

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

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

Senate Bill 930

(Senator Colburn)

Education, Health, and Environmental Affairs

Environmental Matters

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**Department of Natural Resources - Shell Dredging - Permit Application**

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This bill requires the Department of Natural Resources to apply to the U.S. Army Corps of Engineers for a permit to dredge fossil oyster shells and specifies that DNR must apply for the permit by December 1, 2008 if it determines that dredging for fossil oyster shells is consistent with the findings and recommendations of the draft Environmental Impact Statement (EIS) concerning evaluation of oyster restoration alternatives for the Chesapeake Bay.

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**Fiscal Summary**

**State Effect:** Costs associated with applying for a permit could be absorbed within DNR's existing budgeted resources. Any subsequent oyster restoration activities would depend on available funding; in addition to special funds and reimbursable funds in the department's operating budget for oyster restoration activities, the Governor's proposed FY 2009 capital budget includes \$3 million in general obligation bonds to construct and rehabilitate oyster bar habitat in the Chesapeake Bay and its tributaries.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** DNR is required to take measures which, in its judgment, seem best calculated to increase the productivity or utility of any part of the natural oyster bars of the State, including • identifying and using effective methods of cleaning diseased oyster

bars; • providing clean shell for the bars; and • using hatchery produced oysters to replant sites.

DNR is also given specified authority to • close natural oyster bars; • prohibit or restrict the catching of oysters on natural oyster bars in the waters of the State; • plant oysters, shells, or other cultch, or take any other restorative measures deemed advisable, on natural oyster bars; and • select and reserve areas for the propagation of seed oysters.

**Background:** At its peak, the bay's oyster population acted as a natural filter, removing 133 million pounds of nitrogen annually. Affected by diseases, habitat loss, and harvest pressures, the oyster stock has significantly declined. Today, the oyster population has dropped to less than 1% of its original population, and remaining oysters remove only about 250,000 pounds of nitrogen from the Chesapeake Bay each year.

An EIS is being prepared by Maryland, Virginia, and the U.S. Army Corps of Engineers, Norfolk District evaluating the option of introducing a nonnative oyster as a means of establishing a self-sustaining oyster population, in addition to other alternative approaches to increasing oysters in the Chesapeake Bay. A draft EIS is scheduled to be available for public review in June 2008.

The Maryland Oyster Advisory Commission, formed pursuant to Chapters 113/114 of 2007, included in the findings of its 2007 interim report that implementation of a large-scale oyster bar habitat rehabilitation program, dependent on the availability of large quantities of oyster shell and alternate substrate materials, will be critically necessary to oyster restoration in the Chesapeake Bay. A scientific peer review panel for the EIS has similarly indicated that oyster restoration will depend on a large-scale oyster bar rehabilitation program.

The commission indicates that the dominant source of shells for oyster restoration has been buried shell deposits in the upper bay. However, DNR's permit from the U.S. Army Corps of Engineers and the Maryland Department of the Environment allowing the department to dredge in the upper bay expired in September 2006 and was not renewed as a result of stakeholder conflict concerning the dredging. In the absence of this bill, it is possible DNR may reapply for such a permit at some point in the future, although that is uncertain at this time.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** HB 1504 (Delegate Eckardt, *et al.*) – Environmental Matters.

**Information Source(s):** Department of Natural Resources, Maryland Department of the Environment, Oyster Advisory Commission, Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2008  
mcp/lgc Revised - Senate Third Reader - April 1, 2008

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