

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1051 (Senator Eckardt)
Education, Health, and Environmental Affairs

Natural Resources - Oysters - Public Fishery Pilot Program

This emergency bill establishes a Public Fishery Pilot Program in the Department of Natural Resources (DNR), to be developed and operated by DNR, in coordination with the Oyster Advisory Commission, and operated in not more than four protected oyster sanctuaries. **The bill terminates October 1, 2023.**

Fiscal Summary

State Effect: Special fund revenues and expenditures may increase correspondingly, as discussed below.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill establishes a Public Fishery Pilot Program in DNR to (1) increase oyster abundance in the fisheries in which the program is operated and (2) enhance oyster seed and substrate in the fisheries in which the program is operated. DNR, in coordination with the Oyster Advisory Commission, must develop and operate the program.

On approval by the commission, the program must be operated in not more than four protected oyster sanctuaries, in accordance with the Natural Resources Article of the Maryland Code, if (1) not more than two of the protected oyster sanctuaries are located north of the Chesapeake Bay Bridge; (2) not more than two of the protected oyster sanctuaries are located south of the Chesapeake Bay Bridge; and (3) not more than two of

the protected oyster sanctuaries are located on either the eastern or the western shore of the Chesapeake Bay.

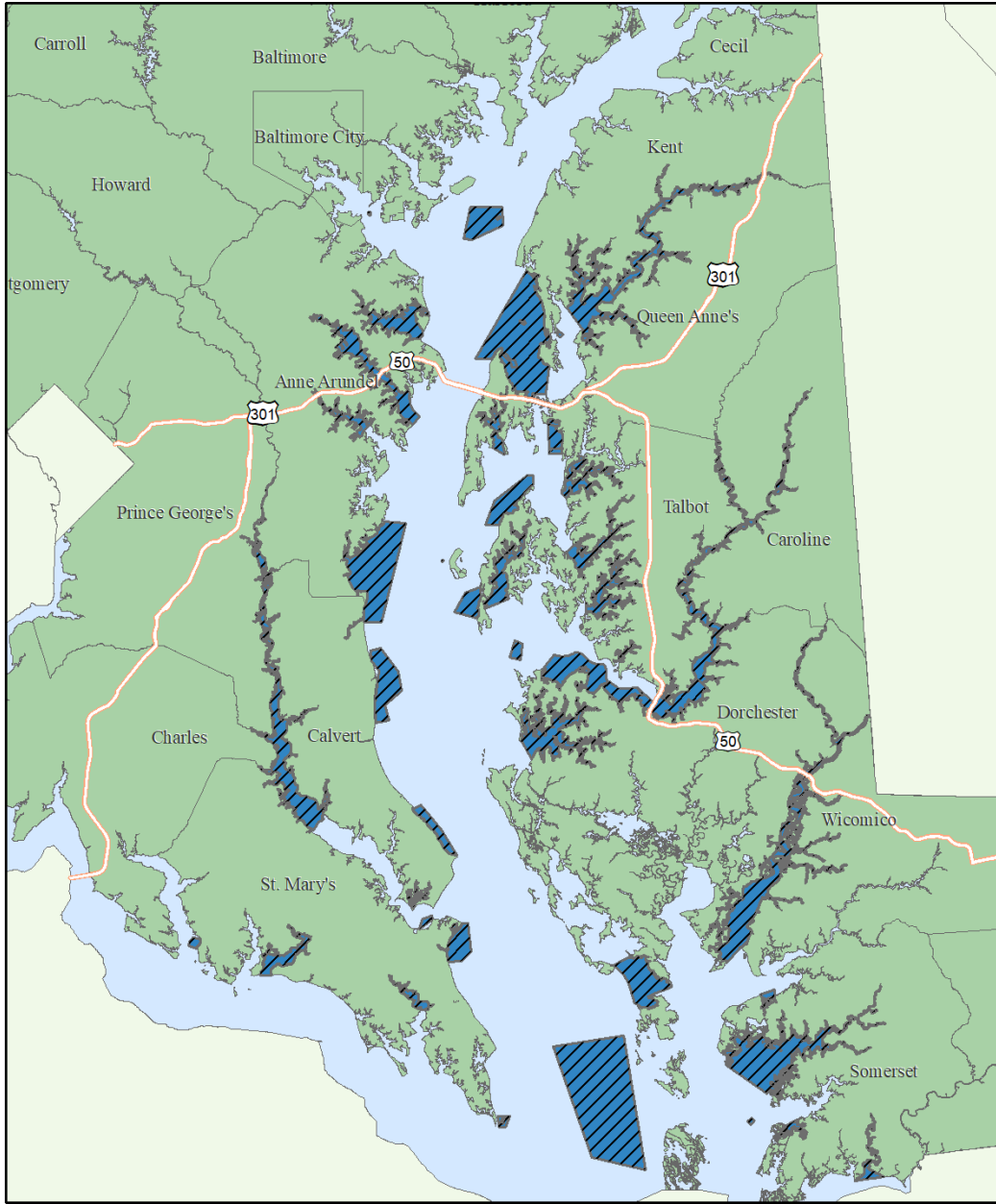
The program must maintain the State's Chesapeake Bay-wide oyster sanctuary ratio at or above 20% and utilize not more than 2,500 acres of historic oyster bottom.


Funding for the program must consist of (1) the combined resources of the Maryland Oystermen's Association, the Maryland Watermen's Association, and other identified resources and (2) any other money from any other source accepted for the benefit of the program.

By October 1, 2019, and each October 1 thereafter, DNR, in coordination with the commission, must report on the program to the Governor and the General Assembly.

Current Law: DNR regulations designate oyster sanctuaries in the Chesapeake Bay and its tidal tributaries by incorporating by reference the document *Oyster Sanctuaries of the Chesapeake Bay and Its Tidal Tributaries (September 2010)*. The current oyster sanctuaries are shown in **Exhibit 1**. The regulations prohibit a person from harvesting wild oysters from a designated oyster sanctuary.

Exhibit 1 Existing Oyster Sanctuaries



 Existing Sanctuaries

Source: Department of Natural Resources (geographic data); MD iMAP (geographic data); State Highway Administration (geographic data); U.S. Census Bureau (geographic data); Department of Legislative Services

Background:

Recent Oyster Management/Restoration and Related Legislative Action

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 assigned 76% of the bay's remaining quality oyster habitat to the public oyster fishery.

Chapter 703 of 2016 required DNR, as part of its fishery management plan for oysters, to conduct a specified study, in consultation with the University of Maryland Center for Environmental Science, on the oyster stock (including a stock assessment and development of biological reference points) and management strategies to address the maintenance of a sustainable oyster population and fishery.

DNR completed, in 2016, a review of the effectiveness of the location of the oyster sanctuaries, public shellfish fishery areas, and aquaculture areas, finding justification to consider adjustments to the boundaries of the management areas. DNR had committed in 2010, when it overhauled its oyster regulations, to undertake the review every five years and propose changes where needed. "Effectiveness" was measured against the objectives of the 2010 changes: to restore the ecological function of oysters and to enhance the commercial fishery for its economic and cultural benefits.

Chapter 27 of 2017, however, subsequently prohibited DNR from reducing or altering the boundaries of oyster sanctuaries until the department had developed a fisheries management plan for the scientific management of the oyster stock after the completion of reports required under Chapter 703 of 2016.

DNR submitted, on December 1, 2018, a report on the study conducted under Chapter 703 and recently also presented a draft 2019 oyster fishery management plan to the Oyster Advisory Commission. The commission advises DNR on matters related to oysters in the Chesapeake Bay and strategies for rebuilding and managing the oyster population.

Additional Information

For additional information on oyster management and restoration in Maryland, see [*Issue Papers, 2019 Legislative Session*](#), Department of Legislative Services, pgs. 203-205 ("Oyster Restoration") (November 2018).

State Fiscal Effect: Special fund revenues and expenditures may increase correspondingly, beginning as early as fiscal 2019, to the extent funding for the program is received by DNR from the Maryland Oystermen’s Association, Maryland Watermen’s Association, or other sources (and not spent directly by those sources). It is assumed, for the purposes of this fiscal and policy note, that no other State funding, aside from funding otherwise appropriated for the public oyster fishery, is provided or allocated to the program. It is also assumed that the program will not operate in any sanctuary areas where harvesting would negatively affect federal participation in, or federal funding for, oyster restoration activities.

To the extent the program results in a greater level of harvest of oysters than otherwise occurs in the absence of the bill, special fund revenues and expenditures may also increase due to revenues that are generated from oyster harvesting and required (by statute) to be used to support the public oyster fishery, including oyster severance tax revenues. Under existing law, a severance tax of \$1 per bushel is levied upon every bushel of oysters caught within the limits of the natural oyster bars of the State exclusive of the Potomac River. In the 2016-2017 and 2017-2018 seasons, oyster tax revenues of \$225,497 and \$168,512, respectively, were received by DNR.

The program is expected to be developed and operated by DNR (in consultation with the Oyster Advisory Commission) using existing staff.

Small Business Effect: Small businesses in the oyster industry may meaningfully benefit from the bill if the pilot program results in a greater level of harvest than otherwise occurs in the absence of the bill. During the 2017-2018 season, 182,425 bushels of oysters, with a dockside value of approximately \$8.7 million, were harvested in the commercial public oyster fishery, down from a recent high of 431,013 bushels harvested in the 2013-2014 season (with a dockside value of \$14.7 million).

Additional Information

Prior Introductions: None.

Cross File: None.

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

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