

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 303

(Delegate Smigiel, *et al.*)

Environmental Matters

Natural Resources - Oyster Harvest - Closure of State Waters

This bill requires the Department of Natural Resources (DNR) to keep tidal waters of the State open for oyster harvesting unless DNR determines an area must be closed for public safety, homeland security, or other reasons required by law. DNR is required to manage tidal water resources to support, promote, and enhance oyster harvest opportunities, and to prevent, to the greatest practical extent, any net loss of tidal waters available for oyster harvesting or of oyster harvest authorizations available to tidal fish licensees in the State. DNR must submit an annual report to the General Assembly by October 1 of each year, beginning in 2011, describing the tidal waters closed to oyster harvest during the previous year and the reasons for the closures as well as the tidal waters opened to oyster harvest during the previous year to compensate for closures.

Fiscal Summary

State Effect: No material effect on State operations or finances. DNR can comply with the reporting requirement with existing resources.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law: DNR is required to prepare fishery management plans for a number of specified species, including oysters. A “fisheries management plan” is a document or report that contains a systematic description of a given fishery and the objectives and conservation and management measures for the fishery. Conservation and management measures adopted under a fisheries management plan seek to prevent overfishing, while

attempting to achieve the best and most efficient utilization of the State's fishery resources; are based on the best information available; may not discriminate unfairly among groups of fishermen or have economic allocation as their sole purpose; must account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches; and must avoid duplication of regulatory efforts and unnecessary costs to the State and to any other person.

The Secretary of Natural Resources adopts fisheries management plans and associated conservation and management measures by regulation. The State's fisheries resources must be harvested in accordance with the conservation and management measures in a fishery management plan and any regulations implementing or amending the plan.

DNR is required to present an annual fisheries management plan report to the Legislative Policy Committee; the Senate Education, Health, and Environmental Affairs Committee; and the House Environmental Matters Committee.

DNR is required to keep the land it manages open for hunting unless the land must be closed for public safety, fish or wildlife management, homeland security, or other reasons required by law. Generally, DNR may completely close State waters to all finfishing if a written report, with specified information, is made available and a public hearing is held.

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.

In December 2009, Governor Martin O'Malley proposed a new management and restoration plan for oysters and the Maryland oyster industry. The proposal seeks to increase Maryland's network of oyster sanctuaries, expand oyster aquaculture leasing opportunities, and maintain 167,720 acres of natural oyster habitat for a public oyster fishery. During January 2010, DNR held a series of open houses to solicit public comments on the oyster plan's proposed implementation regulations. Comments and suggestions were collected and are currently being reviewed.

DNR advises that the bill eliminates its ability to designate oyster sanctuaries and manage the issuance of oyster leases, both of which are critical to the sustainability of the oyster population and the economic future of the oyster industry. DNR further advises that limiting its management authority may have a significant operational, ecological, and economic impact in the future.

Small Business Effect: To the extent the bill results in additional oysters being harvested, small fishing businesses benefit. However, the bill may result in a significant overall reduction in the oyster population and decrease small business opportunities for oyster harvesting. To the extent the bill contributes to oyster bar degradation and reduced water quality, small businesses dependent on a healthy Chesapeake Bay (*e.g.*, the sport fishing community) may be negatively affected. Furthermore, DNR advises areas open for harvest are not available for lease, limiting aquaculture business opportunities.

Additional Information

Prior Introductions: HB 862 of 2009 received an unfavorable report from the House Environmental Matters Committee.

Cross File: None.

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

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