

Department of Legislative Services  
 Maryland General Assembly  
 2016 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

House Bill 1603

(Delegate Frush, *et al.*)

Environment and Transportation

Rules

Sustainable Oyster Population and Fishery Act of 2016

This bill requires the Department of Natural Resources (DNR) to conduct a specified study, in consultation with the University of Maryland Center for Environmental Science (UMCES), as part of its fishery management plan for oysters. Based in part on a determination resulting from the study, DNR must identify management strategies to address the maintenance of a sustainable oyster population and fishery. DNR must submit two interim progress reports and a final report on the study and any proposed or implemented oyster management strategies.

The bill takes effect June 1, 2016, and terminates May 31, 2019.

Fiscal Summary

**State Effect:** General fund expenditures increase by up to \$150,000 in FY 2017 and by up to \$275,000 in FY 2018, for contractual services. Special fund revenues generated from the oyster fishery may be affected in future years, depending on the extent to which the bill changes the management of the fishery.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
SF Revenue	\$0	\$0	-	-	-
GF Expenditure	\$150,000	\$275,000	\$0	\$0	\$0
Net Effect	(\$150,000)	(\$275,000)	\$0	\$0	\$0

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

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

## Analysis

**Bill Summary:** DNR must conduct a study to:

- identify all available data that may be used to conduct a stock assessment;
- identify possible stock assessment techniques that may be applied based on available data and specified objectives for the resource and the fishery;
- conduct a stock assessment that provides guidance for the development of specified biological reference points; and
- identify objective and measurable means to determine if the public oyster fishery is operating within the biological reference points.

The study must be submitted to a peer review panel composed of stock assessment experts.

Based on a determination of whether the public oyster fishery is operating within the biological reference points and DNR's authority under provisions governing fishery management plans, the department, through a public process in collaboration with the commercial oyster industry, conservation organizations, and other concerned stakeholders, must identify management strategies to address the maintenance of a sustainable oyster population and fishery.

DNR must submit to the Governor, the Oyster Advisory Commission, and the General Assembly the following reports on the study and any proposed or implemented oyster management strategies: (1) an interim progress report by December 1, 2016; (2) a subsequent interim progress report by December 1, 2017; and (3) a final report by December 1, 2018.

### **Current Law/Background:**

#### *Oyster Management*

DNR manages the public oyster fishery in various ways, including regulation of the season and times for harvesting, daily catch limits, and zoning of public shellfish fishery areas to allow for specific oyster harvest gear to be used in specific areas based on the ability of areas to withstand harvest pressure.

In response to the oyster population in the Chesapeake Bay languishing at 1% of historic levels, decreased suitable oyster habitat, and a dwindling number of harvesters, DNR unveiled a new management and restoration plan for oysters and the State's oyster industry in December 2009. The plan increased the State's network of oyster sanctuaries from 9% to 24% of the bay's remaining quality oyster bars, established oyster aquaculture

leasing opportunities and related financial assistance programs, and maintained 76% of the bay's remaining quality oyster habitat for a public oyster fishery.

The Oyster Advisory Commission was established in 2007 and contributed to the development of the 2009 plan. The commission continues to provide advice to DNR regarding rebuilding and managing the oyster population and fishery.

DNR is evaluating the current status of the oyster sanctuaries, public fishery areas, and aquaculture, using and reviewing current data and information. The department plans to release a final report for public comment in July 2016. The report is intended to offer science-based options to guide continued oyster management. The options may include maintaining the status quo, modifying management strategies, shifting areas, or requiring more information before offering options.

### *Fishery Management Plans*

DNR is required by statute to prepare fishery management plans for various listed species, including oysters, and has specified authority to prepare plans for additional species. The plans contain a systematic description of a given fishery and the objectives and conservation and management measures for the fishery. Various requirements apply to both the plans and the conservation and management measures in the plans. Once a fishery management plan has been adopted by regulation, the fishery must be harvested in accordance with the conservation and management measures in the plan and any regulations implementing or amending that plan.

**State Expenditures:** General fund expenditures increase by up to \$150,000 in fiscal 2017 and by up to \$275,000 in fiscal 2018 for (1) contractual services to assist with the study (fiscal 2017 – \$100,000, fiscal 2018 – \$100,000); (2) contractual services for peer review of the study (up to \$125,000 in fiscal 2018); and (3) contractual services for facilitation of the collaborative public process used to identify management strategies (fiscal 2017 – up to \$50,000, fiscal 2018 – up to \$50,000). While DNR staff have the expertise to conduct the study, it cannot be completed by current staff without shifting resources away from, or delaying, other activities of the department. This estimate assumes that DNR staff lead, and are involved in, the study, but use contractual services for much of the work.

**State Revenues:** Special fund revenues generated from the oyster fishery may be affected in future years, depending on the extent to which the study and identified management strategies change the management of the fishery. It cannot be predicted whether any change would increase or decrease revenues. Included among the potentially affected revenues are revenues from oyster severance and export inspection taxes. The severance tax is \$1 per bushel of oysters, and the export inspection tax is 30 cents per bushel shipped outside the State, with revenues credited to DNR's Fisheries Research and Development

Fund. In fiscal 2015, the department collected \$407,763 in severance tax revenues and \$69,969 in export inspection tax revenues.

**Small Business Effect:** Commercial licensees may be significantly affected, depending on the extent to which the study and identified management strategies change the management of the fishery. During the 2014-2015 season, 394,767 bushels of oysters were harvested. For that season, the average dockside value was approximately \$44 per bushel, which DNR indicates was unusually high. The dockside value per bushel has more typically been in the range of \$27 to \$35 per bushel in recent years.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 937 (Senator Manno, *et al.*) - Education, Health, and Environmental Affairs.

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

**Fiscal Note History:** First Reader - March 29, 2016  
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