners.

Initial recommendations from the Committee must be delivered in 2007.

Shorelines Guidelines: The DOE is directed to develop, by rule, guidelines for the appropriate siting and operation of geoduck aquaculture operations that are to be included in any master program. The guidelines must be developed in consultation with the Committee, with the

public review and comment period commencing no longer than six months after the Committee delivers its recommendations.

If necessary, the DOE is directed to update the guidelines after the culmination of the research required of the Sea Grant.

EFFECT OF CHANGES MADE BY RECOMMENDED AMENDMENT(S) AS PASSED COMMITTEE (Natural Resources, Ocean & Recreation): DNR's authority to lease state-owned aquatic lands for geoduck cultivation is limited to 23 acres until the DOE and the Shellfish Aquaculture Regulatory Committee have submitted a final report and the Legislature has had at least one full legislative session to consider and act upon the recommendations. If the Legislature does not take action limiting DNR's authority to lease state-owned aquatic lands for geoduck aquaculture, then DNR may resume leasing property for geoduck aquaculture.

The rent and fees collected by DNR from the 23 leases must be deposited into the Geoduck Aquaculture Research Account. Additional requirements are added to the lease terms of state-owned aquatic lands leased for geoduck aquaculture.

The Department of Fish and Wildlife (DFW) is required to assign all aquatic farmers registering with the department a number. DFW must require aquatic farmers who commercially farm geoduck to mark any aquaculture equipment and materials used to cultivate, protect, or harvest geoduck with the farmer's registration number. As a condition of registration, all aquatic farms are required to provide DFW with proof of abutting landowner notification of geoduck aquatic farming activities.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The bill is attempting to deal with a brand new activity, the cultivating of geoduck in tidelands. We have an opportunity to raise a crop with tremendous economic value in an area not previously used for this purpose. Therein lies the rub because we don't really know what the impact of intensive geoduck aquaculture is over the long term to our shorelines. We need to have some real science and we need to have some sort of regulatory process that integrates the federal, state and local laws. This bill is a step in the right direction.

Washington is the largest producer of shellfish in the nation. We've been farming geoduck here for the past 15 years. Today we stand at critical crossroads as we are losing more and more areas upon which we can farm to pollution and face increasing conflict and restriction on our farming activities. The shellfish industry faces a quagmire of state, local and federal regulations which may force us out of business. We support this legislation as it will help develop a streamlined regulatory process for the Legislature to consider, and it will provide additional scientific research to answer the many questions that are being posed about the impact of geoduck aquaculture on the environment.

OTHER: All science studies must be peer reviewed and independent. We ask that the language be modified to ensure that industry cannot substitute a different study into the mix. We also have concerns about the DNR leasing 25 acres per year. That is a lot of shoreline miles. The Army Corps of Engineers permit has many loopholes and is not as burdensome as it has been presented nor will it protect our shorelines. We think science should be the basis of our regulatory decisions. It doesn't make sense to continue to allow DNR to lease when we don't have the science to make properly informed decisions

Persons Testifying: PRO: Representative Lantz, prime sponsor; Fran McNair, DNR; Jim Jesernig, Robin Downey, Pacific Shellfish Growers; Bill Dewey, Taylor Shellfish; Karen Kirkland, Laurie Bravneis, Save Our Shoreline; Glen VonBlaricom, School of Aquatic and Fishery Science, University of Washington.

OTHER: Tom Clingman, DOE; Lisa Veneroso, DFW; Penny Dalton, Washington Sea Grant; Kurt Sheafe, POS; Laura Hendricks, Apheti.