

Department of Legislative Services  
Maryland General Assembly  
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 673 (Senator Colburn, *et al.*)  
Education, Health, and Environmental Affairs

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**Clammers - Clamming Appliances and Income - Compensation**

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This bill creates a Clammers' Compensation Program within the Department of Natural Resources. The program must pay an eligible clammer compensation equal to the fair market value of clamming appliances owned by a clammer. The program may pay a clammer compensation for the clammer's diminished earning capacity. The bill establishes a Clammers' Compensation Committee, staffed by DNR, to provide for the payment of compensation to clammers and to determine which clammers may receive compensation and the amount of such compensation. The Secretary of Natural Resources must adopt regulations to carry out the purposes of the bill.

The bill terminates September 30, 2010.

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**Fiscal Summary**

**State Effect:** General fund expenditures could increase significantly from FY 2009 through 2011 to compensate clammers. However, because the bill grants some discretion to the committee with respect to compensation, the extent of any expenditure increase cannot be reliably estimated.

**Local Effect:** None.

**Small Business Effect:** Meaningful.

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**Analysis**

**Current Law:** A resident of the State may harvest clams for commercial purposes to the extent permitted under State law and regulations if licensed by DNR. Restrictions apply

under State law and regulations with respect to, among other things, areas in which clams and other shellfish may or may not be harvested and the devices that may be used.

Chapter 260 of 2007, which takes effect October 1, 2008, prohibits a person from catching or attempting to catch clams or oysters by power dredge, hydraulic clam dredge, or other mechanical means in the Atlantic coastal bays.

**State Fiscal Effect:** General fund expenditures could increase significantly from fiscal 2009 through 2011 to provide compensation to clambers as provided under the bill. The bill, however, provides some discretion to the Clammers' Compensation Committee with respect to the amount of compensation paid out to eligible clambers. The extent of expenditures under the program, therefore, cannot be reliably estimated at this time.

Under this bill, to be eligible for compensation, a clammer must submit a shellfish buy ticket or tax receipt showing the clammer fished for clams between September 15, 1994 and October 1, 2008 or provide evidence of active participation in the clam fishery to the satisfaction of the committee. It is assumed that compensation under the program would be directed toward those clambers that will be affected by the prohibition under Chapter 260 on catching or attempting to catch clams or oysters by specified means in the Atlantic coastal bays, effective October 1, 2008.

DNR indicates that 65 licensees reported harvest of clams in the Atlantic coastal bays with a dredge between September 1994 and December 2007 (the most recent information available) and that the total dockside value of the clams harvested during that period was \$3.4 million. (In all Maryland tidal waters, 626 licensees reported harvesting clams during that time period, with a total dockside value of \$15.4 million.) DNR notes that this does not account for any harvesting of razor clams (which are primarily harvested for bait) during that time period because DNR does not receive reported harvest information for those clams. DNR also indicates that the cost of a hydraulic clam dredge is roughly between \$30,000 and \$50,000.

While the bill specifies that the program must compensate a clammer for the fair market value of clamming appliances, it only authorizes, and does not require, compensation to be paid to clambers for their diminished earning capacity. The bill also does not specify the duration for which clambers would be compensated for any diminished earning capacity. Accordingly, it is unclear how the committee would calculate such compensation. However, *for illustrative purposes only*, a total of between \$5.4 million and \$6.6 million could be paid out between fiscal 2009 and 2011 during the effective period of the program assuming:

- all 65 licensees that reported harvest of clams with a dredge in the Atlantic coastal bays currently own clamming appliances and would be compensated for the cost of the appliances at a rate of between \$30,000 and \$50,000; and

- those licensees are compensated for their diminished earning capacity at an amount equivalent to the dockside value of the harvest from September 1994 to December 2007 (\$3.4 million). (Although the bill's language relates to the time period from September 15, 1994 to October 1, 2008, DNR advises that harvest reports for 2008 are not yet available.)

The estimates do not account for any diminished earning capacity of clammers associated with the harvest of razor clams.

The bill specifies that DNR may use any general, special, State reimbursable, or federal reimbursable funds appropriated in the budget to carry out the program; however, DNR indicates that the department's special and federal funding has strict guidelines that do not include the bills purposes. Therefore, it is assumed that general funds would be used to pay compensation to eligible clammers.

Any expense reimbursements for committee members and staffing costs for DNR are assumed to be minimal and absorbable within existing budgeted resources.

**Small Business Effect:** Watermen eligible for payments under the program would benefit financially. As a result of Chapter 260 of 2007, those engaged in clamming in the Atlantic coastal bays by mechanical means will no longer be able to do so. In addition to lost income, the Maryland Watermen's Association indicates that the gear the watermen use will become obsolete as a result. To the extent these watermen would receive compensation for their clamming appliances and diminished earning capacity, they would be positively impacted.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Natural Resources, Maryland Watermen's Association, Department of Legislative Services

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Analysis by: Scott D. Kennedy

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510