

**Department of Legislative Services**  
 Maryland General Assembly  
 2003 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 698

(Senator Stoltzfus)

Education, Health, and Environmental Affairs

Environmental Matters

**Natural Resources - Oysters - Power Dredging**

This bill requires the Department of Natural Resources (DNR) to adopt regulations to establish zones in which power dredging for oysters would be permitted. The bill also requires DNR to establish harvest sanctuaries in each power dredge zone and to design and implement a program for scientifically monitoring and assessing the effect of power dredging.

The bill takes effect July 1, 2003 and sunsets June 30, 2008.

**Fiscal Summary**

**State Effect:** General/special fund expenditure increase of \$251,300 in FY 2004 to establish harvest sanctuaries, not including any costs to rehabilitate the bottom habitat of sanctuaries. Future year estimates are annualized, adjusted for inflation, and reflect ongoing operating expenses. Revenues would not be affected.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Revenues	\$0	\$0	\$0	\$0	\$0
GF/SF Exp.	251,300	119,500	125,200	131,300	138,000
Net Effect	(\$251,300)	(\$119,500)	(\$125,200)	(\$131,300)	(\$138,000)

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

**Local Effect:** The bill would not materially affect local operations or finances.

**Small Business Effect:** Potential meaningful. While the bill codifies specified zones where power dredging is currently authorized by regulation, it also requires DNR to establish sanctuaries in each zone where power dredging would be prohibited.

## Analysis

**Bill Summary:** The bill specifies areas that must be included in the power dredge zones and authorizes DNR, by regulation, to: (1) open or close any area within a power dredge zone for the catching of oysters by power dredging; (2) open or close any area within a power dredge zone for the conservation of oysters; (3) set the oyster dredge bar minimum and maximum size limits; or (4) set the season, days, and times when oysters may be harvested by power dredging. The bill establishes criteria DNR must follow in determining whether to open or close an area within an oyster power dredge zone. When opening or closing an area or a zone, DNR must publish the action and relevant dates and times at least 48 hours in advance. DNR may require a person who catches oysters with a power dredge to complete and file reports on forms provided by DNR.

A harvest sanctuary must be located in an area with bottom conditions suitable for oyster growth or that can be readily rehabilitated to be suitable for oyster growth. The total sanctuary in each zone must be at least 10% of the area that historically supported oyster growth in that zone.

The bill's provisions do not apply in an oyster sanctuary established in regulation, in a submerged aquatic vegetation (SAV) protection zone, or in any waters contiguous to the shore that are more shallow than six feet at mean low tide where a SAV bed is located or where there is historic evidence of the presence of SAV beds.

**Current Law/Background:** DNR is required to prepare a fishery management plan for oysters. As such, DNR has the authority to adopt conservation and management measures for the fishery, including the establishment of areas where power dredging is permitted as well as the establishment of oyster sanctuaries. Power dredging is not currently permitted in oyster sanctuaries or SAV protection zones. Chapters 407, 633, 580, and 478 of 1999 required DNR to establish by regulation power dredging zones and oyster sanctuaries within specified areas of Calvert, Dorchester, Somerset, and St. Mary's counties. DNR recently adopted emergency regulations, effective January 27, 2003, to establish additional areas (in Dorchester, Somerset, St. Mary's, Talbot, and Wicomico counties) where power dredging is permitted for the rest of the 2002-2003 oyster season (until April 15, 2003). In addition to requiring DNR to establish sanctuaries and a program for monitoring the effect of power dredging, the bill codifies the areas authorized for power dredging by emergency regulation and clarifies DNR's authority to establish additional power dredging zones.

**State Expenditures:** General/special fund expenditures could increase by an estimated \$251,300 in fiscal 2004, which accounts for a 90-day start-up delay. This estimate reflects costs to mark the harvest sanctuaries with buoys and to hire two hydrographic engineer associates to survey the sanctuaries and set and maintain buoys. The estimate

includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- five power dredge zones are identified in the bill;
- based on data from the Bay Bottom Survey (1975-1983), the total area of harvest sanctuaries (equal to 10% of the estimated area that historically supported oyster growth) is estimated to be 2,540 acres (780.9 in the Honga River area, 653.7 in the Fishing Bay area (Tangier River), 628.3 in the Talbot County area (Choptank River), 384.6 in the Pocomoke Sound area, and 92.8 in the St. Mary's River);
- purchase of 206 marking buoys at \$310 each (4 buoys for every 50 acres of sanctuary);
- medium weights for buoys;
- buoy maintenance (\$200 per buoy per year) includes picking up, cleaning, repainting, repairing, and resetting buoys; and
- one vehicle, boat, motor, trailer, and associated equipment per position.

Equipment/Operating Expenses	\$100,200
Buoy Purchase and Maintenance	94,800
Salaries and Fringe Benefits	<u>56,300</u>
<b>Total FY 2004 State Expenditures</b>	<b>\$251,300</b>

Expenditures could increase significantly to the extent DNR uses large weights for the buoys instead of medium weights (the use of large weights would require a buoy tender and crew).

Future year expenditures reflect: (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses, including buoy maintenance.

This estimate does not include any costs for DNR to rehabilitate the bottom habitat of sanctuaries to be suitable for oyster growth. While the bill alludes to the sanctuaries as being productive, it does not explicitly require DNR to rehabilitate the bottom habitat of sanctuaries to make them suitable for oyster growth. If DNR is required to do so,

however, costs would increase significantly. Based on a 2002 study by Horn Point Laboratory, DNR estimates that 95% of the sanctuary acreage (2,413 acres) is not currently suitable for oyster growth but could be rehabilitated to be suitable for oyster growth. DNR estimates rehabilitation costs at approximately \$39.1 million, which is based on the average cost of dredge shell (\$9,900 per acre) and alternative materials (\$22,500 per acre), but does not include costs to purchase seed (\$40,000 per acre) or costs for contractual services to set material and plant seed (\$20 per acre).

Legislative Services notes that per acre rehabilitation costs could be less to the extent DNR uses a method called “bar cleaning,” which involves dredging the area to rehabilitate the bottom habitat. Based on information provided by the Chesapeake Bay Foundation, costs for bar cleaning vary but could be around \$5,000 per acre.

The bill’s provisions regarding the establishment of power dredge zones and the establishment of a program for scientifically monitoring and assessing the effect of power dredging would not significantly affect State operations or finances.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1159 (Delegate Elmere, *et al.*) – Environmental Matters.

**Information Source(s):** Department of Natural Resources, Chesapeake Bay Foundation, Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2003  
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