

Department of Legislative Services  
 Maryland General Assembly  
 2012 Session

FISCAL AND POLICY NOTE

House Bill 1173 (Delegates Gilchrist and Holmes)  
 Environmental Matters

Natural Resources - Recreational and Commercial Fisheries - Funding and Use of Funds

This bill requires the Department of Natural Resources (DNR) to allocate general fund appropriations for fishery management purposes, excluding aquaculture appropriations, equitably between the recreational and commercial fisheries. The bill repeals specified existing surcharges, but it requires DNR to establish specified annual surcharges and allocate the surcharge revenue to the Fisheries Research and Development Fund (FRDF). DNR must adopt implementing regulations, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, by July 1, 2013, and by July 1 annually thereafter.

Fiscal Summary

**State Effect:** DNR special fund revenues decrease by \$209,100 in FY 2013 due to eliminating the oyster surcharge. Special fund revenues increase significantly in FY 2014 and future years due to fishing surcharges being established; special fund expenditures increase as a result. Special fund expenditures for enforcement and monitoring may decrease in FY 2014 and future years; however, any such decrease cannot be reliably estimated.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Revenue	(\$209,100)	-	-	-	-
SF Expenditure	\$0	-	-	-	-
Net Effect	(\$209,100)	\$0	\$0	\$0	\$0

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** The bill is not expected to materially affect local operations or finances.

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:** The bill requires that FRDF revenue from specified (1) commercial fishing licenses, surcharges, and permits be used only to manage the commercial fishery; and (2) recreational fishing licenses be used only to manage the recreational fishery.

The bill repeals annual surcharges associated with striped bass and oyster harvest licenses. By July 1, 2013, and annually thereafter, DNR must adopt regulations that establish individual annual surcharges on clam, crab, oyster, and striped bass authorizations in amounts that ensure for the next license year that the total amount of projected revenue from each authorization, as well as other specified State and federal revenues, is at least 90% of all operating costs for managing the respective fisheries. DNR must use the surcharge revenue only for fishery management in the fishery from which the surcharges were derived.

If the total amount of projected revenue for the clam, crab, oyster, or striped bass fishery does not meet the 90% cost-recovery threshold, DNR must modify the fishing season or close the fishery. In determining whether the 90% cost-recovery threshold has been met, DNR may not include aquaculture-related revenues and expenditures.

**Current Law:** Numerous license fees and surcharges must be paid prior to fishing in nontidal (fresh) waters and in the tidal waters of the Chesapeake Bay and its tributaries. The various fishing licenses authorize fishing during different time periods, for specific aquatic species, and within specific geographic locations. These fees are used to support DNR's fisheries management program.

Some fishing license and surcharge revenue must be allocated to specific programs within the Fisheries Service. Oyster surcharge revenue must be used only for oyster repletion activities. All fees from tidal fish licenses and apprenticeship permits must be deposited in FRDF. Striped bass license revenue must be used for enforcement purposes during the open season for striped bass.

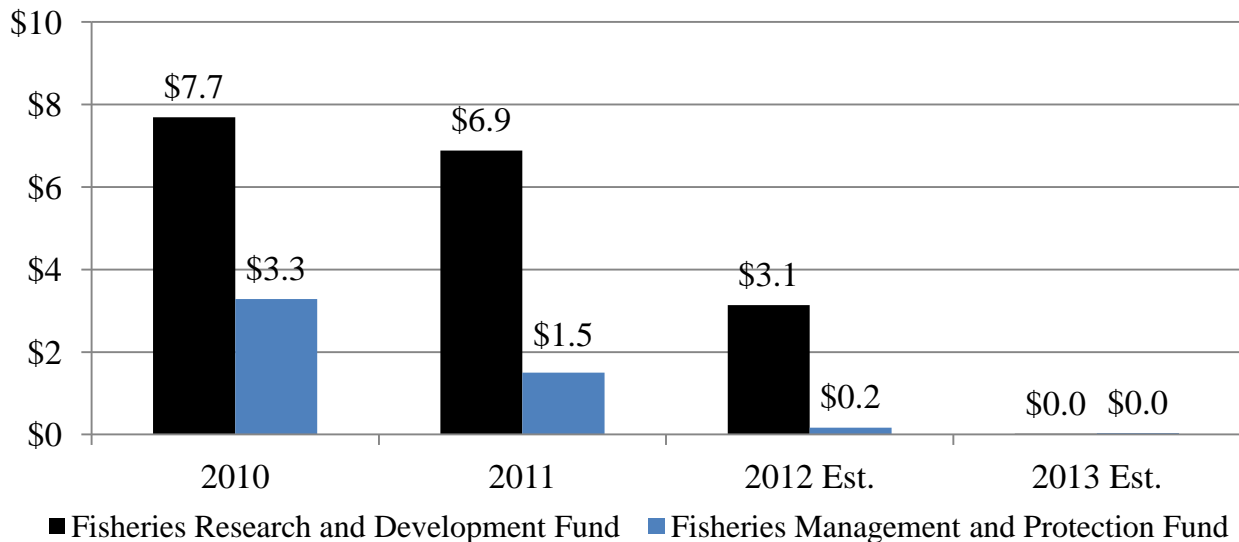
FRDF is composed of revenue from, among other things, commercial fishing licenses and permits; specified oyster and clam shell payments; the sale of seed oysters; specified fines or forfeitures; and general fund appropriations. FRDF revenues must be used for (1) replenishing fisheries resources and related research; (2) matching federal funds available for research and development of fishing resources; and (3) administrative costs.

Revenue generated from the sale of angler's licenses is deposited into the Fisheries Management and Protection Fund and used only for the scientific investigation, protection, propagation, and management of nontidal finfish.

**Background:** The Secretary of Natural Resources is responsible for conservation management of the fish, fisheries, fish resources, and aquatic life within the State. DNR’s Fisheries Service is responsible for managing commercial and recreational fishing in the State. The Fisheries Service seeks to develop a management framework for the conservation and equitable use of fishery resources; manage fisheries in balance with the ecosystem for present and future generations; monitor and assess the status and trends of fishery resources; and provide high-quality, diverse, and accessible fishing opportunities.

Two special funds provide significant support to the Fisheries Service: FRDF and the Fisheries Management and Protection Fund. As illustrated in **Exhibit 1**, both special funds are projected to have no end-of-year fund balance in fiscal 2013, primarily due to the fund balances being used to offset DNR general fund reductions in recent years. The Fisheries Service is projected to have a program deficit beginning in fiscal 2013 that may grow to \$3.2 million by fiscal 2014.

**Exhibit 1**  
**Fisheries Service Special Funds Closing Balances**  
**Fiscal 2010-2013**  
**(\$ in Millions)**



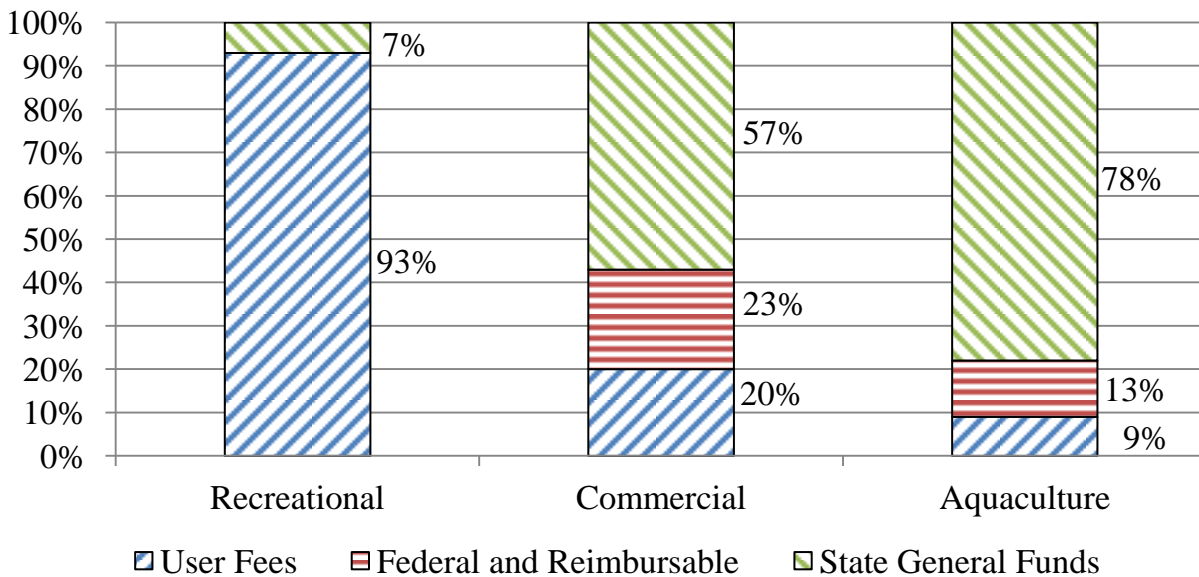
Source: Department of Budget and Management; Department of Legislative Services

In response to diminishing resources and concerns about the extent to which recreational and commercial fishing fees are covering associated management costs, DNR completed a cost-recovery analysis of the Fisheries Service’s revenues and expenditures. The

analysis focuses on the funds generated by each of the three management sectors: recreational; commercial; and aquaculture. The results of the cost-recovery analysis are summarized in **Exhibit 2**, and the overall findings included that:

- 93% of recreational fishery management costs are supported with user fees from recreational fishing (e.g., State fishing licenses and the federal excise tax on sport fishing equipment);
- 57% of commercial fishery management costs are supported with general funds, with user fees from commercial fishing (e.g., State fishing licenses) covering only 20% and federal and reimbursable fund sources covering 23% of the remaining costs; and
- 78% of aquaculture management costs are supported with general funds, with user fees from aquaculture covering only 9% of the operating costs, and federal and reimbursable fund sources covering 13% of the remaining costs.

**Exhibit 2**  
**Cost Recovery by Fisheries Management Sector**  
**Fiscal 2012**



Source: Department of Natural Resources; Department of Legislative Services

Fisheries Service general fund appropriations are currently applied disproportionately across the three management sectors to cover operating costs. Of the Fisheries Service's total \$5.6 million fiscal 2012 general fund appropriation, 65% is allocated to commercial programs, 19% is allocated to aquaculture programs, and 16% is allocated to recreational programs. The bill requires equitable distribution of general funds between the commercial and recreational sectors.

DNR advises that it plans to work with stakeholders in 2012 to identify strategies to address the projected Fisheries Service budget deficit, including increasing commercial license fees, permits, and surcharges to achieve a higher level of cost recovery. **Exhibit 3** illustrates several current commercial license fees and surcharges.

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**Exhibit 3**  
**Current Annual Commercial Fishing License Fees and Surcharges**

<u>License</u>	<u>Current Fee</u>
Unlimited Tidal Fish (TFL)	\$300.00
Finfish – Hook and Line (HL)	37.50
Finfish Harvester – All Gear (FIN)	100.00
Crab Harvester – 300 pots	150.00
Clam Harvester	100.00
Striped Bass Surcharge with TFL	100.00
Striped Bass Surcharge with HL/FIN	200.00
Oyster Harvest Surcharge	300.00
Oyster Dredge Boat	250.00

Source: Department of Natural Resources; Department of Legislative Services

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**State Fiscal Effect:** Because the bill repeals DNR's authority to assess the \$300 annual oyster surcharge, DNR special fund revenue decreases by \$209,100 in fiscal 2013. This estimate assumes the 697 oyster surcharges assessed in fiscal 2011 remain level through fiscal 2013. While the bill also repeals the striped bass surcharge, collection of this surcharge revenue is not impacted in fiscal 2013 as the surcharge revenue is collected in August and the bill does not take effect until October.

This analysis assumes that DNR requires a full year to develop the regulations required by the bill. Therefore, DNR special fund revenue increases significantly in fiscal 2014 and future years due to establishing annual surcharges on clam, crab, oyster, and striped bass authorizations in regulation. The increase cannot be reliably estimated as it depends on, among other things, estimated annual program expenditures, estimated license sales, and the availability of other funding (*e.g.*, federal funds, reimbursable funds, and grants). DNR advises that fewer watermen will purchase licenses to the extent the fees are increased. *For illustrative purposes*, DNR estimates that at least \$4.1 million in new surcharge revenue would be required to achieve 90% cost recovery in fiscal 2012 for the clam, crab, oyster, and striped bass fishery.

While the total allocation of general funds to DNR's Fisheries Service is not affected, the bill shifts an estimated 24.5% or \$1.4 million in general funds from commercial management to recreational management costs in fiscal 2013 and future years. This estimate is based on the total fiscal 2012 general fund appropriation and reflects 19% of this funding not being affected because it is for aquaculture programs. A shift of this magnitude would effectively eliminate commercial fishery programs but allow expansion of recreational fishing programs.

The bill requires specified commercial fees and surcharges to be used only for commercial purposes and specified recreational fees to be used only for recreational purposes. DNR advises that this requirement is consistent with current practice.

DNR can absorb any costs in fiscal 2013 and future years associated with developing annual implementing regulations. DNR advises that, to the extent the bill requires DNR to limit or close fisheries, special fund expenditures for enforcement and monitoring may decrease; however, some commercial management expenditures require continued support (*e.g.*, management studies) even if fishery closures occur.

**Small Business Effect:** Small fishing businesses benefit to the extent they are no longer required to pay oyster surcharges in fiscal 2013. However, small fishing businesses are negatively affected to the extent fishing license fees and surcharges are increased in fiscal 2014 as a result of the bill. DNR estimates that establishing clam, crab, oyster, and striped bass surcharges at a level necessary to achieve 90% cost recovery may prevent approximately 380 current fishing license holders from making sufficient profit from fishing to pay the increased fees. Small fishing business revenues may decline to the extent the bill requires DNR to limit or suspend fishing to achieve 90% cost recovery.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Budget and Management, Department of Natural Resources, Department of Legislative Services

**Fiscal Note History:** First Reader - April 1, 2012  
ncs/lgc

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