

HB1228 - Natural Resoures - Oyser Spat, Shells, an

Uploaded by: Brian Crosby

Position: FAV

BRIAN CROSBY
Legislative District 29B
St. Mary's County

Vice Chair
Economic Matters Committee



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

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HB Natural Resources - Oyster Spat, Shells, and Substrate

Good afternoon Mr. Chairman, Vice Chair, and members of the committee. For the record, Vice Chair Crosby presenting HB1228 Natural Resources - Oyster Spat, Shells, and Substrate.

This bill will establish a number of programs, provide funding for research, and funding for capital projects in Maryland's higher education institutions. The purpose of this bill is to reach 5 billion spat-on-shell produced each year by 2025. The Oyster is not only an important part of our economy, but also our environment, and this bill seeks to restore the Oyster population in the Chesapeake Bay.

The bill will provide \$20 million in capital funding in FY24 for UMCES to build a second hatchery in Horn Point named after the late Speaker Mike Busch. It will also include \$2.5 million for infrastructure upgrades at Morgan State's PEARL Laboratory's hatchery.

HB1228 will establish a loan and grant program through the Maryland Agricultural and Resource Based Industry Development Corporation to eligible fisherman, seafood processors, and dealers. \$5 of any loan is forgiven for every bushel of shells that the loan recipient returns to DNR. The grant program will pay \$5 to the eligible participants up to a maximum of \$2000 a year.

Research into types of substrate that will benefit Oyster restoration will also be directly funded through this bill at an amount of \$500k a year in FY24 and FY25, and a new bay bottom survey will be funded in FY24-26 at \$2 million per year. The new bay bottom survey is very important because there has not been a survey since the 1970s. The state will work in conjunction with the federal government to complete this bay bottom survey.

Oyster restoration is one of the most important environmental issues in the state of Maryland and this bill will go a long way to achieving the goal of 5 billion spat-on-shell by 2025. For these reasons, I urge a favorable report on HB1228.

HB1228 - Natural Resources – Oysters – Spat, Shell

Uploaded by: Dakota Matthews

Position: FAV



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Testimony in Support of
House Bill 1228 - Natural Resources – Oysters – Spat, Shells, and Substrate
Senate Education, Health, and Environmental Affairs Committee
March 04, 2022

The Rural Maryland Council supports House Bill 1228 - Natural Resources – Oysters – Spat, Shells, and Substrate. The bill intends to grow the oyster market in Maryland by creating new incentives such as grants for recycled oyster shells, and grants to seafood dealers. The bill also provides programs to grow the oyster population, such as researching specified issues relating to oyster substrate, creating a 10 year plan for oyster substrate needs for restoration, and setting an oyster production goal.

HB-1228 includes authorization for grants to establish or expand the business of seafood dealers that support increasing oyster shells retained in the state and returned to the Chesapeake Bay. MARBIDCO will receive a \$1 million appropriation in FY204 for MARBIDCO to administer the program. MARBIDCO is a partner of the Rural Maryland Council and created by the Council.

The bill also establishes an oyster production goal. The goal is for hatcheries in the State to be capable of producing 5 billion spat-on-shell per year. To accomplish this, there will be a \$20.0 million appropriation in the FY2024 budget for the University of Maryland Center for Environmental Science to build a second oyster hatchery, and an appropriation of \$2.5 million for the Patuxent Environmental and Aquatic Research Laboratory, Morgan State University (MSU), to be used for infrastructure upgrades to support increased oyster production for research and restoration. Maryland's overall oyster population is down from 600 million market-size oysters in 1999 to about only 400 million in 2020, according to a June 2020 Maryland Oyster Stock Assessment.

The growth of the oyster population and market will benefit local rural economies. The Rural Maryland Council respectfully requests your favorable support of House Bill 1228.

The Rural Maryland Council (RMC) is an independent state agency governed by a nonpartisan, 40-member board that consists of inclusive representation from the federal, state, regional, county and municipal governments, as well as the for-profit and nonprofit sectors. We bring together federal, state, county and municipal government officials as well as representatives of the for-profit and nonprofit sectors to identify challenges unique to rural communities and to craft public policy, programmatic or regulatory solutions.

UMCES testimony Oyster HB1228 .pdf

Uploaded by: david nemazie

Position: FAV



HB1228 Natural Resources – Oysters – Spat, Shells, and Substrate

Environmental and Transportation Committee:

Chair: Delegate Kumar Barve; Vice-Chair: Delegate Dana Stein

Testimony from:

Dave Nemazie: Chief of Staff, University of Maryland Center for Environmental Science

Chair Pinsky and members of the Education, Health, and Environment Committee thank you for allowing me to provide this testimony in support of HB1228 on behalf of the University of Maryland Center for Environmental Science (UMCES).

Since its founding in 1925, UMCES has been leading the way toward better management of Maryland's natural resources and the protection and restoration of the Chesapeake Bay. It's often referred to as "the institution of the environment for the state of Maryland."

UMCES' oyster cultivation facility at Horn Point, the largest oyster hatchery on the East Coast, is a focal point for oyster restoration and research in Maryland and the region. Researchers are working cooperatively with other organizations to continue to improve production methods and learn more about how best to return our once abundant oyster resource to the Chesapeake. Future efforts are aimed at improving bottom preparation techniques to enhance survival, obtaining good quality estimates for improving deployment techniques for the most efficient grow-out, and continuing to improve husbandry for the hatchery. Over the last 10 years UMCES has produced an average of 1.1 Billion spat per year.

In partnership with DNR, UMCES scientists have recently led the develop of an oyster stock assessment. Additionally, UMCES has a seat on the Oyster Advisory Commission which recently developed a series of consensus-based recommendations on enhancing oyster populations.

As a part of the Chesapeake Bay Watershed Agreement, Maryland committed to restoring oyster populations in five tributaries in Maryland's portion of the Chesapeake Bay by 2025. The tributaries chosen for restoration in Maryland are Harris Creek, Little Choptank, Tred Avon, Upper St. Marys and Manokin Rivers. UMCES is a key partner in restoring these reefs along with the Department of Natural Resources, Oyster Recovery Partnership, NOAA, Army Corps, and others.

As a key partner in oyster restoration, UMCES supports this bill and is ready to assist in achieving its many goals, such building a facility to produce additional spat, identifying and enhancing shell availability, assessing suitable substrate for restoration and undertaking a

survey of current and potential oyster bottom. UMCES stands ready to assist the State of Maryland in enhancing oyster populations and supports HB1228.

UMCES supports HB1228 and seeks the Committee's favorable report.

HB1228_ShoreRivers_Favorable.pdf

Uploaded by: Matt Pluta

Position: FAV



Testimony in SUPPORT of HB1228 – Natural Resources – Oysters – Spat, Shells, and Substrate

March 4, 2022

Dear Chairman Barve and Members of the Committee,

Thank you for this opportunity to submit testimony in **SUPPORT** of **HB1228** on behalf of ShoreRivers. ShoreRivers is a river protection group on Maryland's Eastern Shore with over 2,000 members. Our mission is to protect and restore our Eastern Shore waterways through science-based advocacy, restoration, and education.

We support this bill because it authorizes a number of activities that will make measurable progress towards increasing Maryland's production of oysters. Specifically, this bill includes the use of a creative and sustainable model to incentivize the incorporation of new shucking houses in the state of Maryland, creates an oyster shell recycling grant, increases the states investment in spat production, and will conduct a much-needed bay bottom survey.

The bay bottom survey is critical as it will update the 50 year-old survey that scientists and fishery managers currently use to make oyster management decision. This bill places emphasis on the need to conduct that survey in Eastern Bay, which is a recommendation made by the Oyster Advisory Committee – a committee that incorporates input from working watermen, scientists, and environmental organizations. ShoreRivers feels that investing in Eastern Bay is critical considering the amount of restoration opportunity the vast and open areas of Eastern Bay has to offer. Investment in Eastern Bay is an investment in the entire mid-shore region in terms of oyster growth, oyster reproduction and the many ecosystem benefits a healthy oyster reef provides. By understanding where the restoration potential exists in Eastern Bay the state can more efficiently invest in what should be the next big oyster restoration project in Maryland.

For these reasons stated above, ShoreRivers urges the Committee to adopt a **FAVORABLE** report on **HB1228**.

Sincerely,

Matt Pluta
Choptank Riverkeeper, on behalf of:

ShoreRivers

Isabel Hardesty, Executive Director
Annie Richards, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper
Elle Bassett, Miles-Wye Riverkeeper | Zack Kelleher, Sassafras Riverkeeper

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HB 1228 Natural Resources – Oysters – Spat, Shells

Uploaded by: Michelle Dietz

Position: FAV

Friday, March 4, 2022

TO: Kumar Barve, Chair of Environment and Transportation Committee and Committee Members

FROM: Mark Bryer, The Nature Conservancy, Chesapeake Bay Program Director; and Michelle Dietz, The Nature Conservancy, Director of Government Relations

POSITION: Support HB 1228 - Oysters – Spat, Shells, and Substrate

The Nature Conservancy (TNC) supports HB 1228 offered by Delegates Crosby, Clark, Boyce, Barve, and Stein. For the past two decades, the world has looked to the Chesapeake Bay to learn what's possible in oyster restoration. No effort in the world matches the scale of what has been accomplished here, and TNC has been proud to support and invest in oyster restoration along with many others during this time. But it has become clear that lacking substrate is significantly limiting additional oyster expansion across the Chesapeake Bay. Without more substrate – be it shell, rock, concrete or other hard surface where oysters can grow – we collectively cannot increase the number of oysters in the Bay and realize the associated, and much needed, benefits for the Bay's health, our state and local economies and Maryland's culture.

HB 1228 makes a number of important advancements to increase substrate for oysters. Critically, it invests in science that will both better define substrate's current state in Maryland's portion of the Chesapeake Bay and better study how different types of substrate perform ecologically and economically. HB 1228 further requires that the Department of Natural Resources develop a long-term plan for substrate needs and acquisition based on this updated science. HB 1228 also makes other important investments, including establishing a new grant program to encourage shell recycling and expanding oyster hatcheries as well as seafood processing facilities.

Oysters are a critical form of natural infrastructure in Maryland, and substrate is the literal foundation for their restoration. Rebuilding lost infrastructure requires solid information, a plan, and significant capital investments. HB 1228 makes important advances in each of these areas and reflects a positive step forward in the long road to restoring oysters to the Chesapeake.

Therefore, we urge a favorable report on HB 1228.

HB1228 - SUPPORT - St. Mary's County.pdf

Uploaded by: Randy Guy

Position: FAV

ST. MARY'S COUNTY GOVERNMENT
**COMMISSIONERS OF
ST. MARY'S COUNTY**



James R. Guy, President
Eric Colvin, Commissioner
Michael L. Hewitt, Commissioner
Todd B. Morgan, Commissioner
John E. O'Connor, Commissioner

House Bill 1228
Natural Resources – Oysters – Spat, Shells and Substrate

SUPPORT

March 1, 2022

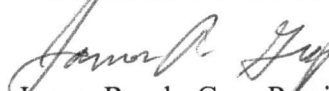
Delegate Kumar P. Barve, Chairman
Environment and Transportation Committee
House Office Building, Room 251
6 Bladen Street
Annapolis, MD 21401

Dear Chairman Barve:

The Commissioners of St. Mary's County **SUPPORT** HB 1228 – Natural Resources – Oysters – Spat, Shells and Substrate which will be heard in the Environment and Transportation Committee.

We support HB 1228 and urge a favorable report. We appreciate the introduction of this legislation and believe it will benefit the citizens of St. Mary's County. We look forward to working with you on this and other initiatives throughout the session.

Sincerely,
COMMISSIONERS OF ST. MARY'S COUNTY


James Randy Guy, President

CSMC/AB/sf
T:/Consent/2022/061

Cc: Senator Jack Bailey
Delegate Matthew Morgan
Delegate Gerald Clark
Delegate Brian Crosby
Commissioner Eric Colvin
Commissioner Michael Hewitt
Commissioner Todd Morgan
Commissioner John O'Connor
Catherine Pratson, Acting Co-County Administrator
David Weiskopf, Acting, Co-County Administrator

HB 1228_CBF_SUPPORT WITH AMENDMENTS.pdf

Uploaded by: Allison Colden

Position: FWA



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

House Bill 1228

Natural Resources – Oysters – Spat, Shells, and Substrate

Date: March 4, 2022

To: House Environment and Transportation Committee

Position: Support with Amendments

From: Allison Colden, Sr. Fisheries Scientist

Chesapeake Bay Foundation (CBF) **SUPPORTS HB 1228 WITH AMENDMENTS.** This comprehensive bill addresses critical needs for oyster recovery in Maryland – oyster larvae, shell, and substrate. Through investments in hatchery and shuckinghouse capacity, incentives for shell recycling, and improved science, HB 1228 seeks to increase retention of oyster shell in Maryland and develop long-term plans for improved substrate management across the restoration, fishery, and aquaculture sectors.

Although recent monitoring studies indicate that alternative substrates like granite perform as well or better than oyster shell when used as a reef substrate, there are some aspects of oyster restoration that necessitate the use of oyster shell. So-called “spat-on-shell” is a restoration technique that involves placing oyster shells in a tank and allowing young oysters to settle on them. Those shells are then planted on sanctuary reefs where they provide habitat to a host of other fish and crab species. Without oyster shells, these programs would not be possible.

HB 1228 seeks to increase the volume of oyster shell retained in the state through investments in shuckinghouses and reforms to shell recycling programs. When oysters are harvested, they are sold directly to restaurants in the shell or to processors who shuck the oysters and sell the shucked meats. Once the oysters are distributed for sale, it is very difficult to recover the shell. The oyster shell recycling tax credit was first introduced in 2013 to incentivize the collection and return of shell from restaurants and processors. Each year, restaurants and seafood processors recycle tens of thousands of bushels of shell which are used for restoration, repletion, and aquaculture.

HB 1228 would transition the existing tax credit program, which would otherwise sunset in 2023, to a grant program and extend eligibility to community and nonprofit organizations who recycle small volumes of shell each year. This helps capture additional shell that may have otherwise been landfilled by diversifying the types of organizations that can participate in shell recycling programs.

Other critical inputs to oyster recovery programs include oyster larvae, which is used to produce spat-on-shell oysters that are placed on sanctuary reefs. HB 1228 includes investments in the University of Maryland Center for Environmental Science’s Horn Point Hatchery and Morgan State University’s PEARL lab with the goal of increasing oyster spat production to 5 billion annually by 2025. This would address a critical bottleneck and provide additional capacity to accelerate oyster restoration activities in the future.

Lastly, HB 1228 directs the Department of Natural Resources (DNR), the University of Maryland Center for Environmental Science, and other state agencies and partners to carry out research, surveying and long-

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range planning to support more comprehensive management of oyster shell and habitat in the Bay in the future. This includes conducting a bay bottom survey to identify areas of existing habitat and areas that would support oyster restoration, addressing key research questions to inform restoration using substrate, and developing a long-term plan for oyster shell and substrate management. These actions will hopefully result in a more holistic, science-driven approach to managing Maryland's oyster habitat and resource.

CBF supports amendments to HB 1228 which would clarify the disposition of shell from the MARBIDCO loan program, conform the loan forgiveness rate and shell recycling grants per bushel rate with market rates for shell (\$5 per bushel), simplify the shell recycling grant program for processors and restaurants, and clarify the intent of the bay bottom survey (see *Attachment*). CBF welcomes the opportunity to work with the Committee to further refine and perfect amendments to the bill.

CBF urges the Committee's FAVORABLE report on HB 1228 WITH AMENDMENTS. For more information, please contact Dr. Allison Colden, Maryland Senior Fisheries Scientist at acolden@cbf.org and 443.482.2160.

ATTACHMENT

Suggested amendments in red:

Suggested amendment #1:

10-519.1.

1 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (2) "ELIGIBLE SEAFOOD PROCESSING PROJECT" MEANS A PROJECT
4 TO ESTABLISH OR EXPAND THE BUSINESS OF A LICENSED SEAFOOD DEALER THAT:

5 (I) SUPPORTS THE GOAL OF INCREASING THE AMOUNT OF
6 OYSTER SHELLS RETAINED IN THE STATE AND RETURNED TO THE CHESAPEAKE
7 BAY; AND

8 (II) MEETS THE CRITERIA ESTABLISHED BY THE CORPORATION
9 UNDER THIS SECTION.

10 (3) "LICENSED SEAFOOD DEALER" MEANS A PERSON LICENSED
11 UNDER § 4-701 OF THE NATURAL RESOURCES ARTICLE TO BUY, PROCESS, PACK,
12 RESELL, MARKET OR OTHERWISE DEAL IN FISH CAUGHT IN THE TIDAL WATERS OF
13 THE STATE.

14 (B) (1) THE CORPORATION SHALL PROVIDE LOANS ~~AND GRANTS~~ UP TO
15 \$250,000 TO FINANCE THE COSTS OF ELIGIBLE SEAFOOD PROCESSING PROJECTS IN
16 ACCORDANCE WITH THIS SECTION,

17 (2) FINANCING PROVIDED UNDER THIS SECTION SHALL BE
18 ~~CONDITIONED ON THE AGREEMENT BY THE RECIPIENT TO COMPLY WITH THE PROVISIONS~~
19 ~~OF § 4-1019.2. RETURN, AT NO COST TO~~

~~20 THE STATE, ALL OYSTER SHELLS PROCESSED BY THE RECIPIENT;~~

~~21 (I) TO THE DEPARTMENT OF NATURAL RESOURCES, FOR USE~~
~~22 IN REPLETION AND RESTORATION ACTIVITIES; OR~~

~~23 (II) DIRECTLY TO OYSTER BARS IN THE PUBLIC FISHERY OR~~
~~24 RESTORATION AREAS, IN ACCORDANCE WITH REGULATIONS OF THE DEPARTMENT~~
~~25 OF NATURAL RESOURCES.~~

26 (3) THE CORPORATION SHALL FORGIVE ~~\$35~~ \$5 OF ANY LOAN PROVIDED
27 UNDER THIS SECTION FOR EACH BUSHEL OF OYSTER SHELLS THAT THE LOAN
28 RECIPIENT RETURNS TO THE DEPARTMENT OF NATURAL RESOURCES ~~OR DIRECTLY~~
~~TO OYSTER BARS IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.~~

29 (C) A PERSON IS ELIGIBLE TO RECEIVE FINANCING UNDER THIS SECTION IF
30 THE PERSON:

31 (I) HAS BEEN A LICENSED SEAFOOD DEALER FOR AT LEAST 5
32 YEARS; OR

1 (II) HAS HELD A TIDAL FISH LICENSE ISSUED UNDER § 4-701 OF
2 THE NATURAL RESOURCES ARTICLE FOR AT LEAST 5 YEARS AND AGREES TO
3 OBTAIN A SEAFOOD DEALER LICENSE ON RECEIVING FINANCING UNDER THIS
4 SECTION;

5 (2) HAS PAID ALL APPLICABLE BUSINESS TAXES AND FEES FOR THE
6 PAST 5 YEARS;

7 (3) DEMONSTRATES TO THE SATISFACTION OF THE CORPORATION
8 THAT, WITHIN 5 YEARS AFTER RECEIVING FINANCING UNDER THIS SECTION, THE
9 PERSON'S SEAFOOD PROCESSING BUSINESS WILL:

10 (I) EMPLOY AT LEAST 15 INDIVIDUALS; AND

11 (II) ACHIEVE VIABILITY AS A BUSINESS; AND

12 (4) MEETS ANY OTHER ELIGIBILITY REQUIREMENTS ESTABLISHED BY
13 THE CORPORATION.

14 (D) FOR FISCAL YEAR 2024, THE GOVERNOR SHALL INCLUDE IN THE
15 ANNUAL BUDGET BILL AN APPROPRIATION OF \$1,000,000 TO THE CORPORATION
16 FOR THE PURPOSE OF PROVIDING GRANTS AND LOANS UNDER THIS SECTION.

Suggested amendment #2:

4-1019.1.

24 (A) THE DEPARTMENT SHALL PROVIDE ANNUAL GRANTS TO NONPROFIT
25 ORGANIZATIONS, COMMUNITY ASSOCIATIONS, RESTAURANTS, AND SEAFOOD
26 PROCESSORS THAT RECYCLE OYSTER SHELLS.

27 (B) (1) GRANTS TO NONPROFIT ORGANIZATIONS AND COMMUNITY
28 ASSOCIATIONS SHALL BE PROVIDED IN THE FOLLOWING AMOUNTS:

29 (I) \$100 FOR THE RECYCLING OF AT LEAST 5 BUT LESS THAN 20
30 BUSHELS OF OYSTER SHELLS IN A YEAR; AND

1 (II) \$250 FOR THE RECYCLING OF AT LEAST 20 BUSHELS OF
2 OYSTER SHELLS IN A YEAR.

3 (2) GRANTS TO RESTAURANTS AND SEAFOOD PROCESSORS SHALL BE PROVIDED
AT A RATE OF \$5 PER BUSHEL UP TO A MAXIMUM OF \$2000 IN A YEAR. ~~IN THE
FOLLOWING AMOUNTS:~~

~~4 (I) \$100 FOR THE RECYCLING OF AT LEAST 25 BUT LESS THAN
5 50 BUSHELS OF OYSTER SHELLS IN A YEAR;~~

~~6 (II) \$250 FOR THE RECYCLING OF AT LEAST 50 BUT LESS THAN
7 100 BUSHELS OF OYSTER SHELLS IN A YEAR;~~

~~8 (III) \$500 FOR THE RECYCLING OF AT LEAST 100 BUT LESS THAN
9 250 BUSHELS OF OYSTER SHELLS IN A YEAR;~~

~~10 (IV) \$1,000 FOR THE RECYCLING OF AT LEAST 250 BUT LESS
11 THAN 500 BUSHELS OF OYSTER SHELLS IN A YEAR;~~

~~12 (V) \$1,500 FOR THE RECYCLING OF AT LEAST 500 BUT LESS
13 THAN 1,000 BUSHELS OF OYSTER SHELLS IN A YEAR; AND~~

~~14 (VI) \$2,000 FOR THE RECYCLING OF AT LEAST 1,000 BUSHELS
15 OF OYSTER SHELLS IN A YEAR.~~

16 (C) THE DEPARTMENT SHALL PROVIDE, AT NO COST, RECEPTACLES FOR
17 THE COLLECTION OF OYSTER SHELLS TO RESTAURANTS THAT AGREE TO RECYCLE
18 AT LEAST 25 BUSHELS OF OYSTER SHELLS PER YEAR.

19 (D) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT
20 THE PROVISIONS OF THIS SECTION.

21 (2) THE REGULATIONS SHALL ESTABLISH ELIGIBILITY CRITERIA AND
22 PROVIDE FOR THE CERTIFICATION OF NONPROFIT ORGANIZATIONS, COMMUNITY
23 ASSOCIATIONS, RESTAURANTS, AND SEAFOOD PROCESSORS TO VERIFY THE AMOUNT OF
OYSTER SHELLS RECYCLED BY EACH ENTITY.

(3) THE DEPARTMENT MAY ENTER INTO AGREEMENTS WITH NONPROFIT ORGANIZATIONS WITH EXPERTISE IN OYSTER SHELL RECYCLING TO EXECUTE THE PROVISIONS OF THIS SECTION.

Suggested amendment #3:

4-1102

1 (C) (1) BEGINNING IN FISCAL YEAR 2024, THE MARYLAND GEOLOGICAL
2 SURVEY, IN CONJUNCTION WITH THE UNIVERSITY OF MARYLAND CENTER FOR
3 ENVIRONMENTAL SCIENCE, SHALL SURVEY SUBMERGED AREAS OF THE STATE **TO MAP**
4 **EXISTING AND POTENTIAL OYSTER HABITAT** IN
5 ACCORDANCE WITH THE PROVISIONS OF THIS SUBSECTION.

6 (2) IN SELECTING SITES FOR SURVEYING UNDER THIS SUBSECTION,
7 THE MARYLAND GEOLOGICAL SURVEY AND THE UNIVERSITY OF MARYLAND
8 CENTER FOR ENVIRONMENTAL SCIENCE SHALL:

9 (A) PRIORITIZE:

10 (I) EASTERN BAY AND ITS TRIBUTARIES; AND

11 (II) PUBLIC FISHERY AREAS WHERE THERE ARE LIKELY
12 TO BE SHALLOWLY BURIED SHELL DEPOSITS FROM PREVIOUS REPLETION
13 ACTIVITIES, IDENTIFIED IN CONSULTATION WITH COMMERCIAL OYSTER
14 HARVESTERS.; ~~AND~~

~~14 (II) AVOID IMPORTANT FISH SPAWNING AREAS, ESPECIALLY~~
~~15 AREAS WHERE STRIPED BASS OR STURGEON ARE KNOWN TO SPAWN.~~

16 (3) TO THE EXTENT PRACTICABLE, SURVEYS CARRIED OUT UNDER
17 THIS SUBSECTION SHALL USE SUB-BOTTOM PROFILING COMBINED WITH PHYSICAL
18 SAMPLING TO QUANTIFY THE TOTAL VOLUME OF SUBSURFACE SHELL MATERIAL.

19 (4) (I) FOR FISCAL YEARS 2024 THROUGH 2026, THE GOVERNOR
20 SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF \$2,000,000
21 TO FUND THE SURVEYS REQUIRED UNDER THIS SUBSECTION.

22 (II) THE GOVERNOR SHALL PRIORITIZE THE USE OF FEDERAL
23 FUNDS FOR APPROPRIATIONS REQUIRED UNDER THIS PARAGRAPH.

Suggested amendment #4:

24 SECTION 3. AND BE IT FURTHER ENACTED, That:

25 (a) The University of Maryland Center for Environmental Science shall
26 collaborate with the Smithsonian Environmental Research Center, the Virginia Institute
1 of Marine Science, appropriate State and federal agencies, and industry and other
2 stakeholders to research:

3 (1) the types of substrate, including fresh shell, fossilized shell,
4 combinations of shell, and alternative substrates, that are most appropriate for use in
5 oyster harvest areas;

6 (2) the benefits, including habitat-related benefits, of using ~~larger stones~~
7 ~~versus smaller~~ stones of various sizes in oyster restoration areas;

8 (3) alternative substrates used for oyster restoration or repletion in other
9 regions, including the success of efforts to use alternative substrates; and

10 (4) the potential for retrofitting existing structures, such as riprap
11 revetments, that are unrelated to oyster restoration but that use materials similar to
12 artificial reefs, to include oyster plantings.

HB1228, Fav w amendment, Oyster Recovery Partnersh

Uploaded by: Paul Schurick

Position: FWA



TESTIMONY BY THE OYSTER RECOVERY PARTNERSHIP

House Environment and Transportation Committee

House Bill 1228: Natural Resources – Oysters – Spat, Shells, and Substrate

Favorable with Amendments

March 4, 2022

Chairman Barve, Vice Chair Stein, and members of the House Environment and Transportation Committee:

My name is Paul Schurick and, on behalf of the Oyster Recovery Partnership (ORP), I respectfully ask the Committee to consider changes to House Bill 1228 to better advance the state’s need to recover and re-use oyster shells to rebuild oyster populations in the Chesapeake Bay.

ORP is a 28-year old nonprofit organization headquartered in Annapolis. Our mission is to increase the environmental and economic value of Maryland’s oyster population and we work closely with the Maryland Department of Natural Resources, Maryland’s commercial seafood industry, and the oyster aquaculture industry to restore oyster reefs in the Chesapeake Bay. Since its founding in 1994, ORP has planted more than nine billion juvenile oysters in the Bay and its tributaries.

Oyster shell is a significant natural resource and, in 2010, we established a Shell Recycling Alliance to recover oyster shells from area restaurants. Recycled shell is aged, cleaned, and used to build and rebuild oyster reefs. Since that time, ORP has recycled 256,000 bushels of shell; we currently pick up shell on a weekly basis from hundreds of restaurants and public drop-off sites in Maryland, Virginia, Washington DC, Pennsylvania, and Delaware. Maryland-based restaurants currently are eligible for a \$5-per-bushel state tax credit, capped at \$1,500 per year.

The most recent five years of shell recycling shows the growth and impact of this recycling effort:

	2017	2018	2019	2020	2021
Bushels recycled	33,457	33,635	35,749	15,905	26,428
Participating restaurants	276	291	319	262	205

House Bill 1228 proposes to replace the current shell recycling tax credit with a grant program that would pay organizations for recycled shell; it proposes a system of tiered per-bushel payments that would differ depending on the number of shells recycled. ORP believes the proposal would result in a complicated and confusing system of payments. We respectfully suggest that it be changed to a flat \$5 per-bushel rate of payment with a cap of \$2,000 per year per eligible entity.

We look forward to continuing to work with the General Assembly and the Maryland Department of Natural Resources to refine and administer this critical shell recycling program.

HB 1228 Testimony MARBIDCO.pdf

Uploaded by: Steve McHenry

Position: FWA



MARBIDCO
growing rural ventures™

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Mary Shank Creek, *Chair* / Stephen R. McHenry, *Executive Director*

TESTIMONY STATEMENT

BILL: House Bill 1228 (Natural Resources – Oysters – Spat, Shells, and Substrate)

COMMITTEE: House Environment and Transportation

DATE: March 4, 2022

POSITION: Support with Amendments

The Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO) supports with amendments, Senate Bill 830, Natural Resources-Oysters-Spat, Shells and Substrate. House Bill 1228 tries to accomplish several things in relation to supporting oyster production in the Chesapeake Bay. With respect to MARBIDCO, the legislation provides \$1,000,000 in FY 2024 for MARBIDCO to establish loan and grant programs to finance seafood processing projects. MARBIDCO understands that the sponsor is working with the affected stakeholders to develop appropriate amendments in a number of areas in the bill, but at least three amendments impacting MARBIDCO's ability to manage the loan program are needed.

Proposed MARBIDCO Amendments

Amendment #1

On page 5, strike language on lines 7-11, and substitute the following:

(3) DEMONSTRATES TO THE SATISFACTION OF THE CORPORATION THROUGH A BUSINESS PLAN AND PROFORMA FINANCIAL PROJECTIONS THAT ARE SUBMITTED THAT, WITHIN 5 YEARS AFTER RECEIVING FINANCING UNDER THIS SECTION, THE PERSON'S SEAFOOD PROCESSING BUSINESS WILL:

(I) HAVE THE POTENTIAL TO ACHIEVE VIABILITY AS A BUSINESS; AND

(II) BE ELIGIBLE FOR UP TO \$16,000 IN LOAN FINANCING FOR EACH FULL-TIME JOB THAT IS PROJECTED TO BE CREATED OR RETAINED.

Rationale: The first amendment clarifies in a practical way MARBIDCO's ability to determine whether a business plan and proforma financial projections accompanying a loan application request are realistic. This amount would also allow MARBIDCO to scale the amount of loan financing being provided to the seafood business by projecting the number of jobs that are expected to be created and retained (up to the \$250,000 maximum loan amount established elsewhere in the bill).

Amendment #2

On page 5, strike language on lines 12-13, and substitute the following:

(4) MEETS ANY OTHER ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE CORPORATION; AND

(5) AGREES TO THE FINANCING TERMS AND CONDITIONS ESTABLISHED BY THE CORPORATION THAT ARE OTHERWISE IN CONFORMANCE WITH THIS SECTION.

Rationale: The second amendment clarifies MARBIDCO's ability to determine the terms and conditions of loans that are made that are otherwise in conformance with the conditions established in the legislation. There are other terms and conditions that MARBIDCO must routinely set with any loan that it makes, e.g., the loan's maturity date and amortization schedule, the interest rate, personal guarantees by the principal borrower(s), certain reporting requirements, loan default procedures, etc.,

Amendment #3

On page 5, strike the language on lines 14-16 and substitute the following:

(D) (1) FOR FISCAL YEAR 2024, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF \$1,000,000 TO THE CORPORATION FOR THE PURPOSE OF PROVIDING LOANS UNDER THIS SECTION.

(2) THE APPROPRIATION IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DISTRIBUTED TO A SPECIAL ACCOUNT, TO BE USED ONLY TO:

(I) MAKE LOANS UNDER THE PROGRAM; AND

(II) PAY THE COSTS NECESSARY TO ADMINISTER AND OPERATE THE PROGRAM.

Rationale: The third amendment would allow MARBIDCO to recover the costs for administering the new program, especially during the first year or two when it can be expected that there would be quite a lot involved with setting up and running this new programmatic undertaking. The out-year expenses should hopefully be covered by the anticipated loan interest payments.

MARBIDCO Background

MARBIDCO was established by the Maryland General Assembly 15 years ago as a relatively specialized economic development financial intermediary instrumentality of the State to enhance the sustainability of the State's agricultural and resource-based industries to help support locally produced food and fiber products, bolster local economies, and preserve working farm and forest land for future generations. MARBIDCO is governed by a Board of Directors that consists of 17 individuals who bring a wide range of perspective and experience to the Corporation's operations. MARBIDCO employs a small staff consisting of experienced agribusiness credit underwriters and loan/grant servicers.

Since 2007, MARBIDCO has:

- Cumulatively approved **1,058** project financings totaling **\$80 million** for food and fiber business projects located in of all Maryland's counties (including in Baltimore City).

- Invested in **395** agricultural/rural business lending projects (with \$64 million deployed) and leveraged nearly **\$170 million** in private commercial loan capital (approaching a 3-to-1 leverage of MARBIDCO's debt capital).
- Helped **541** young or beginning farmers buy their first farms or expand their business operations (with \$59 million deployed).
- Assisted with funding **277** value added food or fiber processing enterprises (\$7 million deployed).
- Financed **85** specialty shellfish aquaculture (oyster farming) projects (\$5.2 million deployed).
- Funded a total of **234** seafood and aquaculture projects combined (\$6.6 million deployed).
- Assisted **33** "beginner farmers" recently with purchasing their first farms (\$9 million deployed) and at the same time helped put 3,080 acres of good quality farmland on a path to become permanently preserved through the Next Generation Farmland Acquisition Program.

Today, MARBIDCO offers more than a dozen agricultural and rural business financial assistance programs. Assisting young and beginning farmers are a special focus for MARBIDCO, as is farm operation diversification (through value added processing activities). Commercial urban farming has also become an increasingly important focus of MARBIDCO's efforts. MARBIDCO also endeavors to support Maryland's watermen and seafood processors where it appropriately can as well.

MARBIDCO's lending and agribusiness development incentive programs are designed to help fill an important economic development void by promoting commercial business start-up and expansion in the agricultural sector. Moreover, the Corporation aims to help agricultural and resource-based businesses to innovate, diversify and exploit emerging market opportunities. MARBIDCO does this, in part, by filling gaps in privately provided capital, and by helping rural businesses to leverage federal, regional, and local government support to sustain or increase operational sustainability and profitability.

MARBIDCO currently receives an annual appropriation to help capitalize its "Core" revolving loan programs, which are used to make secured (collateralized) loans to eligible agribusiness borrowers. This funding is scheduled to cease in FY 2025. MARBIDCO's basic operating framework for its Core programming balances two key objectives: 1) Help make higher risk capital and credit available to qualifying agricultural, forestry and seafood enterprises at affordable interest rates; and 2) Conduct the organization's financial affairs in such a manner that it can reach self-sustainability after FY 2025 (with respect to its Core programs). MARBIDCO is on track to meet this self-sustainability requirement.

MARBIDCO also receives grants from various other public and private sources from time-to-time to offer "Specialty" loan and grant incentive programs. Today, the Corporation offers four specialty loan programs and three specialty grant programs. All of these programs are designed to eventually be self-liquidating. The **financing program established in House Bill 1228 will fall into this category.**

In summary, MARBIDCO respectfully requests a Favorable Report with Amendments for House Bill 1228

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House Environment and Transportation Committee

Testimony in **OPPOSITION** to **House Bill 1228**

Natural Resources – Oysters – Spat, Shells, and Substrates

March 4, 2022

The Delmarva Fisheries Association (DFA) urges an **unfavorable** report on House Bill 1228. As introduced, such legislation would make a wide range of changes to various programs, goals, research requirements, planning requirements, and funding requirements related to oyster spat, oyster shells, and oyster substrate. *DFA represents over 80% of the commercial watermen in Maryland; individuals whose work and unique way of life spanning several generations depend upon sustainable harvests in a healthy Bay.*

DFA concerns with HB 830 include:

- no opportunity for input by the Oyster Advisory Commission (OAC) or coordination with the Final Report: *Oyster Advisory Commission Consensus Recommendations on Oyster Management*, dated December 1, 2021 (Section 1 is attached);
- a significant fiscal note and no accountability in terms of the high (+/- 95%) mortality rate of hatchery spat when planted in the wild (out of one million planted “baby oysters” from hatcheries maybe 50,000 survive and mature to market size);
- limited resources dedicated to the commercial fishery being diluted, reallocated or wasted on inefficient and/or unproven or programs (i.e., tapping the Fisheries Research and Development Fund);
- methodology and scope of a program to survey portions of Chesapeake Bay bottom;
- a grant program for restaurants and seafood processors that is likely to drive up the cost of much-needed oyster shells for oyster propagation; and
- uncodified language beginning on line 30, page 2, to line 13, page 9, which sets policies and goals relative substrate and the production of hatchery spat.

For these reasons, DFA urges an unfavorable report on HB 1228 and **recommends referral to the Oyster Advisory Commission for stakeholder consideration.**

As amendments are proposed, and the fiscal note is digested, DFA suggests another approach to ramping up spat production to take advantage to the best conditions in decades.

With the existing hatcheries that would benefit from additional orders and from public financial assistance to improve processes, including a brand-new hatchery in Sherwood (Ferry Cove Shellfish), there is no need for another government run hatchery. The estimated cost of \$20 million for a second UMCES hatchery is insufficient for a state-of-the-art oyster hatchery, especially in light of escalating equipment, supplies and construction costs (and would take many years to open and move the needle on overall spat production).

Instead of building another hatchery, we should accentuate the positive and buy more larvae from existing hatcheries. The bill should simply authorize DNR to procure additional larvae and/or spat from approved sources, including Horn Point, Ferry Cove, PEARL, Virginia hatcheries or hatcheries in other states (larvae can be shipped). Such additional larvae would benefit programs in sanctuaries (restoration), aquaculture and the public fishery. Per UMCES Horn Point Laboratory [2022 Larvae Order Form](#), \$1 million will buy **2.5 billion** larvae (Triploid or Diploid Disease Resistant at \$400 per million eyed larvae) or **3.07 billion** larvae (Diploid Wild at \$325 per million eyed larvae). More funding for spat from existing hatcheries would take advantage of the current favorable conditions in areas of the Bay for oyster propagation.

To improve survivability and return on investment, no spat on shell purchased with public funding should be applied to waters of Maryland until five millimeters (5mm) in size, on average.

State financial assistance programs such as MARBIDCO or direct aid from DNR should give priority to existing Maryland hatcheries for improvements and expansion to meet the demand for larvae, and for existing seafood industry businesses.

In addition to buying more larvae for existing hatcheries instead of building new, provide additional funding for the purchase of shell, or seed and shell, from Virginia if available, and to move forward on shell harvesting at Man O'War Shoal, where the estimated return on investment is 8:1.

No more studies are needed to prove that natural indigenous Chesapeake Bay oyster shell is the absolute best for oyster propagation. Spending time and money trying to prove better “alternatives” is a distraction from the abundance of natural shell deposits throughout the Bay (see [Trove of oyster shells discovered in Potomac River. Now what?](#); Bay Journal, 2/2822).

Re the bottom survey, more definition is needed in terms of types of bottom (structure or classification) to be surveyed and the intent – to quantify existing shell and oyster bottom, including oyster bar locations. Given the loss of public fishery bottom over the years (to sanctuaries and private aquaculture leases), the wild public fishery would like assurance in the bill (legislative intent) that the bottom survey will not result in the loss of public fishery bottom.

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HB1228_DNR_LOI_ENT_3-4-22.pdf

Uploaded by: Bunky Luffman

Position: INFO



Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor
Jeannie Haddaway-Riccio, Secretary
Allan Fisher, Deputy Secretary

Bill Number: HB 1228

Short Title: Natural Resources – Oysters – Spat, Shells, and Substrate

Department's Position: Letter of Information

Explanation of Department's Position

The Maryland Department of Natural Resources (Department or DNR) provides the following information on HB 1228.

Oyster Shell Recycling

The bill eliminates the current oyster shell tax credit program and replaces it with a grant program. DNR supports efforts to encourage the recycling of oyster shell and agrees that providing better incentives will improve participation; however, **the bill as drafted does not reflect the current relationship between DNR and important partners such as the Oyster Recovery Partnership.** We also caution that providing grants at the rates listed in the bill would create a significant administrative burden and will likely increase the market price of shell thereby impacting the Department's ability to purchase shell for restoration activities. DNR also recommends that a funding source for the grant program be identified.

Bay Bottom Survey

DNR agrees that an updated Chesapeake Bay bottom survey is warranted. To adequately survey the Bay's bottom, the Department and its partners would need at least three years and additional funding DNR also recommends clarifying whether the survey is focused only on Yates bars or on the bay bottom as a whole. As currently written, the legislation states the funding will be used to survey for buried shell deposits. While this information is important to oyster management, a Baywide bottom survey to identify different bottom types (i.e., shell, mud, sand, etc..) and redelimitate oysters bars based on the current oyster population is crucial to oyster management, the oyster stock assessment, restoration and replenishment projects, and aquaculture lease siting. A survey could be designed to accomplish both goals using many of the same methodologies if the funding and timeline allowed.

Eastern Bay

The Oyster Advisory Committee (OAC) recommended that a combination of replenishment, restoration and aquaculture activities be collectively planned in Eastern Bay, with an equal amount of funding for spat planting in sanctuaries (\$1 million annually adjusted for inflation) and for spat and shell planting on fishery bars (\$1 million annually adjusted for inflation). DNR concurs with the OAC's recommendation. The legislation, as drafted, would support initial survey work needed to begin the project. DNR also notes that the Governor's FY23 budget includes \$1 million in funding for the sanctuary restoration portion of the project. Funding will need to be identified for the fishery bar plantings.

Oyster Shucking Houses in Maryland

The OAC recommended the Department evaluate new sources of shell, methods to retain shell in Maryland, and improve processor capabilities. One method to achieve this would be to increase the number of oyster shucking houses in Maryland. The legislation, as drafted, provides loans and grants to finance seafood processors toward supporting the goal of increasing oyster shell retained in Maryland and returned to the Bay. Each bushel of shell returned to the bay would equate to forgiving \$35 of the loan. Current statute [insert number] dictates the state can purchase in-state oyster shell at \$2 per bushel, far lower than \$35 per bushel. The legislation also requires that businesses have a minimum of 15 employees within five years. If the number of employees criteria was eliminated or lowered, this could allow for more shucking houses baywide while still retaining shell in the state.

For any additional information, please feel free to contact our Legislative and Constituent Services Director, Bunky Luffman.