

**Department of Legislative Services**  
Maryland General Assembly  
2005 Session

**FISCAL AND POLICY NOTE**

House Bill 430 (Delegate Franchot)  
Environmental Matters

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**Natural Resources - Nonnative Oysters - Legislative Approval**

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This emergency bill prohibits the Department of Natural Resources (DNR) from introducing a nonnative oyster into State waters except under specified conditions.

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**Fiscal Summary**

**State Effect:** Potential significant increase in State expenditures to perform additional research on nonnative oysters; it is possible that at least a portion of the research could either be conducted by federal agencies or paid for with federal funds.

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

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Bill Summary:** DNR could introduce a nonnative oyster into State waters if: (1) the recommendations in the most current report by the National Research Council (NRC) on the nonnative oyster in the Chesapeake Bay have been satisfied to the extent possible for the State; (2) the specific research priorities identified by the Scientific and Technical Advisory Committee (STAC) of the Chesapeake Bay Program have been fully satisfied; and (3) the introduction is approved through the passage of legislation by the General Assembly.

**Current Law:** Chapter 508 of 2002 required DNR to authorize the study of the Suminoe oyster and other nonnative species by both private and public research institutions with

expertise in the field. The study was to be consistent with the findings of the National Academy of Science (NAS) review of the Suminoe oyster.

**Background:** To both revive the oyster industry and replace the bay's natural filters, the State is studying the introduction of the nonnative Suminoe or Asian oyster, among other options. The Suminoe oyster has shown disease resistance and grows quickly. A small population of a strain of the Suminoe oyster has been maintained in aquacultures off the coast of Oregon for about 30 years. Despite the existing data, however, the Suminoe's survival near Oregon does not answer questions about its possible survival in, and possible impact on, the bay.

A number of organizations have studied or begun to study the possible effects of the introduction of the Suminoe oyster into east coast waterways. NRC (part of NAS), in a 2004 report on the Suminoe oyster, conceded that the oyster seems more disease-resistant than the native oyster but stressed that the results were preliminary. NRC suggested that longer-term studies of the nonnative oyster, up to five years, were needed before a determination could be made as to the likely effects of a nonnative oyster program. STAC (part of the Chesapeake Bay Program), in a 2004 report resulting from a workshop of research scientists, outlined priority research needs to be clarified prior to a final decision on the introduction of nonnative oysters to the bay.

Maryland, Virginia, and the U.S. Army Corps of Engineers are voluntarily preparing an environmental impact statement (EIS) on the possible introduction of the Suminoe oyster to the Chesapeake Bay. The EIS will consider eight different options regarding oysters ranging from continuing the current native oyster restoration program to introducing and propagating a nonnative oyster species while ending native oyster restoration efforts. DNR anticipates the EIS process to be completed in 2005. The information in the EIS will lead to a decision on whether or not to introduce the nonnative oyster. DNR advises that the research will be reviewed by an independent oyster advisory panel.

**State Fiscal Effect:** Because the extent to which DNR would introduce a nonnative oyster into State waters in the absence of the bill is unknown, any fiscal impact associated with the bill would be speculative. If DNR should choose not to move forward with the introduction of a nonnative species after completing the EIS process, the bill would have no impact. However, to the extent DNR should choose to move forward with the introduction, under this bill, additional research would need to be conducted before DNR could do so.

DNR advises that the research called for in the bill would take several years and cost an estimated \$8 million. Legislative Services notes that several federal agencies estimate the costs to conduct the essential and high-priority biological research at \$2 million per year over the next few years, but they note that the research could take longer and costs

could be higher. Additional costs would be incurred to perform the recommended economic and socio-cultural research. While total costs could be significant, at this point it is unclear who would bear those costs. Legislative Services advises that, while DNR has funded some of the research on nonnative oysters to date, so has the federal government. Accordingly, while the bill could result in a significant increase in State expenditures, it is possible that federal agencies could perform some of this research and/or provide federal funds to the State to conduct some of the research.

Legislative Services notes that the bill's requirement that an introduction be approved by the General Assembly through legislation could delay, and possibly prevent, an introduction. Any future action by the General Assembly cannot be predicted, however.

**Small Business Effect:** This bill could delay, and possibly prevent, the introduction of a nonnative species to State waters. Because the economic impact of such an introduction is unknown, however, the bill's impact on small businesses cannot be reliably estimated at this time.

According to DNR, restoring a self-sustaining oyster population is expected to have a significant economic benefit. Maryland's oyster harvest in 2003-2004 was 26,500 bushels, a significant drop from the previous record low of 53,000 bushels in 2002-2003 and the average of 2.5 million bushels per year during the 1970s. The dockside value of Maryland's oyster harvest was in excess of \$40 million in 1975 (2001 dollars), and was approximately \$625,000 in 2003-2004. Although the 2004-2005 catch to date has already exceeded last year's total catch, according to DNR, the bay's oyster industry is economically extinct; oysters are now being imported from the Gulf and West coasts to meet local market demand, and the Chesapeake is no longer considered a viable source for oysters for the national market.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Natural Resources, Chesapeake Bay Foundation, U.S. Environmental Protection Agency, National Oceanic and Atmospheric Administration, U.S. Fish and Wildlife Service, Department of Legislative Services

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