

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 979 (Senator Salling, *et al.*)
Education, Health, and Environmental Affairs

Prohibition of Dredging on Man-O-War Shoals

This bill prohibits the Department of Natural Resources (DNR) from (1) dredging buried oyster shells on Man-O-War Shoals or (2) including the dredging of buried oyster shells on Man-O-War Shoals as part of a fishery management plan. **The bill takes effect June 1, 2022.**

Fiscal Summary

State Effect: General obligation (GO) bond and special fund expenditures by DNR may be affected beginning in FY 2023, as discussed below. Revenues are not directly affected.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Productivity/Utility of Oyster Resources

Statute requires DNR to take measures which in its judgment seem best calculated to increase the productivity or utility of oyster resources in the State, including (1) identifying and using effective methods of cleaning diseased oyster bars; (2) providing clean shell for the bars; (3) using hatchery produced oysters to replant sites; and (4) applying for a permit to dredge buried oyster shells.

Permit to Dredge Buried Oyster Shells

Chapters 211 and 212 of 2009, in uncodified language, required DNR to apply to the Maryland Department of the Environment and the U.S. Army Corps of Engineers (USACE) for permits to dredge buried oyster shells by July 1, 2009, if the Oyster Advisory Commission recommended the application based on its work.

Updated Fishery Management Plan

Chapters 5 and 9 of 2020 (as amended by Chapters 597 and 598 of 2020) require DNR to develop an updated fishery management plan for the scientific management of the oyster stock based on management strategies and measurements recommended by the Oyster Advisory Commission through a consensus recommendations process required to be completed by December 1, 2021. The fishery management plan must (1) end overfishing of oysters in all areas and regions of the Chesapeake Bay and its tributaries where it has occurred, while maintaining a harvest in the fishery; (2) achieve fishing mortality rates at target levels; (3) increase oyster abundance; (4) increase oyster habitat; and (5) facilitate the long-term sustainable harvest of oysters, including the public fishery.

State Expenditures: GO bond and special fund expenditures by DNR may be affected by the bill, beginning in fiscal 2023, if the Man-O-War shoal dredging project, which DNR received preliminary approval for in 2018, does not go forward because of the bill. DNR has indicated in the past that the project, if it goes forward, would be paid for largely through GO bond funding under the oyster restoration program, as well as through smaller amounts of special funds from oyster industry taxes, license fees, and private funds. The Governor's fiscal 2023-2027 *Capital Improvement Program* includes \$13.6 million in GO bond funding for the oyster restoration program in fiscal 2023 and \$29.0 million total for the program from fiscal 2023 through 2027. If the Man-O-War shoal project does not go forward, funding is assumed to nonetheless be spent for oyster restoration efforts, though the cost of other efforts could vary.

The Department of Legislative Services notes that it is unclear whether the project will go forward even in the absence of the bill. USACE approved a provisional permit for the project in May 2018, but the provisional permit cannot become a valid permit (under which work may be performed) until certain State certifications, which are contingent on Board of Public Works (BPW) approval of the project, are made. Since the USACE approval, the project has not been scheduled for a BPW meeting. For more information on the proposed Man-O-War shoal dredging project, please see DNR's [webpage](#) on the proposed project.

Small Business Effect: To the extent the Man-O-War shoal project is otherwise approved and goes forward (in the absence of the bill), the bill's prohibition on dredging is expected to meaningfully impact small businesses in the public oyster fishery and in oyster

aquaculture, to the extent other comparable options for obtaining shell resources are not available.

Additional Information

Prior Introductions: SB 437 of 2020 received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. HB 1 of 2019 received a hearing in the House Environment and Transportation Committee but was subsequently withdrawn. Its cross file, SB 145, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. HB 40 of 2019 received an unfavorable report from the House Environment and Transportation Committee. Similar legislation was introduced in the 2009 and 2018 sessions.

Designated Cross File: None.

Information Source(s): Maryland Department of the Environment; Department of Natural Resources; University System of Maryland; Department of Legislative Services

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