

**Department of Legislative Services**  
 Maryland General Assembly  
 2009 Session

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

House Bill 177

(Delegate Lafferty, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

**Natural Resources - Oyster Shell Purchase Program - Fair Market Value**

This bill requires the Department of Natural Resources (DNR) to consult with the Oyster Advisory Commission (OAC) and the Tidal Fisheries Advisory Commission on fresh oyster shell, placement, and transportation rates and to establish an annual payment rate for transportation and placement of fresh oyster shells. The bill clarifies the areas in which licensed oyster dealers may plant, or provide for planting, specified oyster shells. The Secretary of Natural Resources is required to adopt regulations. Finally, a 25 cents per bushel limit on DNR oyster shell purchases is repealed.

The bill takes effect July 1, 2009.

**Fiscal Summary**

**State Effect:** Reimbursable fund expenditures increase by \$90,000 in FY 2010 for oyster shell payments at the fair market value. The Governor’s proposed FY 2010 budget assumes a rate of 50 cents per bushel. Future year expenditures cannot be reliably quantified due to changes in program priorities and the fair market value. Revenues are not affected.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Revenues	\$0	\$0	\$0	\$0	\$0
ReimB. Exp.	90,000	-	-	-	-
Net Effect	(\$90,000)	\$0	\$0	\$0	\$0

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

**Local Effect:** None.

**Small Business Effect:** Minimal.

## Analysis

**Current Law:** Licensed oyster dealers must reserve for eight months, after the opening of each annual harvest season, specified oyster shells for purchase by DNR for replanting on public oyster areas unless the dealer plants these oyster shells in specified areas.

DNR is required to consult with the Maryland oyster packers when determining how much it will pay for oyster shells. However, DNR is limited to paying not more than 25 cents per bushel of oyster shells.

**Background:** At its peak, the Chesapeake 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 bay each year.

OAC, formed pursuant to Chapters 113 and 114 of 2007, concluded in 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, is necessary for oyster restoration in the bay. Oyster bar restoration involves implementation of a variety of strategies, including shell planting. In the past, oyster shell from upper bay deposits was dredged and then planted in selected restoration sites. Also, fresh shells from Maryland's oyster shucking and packing industry have been used at selected restoration sites and at oyster hatcheries for production of spat-on-shell.

In accordance with regulations, the Tidal Fisheries Advisory Commission is responsible for advising DNR's Fisheries Service on a variety of matters.

**State Fiscal Effect:** In fiscal 2008, DNR paid \$25,390 for 101,558 bushels of oyster shell from five shucking houses at a rate of 25 cents per bushel. DNR's fiscal 2009 budget includes \$100,000 for purchasing 400,000 oyster shells at a rate of 25 cents per bushel. The Governor's proposed fiscal 2010 budget includes \$180,000 for purchasing 360,000 oyster shells at the rate of 50 cents per bushel. The proposed fiscal 2010 budget already assumes the 25 cents per bushel rate cap will be lifted and provides an additional \$90,000 for this purpose. It does not make additional funds contingent on legislation. Currently, the fair market value of a bushel of oyster shells is 50 cents. DNR advises that its purchase rate must increase in order to meet competitive prices and pay shucking houses for shell storage costs.

The amount of oyster shell DNR purchases varies significantly from year to year depending on the availability of shell and program needs and priorities. Expenditures in future years may increase to the extent the bill's provision eliminating the rate cap

prompts DNR to increase its payment rate to reflect the fair market value; however, this is dependent on the total amount of oyster shells purchased in a given year. Overall, any such impact cannot be reliably estimated.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 3, 2009  
mlm/ljm Revised - House Third Reader - March 27, 2009

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