

attorney for use in subsequent legal proceedings; (b) for disposition according to an order of a court having jurisdiction as provided in subsection (1) of this section; or (c) to the owner if the proceedings are dismissed or as directed in subsection (3) of this section.

**NEW SECTION.** Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 24, 1987.

Passed the Senate April 23, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

## CHAPTER 374

[Substitute House Bill No. 928]

### CLAMS—SUBTIDAL HARVESTING LEASES NEAR RESIDENTIAL ZONES

AN ACT Relating to the commercial harvesting of subtidal hardshell clams; amending RCW 79.96.030; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 136, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.96.030 are each amended to read as follows:

(1) The department of natural resources, upon the receipt of an application for a lease for the purpose of planting and cultivating oyster beds or for the purpose of cultivating clams or other edible shellfish, shall notify the director of fisheries of the filing of the application describing the tidelands or beds of navigable waters applied for. The director of fisheries shall cause an inspection of the lands applied for to be made and shall make a full report to the department of natural resources of his findings as to whether it is necessary, in order to protect existing natural oyster beds, and to secure adequate seeding thereof, to retain the lands described in the application for lease or any part thereof, and in the event the director deems it advisable to retain the lands or any part thereof for the protection of existing natural oyster beds or to guarantee the continuance of an adequate seed stock for existing natural oyster beds, the same shall not be subject to lease. However, if the director determines that the lands applied for or any part thereof may be leased, he shall so notify the department of natural resources and the director shall cause an examination of the lands to be made to determine the presence, if any, of natural oysters, clams, or other edible shellfish on said lands, and to fix the rental value of the lands for use for oyster, clam, or other edible shellfish cultivation. In his report to the department, the director shall recommend a minimum rental for said lands and an estimation of the value of the oysters, clams, or other edible shellfish, if any,

then present on the lands applied for. The lands approved by the director for lease may then be leased to the applicant for a period of not less than five years nor more than ten years at a rental not less than the minimum rental recommended by the director of fisheries. In addition, before entering upon possession of the land, the applicant shall pay the value of the oysters, clams, or other edible shellfish, if any, then present on the land as determined by the director, plus the expense incurred by the director in investigating the quantity of oysters, clams, or other edible shellfish, present on the land applied for.

(2) When issuing new leases or reissuing existing leases the department shall not permit the commercial harvest of subtidal hardshell clams by means of hydraulic escalating when the upland within five hundred feet of any lease tract is zoned for residential development.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 21, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

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## CHAPTER 375

[Engrossed Substitute House Bill No. 776]

### SCHOOLS—HEARING OFFICERS

AN ACT Relating to the qualifications and expenses of hearing officers in cases involving school employees; and amending RCW 28A.58.455.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 5, chapter 114, Laws of 1975-'76 2nd ex. sess. as amended by section 1, chapter 7, Laws of 1977 ex. sess. and RCW 28A.58.455 are each amended to read as follows:

(1) Any employee receiving a notice of probable cause for discharge or adverse effect in contract status pursuant to RCW 28A.58.450, as now or hereafter amended, or any employee, with the exception of provisional employees as defined in RCW 28A.67.072, receiving a notice of probable cause for nonrenewal of contract pursuant to RCW 28A.67.070, as now or hereafter amended, shall be granted the opportunity for a hearing pursuant to this section.

(2) In any request for a hearing pursuant to RCW 28A.58.450 or 28A.67.070, as now or hereafter amended, the employee may request either an open or closed hearing. The hearing shall be open or closed as requested