

HOUSE BILL REPORT

2SSB 5619

As Passed House - Amended:

March 2, 2022

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: Senate Committee on Ways & Means (originally sponsored by Senators Lovelett, Conway, Das, Hasegawa, Nobles, Pedersen, Randall, Rolfes, Saldaña, Stanford, Van De Wege and Wilson, C.; by request of Department of Natural Resources).

Brief History:

Committee Activity:

Rural Development, Agriculture & Natural Resources: 2/18/22, 2/23/22 [DP];
Appropriations: 2/25/22, 2/28/22 [DPA].

Floor Activity:

Passed House: 3/2/22, 96-1.

Brief Summary of Second Substitute Bill (As Amended by House)

- 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 community engagement plans and a schedule for Plan development.
- Requires the DNR to submit a final draft of the Plan by December 1, 2023, that includes a map and justification of identified priority areas, a list of potential tools and actions, and a monitoring plan.

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.

- 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 priority areas, monitoring approaches, and findings.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE & NATURAL RESOURCES

Majority Report: 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).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended. Signed by 33 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Chopp, Cody, Dolan, Dye, Fitzgibbon, Frame, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Schmick, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

Staff: Dan Jones (786-7118).

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.

Summary of Amended Bill:

Native Kelp Forest and Eelgrass Meadow Health and Conservation Plan.

Subject to available funding, the Department of Natural Resources (DNR) must establish a Native Kelp Forest and Eelgrass Meadow Health and Conservation Plan (Plan) with the goal to conserve and restore at least 10,000 acres of native 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 and stakeholder groups that may have vested and direct interest in the outcomes of the Plan. The DNR must engage and collaborate with certain state and federal agencies as well, including:

- the National Oceanic and Atmospheric Administration;
- the Northwest Straits Commission;
- the Washington State Department of Ecology;
- the Washington Department of Fish and Wildlife;
- the Puget Sound Partnership;
- the Washington State Recreation and Conservation Office; and
- the Marine Resources Advisory Council.

The Plan must assess and prioritize areas for coordinated conservation and restoration actions, and must consist of four elements: (1) assessment and prioritization; (2) identifying coordinated actions and success measures; (3) monitoring; and (4) reporting.

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

The DNR must also map areas throughout Puget Sound and the coastline where there are native and nonnative kelp forests and eelgrass meadows, and areas where there are both native and nonnative kelp forests and eelgrass meadows. The DNR may use the map when establishing the Plan. The DNR must submit this map to the Office of Financial Management (OFM) and the appropriate committees of the Legislature by December 1,

2023.

Reporting.

By December 1, 2022, the DNR must provide a report to the 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 native 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 native 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.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funding is provided in the budget.

Staff Summary of Public Testimony (Rural Development, Agriculture & Natural Resources):

(In support) The primary difference between this bill and the House companion bill is the addition of mapping for nonnative kelp and eelgrass. Constituents in southwest Washington wanted to ensure that the Native Kelp Forest and Eelgrass Meadow Health and Conservation Plan (Plan) did not include removing Japonica eelgrass, which is nonnative but provides the same functions and benefits as native eelgrass species. The bill continues to align with the goals of the Port of Seattle and includes the Port's suggested amendments.

Kelp and eelgrass are important to the health of the Salish Sea, reducing the impacts of climate change, ocean acidification, and providing habitat for herring and salmon smolts. There has been a dramatic decline in kelp and eelgrass, and loss of kelp contributes to species decline and a decline in climate resilience of coastal communities. It is important to do this work before more kelp and eelgrass is lost and should be done in a collaborative way. Tribes strongly support this effort. Kelp is an important part of Tribal lifeways and culture. The Quinault Indian Nation would like to see an amendment that specifically highlights the importance of estuaries. While the intent of the Plan may be to include estuaries, sometimes elements that are not specifically included in legislation are overlooked. The Plan could be a way to maximize the use of Washington and federal resources.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) This agency request legislation would help the Department of Natural Resources accomplish the goal of building a plan to restore 10,000 acres of kelp forests and eelgrass meadows. This work is critical to maintaining healthy kelp forests and the fish populations that rely on them for habitat. There is broad support for this bill from tribes.

(Opposed) None.

Persons Testifying (Rural Development, Agriculture & Natural Resources): Senator Liz Lovelett, prime sponsor; Fred Felleman, Port of Seattle; Jeff Dickison, Squaxin Island Tribe; Nora Nickum, Seattle Aquarium; Brian Considine and Cynthia Catton, Department of Natural Resources; Scott Richards, Quinault Indian Nation; Justin Allegro, The Nature Conservancy; Robert Wenman; and Heather McFarlane.

Persons Testifying (Appropriations): Brian Considine, Washington State Department of Natural Resources.

Persons Signed In To Testify But Not Testifying (Rural Development, Agriculture & Natural Resources): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.