

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 492 (Senator Carozza, *et al.*)
 Education, Energy, and the Environment

Oysters – Rotational Harvest – Pilot Program

This bill establishes a five-year rotational harvest pilot program for oysters, implemented by the Department of Natural Resources (DNR) in two specified rotational harvest areas in the Chesapeake Bay. **The bill takes effect July 1, 2023, and terminates June 30, 2029.**

Fiscal Summary

State Effect: General fund expenditures increase by approximately \$24,000 in FY 2024 and by approximately \$19,000 annually thereafter. Special fund revenues may increase annually, beginning in FY 2024, as discussed below.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
SF Revenue	-	-	-	-	-
GF Expenditure	\$24,000	\$19,000	\$19,000	\$19,000	\$19,000
Net Effect	(\$24,000)	(\$19,000)	(\$19,000)	(\$19,000)	(\$19,000)

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The pilot program applies to two designated areas of the Chesapeake Bay (geographically defined in detail in the bill): (1) the Little Choptank Rotational Harvest Area; and (2) the Lower Main Stem Chesapeake Bay Rotational Harvest Area.

The geographic boundaries described in the bill for the two harvest areas are the same boundaries for the Little Choptank River oyster sanctuary and Lower Main Stem Bay oyster sanctuary, respectively, established in DNR's *Oyster Sanctuaries of the Chesapeake Bay and Its Tidal Tributaries (September 2010)*, which is incorporated by reference in DNR regulations. The Little Choptank River is also established in statute as one of the five tributaries identified by DNR for large-scale restoration in accordance with the 2014 Chesapeake Bay Watershed Agreement.

Under the pilot program, DNR must open the following areas of the Little Choptank River Rotational Harvest Area in the following seasons:

- 2023-2024 oyster season – Brooks Creek and Hudson Creek;
- 2024-2025 oyster season – Phillips Creek and Beckwith Creek;
- 2025-2026 oyster season – Woolford Creek and Madison Bay;
- 2026-2027 oyster season – Brooks Creek and Hudson Creek; and
- 2027-2028 oyster season – Phillips Creek and Beckwith Creek.

Of the three oyster bars located within the Lower Main Stem Chesapeake Bay Rotational Harvest Area, DNR in its discretion must (1) open one different oyster bar for each of the 2023-2024, 2024-2025, and 2025-2026 seasons; (2) reopen the same oyster bar for the 2026-2027 oyster season that it opened for the 2023-2024 oyster season; and (3) reopen the same oyster bar for the 2027-2028 oyster season that it opened for the 2024-2025 oyster season.

A tidal fish licensee who holds an oyster authorization may catch oysters in areas of the two rotational harvest areas that are open for harvest and must ensure that the oyster shells are replaced on the bar where they were caught in an amount of bushels equal to the amount of bushels of oysters caught.

Under the pilot program, DNR must, in its discretion, manage the oyster harvest and may adjust catch limits, limit the hours and days for harvest, and restrict the gear that may be used.

Before opening an area to oyster harvesting under the pilot program, DNR must survey and investigate the area to collect baseline data on (1) water quality; (2) habitat quality, including the presence of finfish species and other shellfish species; (3) the presence of silt and sediment on the oyster bar, submerged aquatic vegetation on or near the oyster bar, and diseased or dead oysters on the oyster bar; and (4) any other relevant matter in the discretion of the department. After closing an area in the rotational harvest areas to oyster harvesting under the pilot program, DNR must continue to monitor the area to collect additional data on the matters for which baseline data was collected.

By December 1, 2028, DNR must report to the Governor and General Assembly on its findings and recommendations under the pilot program.

Current Law:

The Department of Natural Resources' Authority to Open and Close Areas to Oyster Harvest

Under DNR regulations, in order to implement the Maryland Chesapeake Bay Oyster Management Plan, the Secretary of Natural Resources is authorized to issue a public notice to (1) establish or modify the season, daily catch limits, days of the week, or times for catching oysters for recreational or commercial purposes or (2) open or close an oyster harvest area for the harvesting or conservation of oysters. A public notice opening or closing an oyster harvest area must state (1) the specific area; (2) the specific period of time that the area is opened or closed; (3) daily bushel limits; and (4) the days of the week a person may catch oysters in the area.

“Oyster harvest area” means submerged ground where an individual may catch oysters and does not include an area leased for aquaculture, restricted by the Maryland Department of the Environment, or designated as a submerged aquatic vegetation protection zone, harvest reserve area, or sanctuary.

State law prohibits a person from catching oysters in or removing oyster seed from an oyster sanctuary described in statute or established by DNR in regulation.

Oyster Authorization

For most commercial fishing, DNR uses a single, commercial license, known as a tidal fish license, which authorizes a licensee to engage in each activity indicated on the license. The department may issue authorizations for activities listed in statute for which the indicated fee has been paid. The authorization for harvesting oysters for sale, for example, has a fee of \$250 for a dredge boat and \$100 for harvesting other than from a dredge boat.

State Fiscal Effect: General fund expenditures increase by approximately \$24,000 in fiscal 2024 and by approximately \$19,000 annually thereafter. The fiscal 2024 estimate reflects (1) the cost of buoys to mark the areas that will be opened and closed under the pilot program (\$12,000) and (2) equipment and other costs associated with conducting the surveys required under the bill (approximately \$12,000). DNR indicates that it can implement the pilot program with existing staff. Future years reflect ongoing maintenance costs for the buoys and ongoing costs of surveys.

State Revenues: Special fund revenues may increase annually, beginning in fiscal 2024, due to collection of additional oyster severance and inspection tax revenues collected as a result of harvesting under the pilot program; however, the extent of any increase cannot be reliably estimated. A severance tax of \$1 per bushel is levied on every bushel of oysters caught within the limits of the natural oyster bars of the State exclusive of the Potomac River. An inspection tax of 30 cents per bushel is levied on marketable oysters shipped in the shell to any place outside the State and must be paid by the shipper. The tax is levied in addition to the severance tax. The severance and inspection tax revenues are credited to the Fisheries Research and Development Fund and used only for the repletion of the natural oyster bars of the State.

DNR indicates that an average of approximately 390,000 bushels of oysters were reported harvested per season in the State over the last three seasons.

Small Business Effect: Small business oyster harvesters may meaningfully benefit to the extent harvesting oysters under the pilot program increases their overall harvest in a given season.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 932 (Delegate Jacobs, *et al.*) - Environment and Transportation.

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

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