

## Department of Planning and Budget 2010 Fiscal Impact Statement

**1. Bill Number:** SB 447

House of Origin    ☐ Introduced    ☐ Substitute    ☒ Engrossed  
 Second House    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Quayle

**3. Committee:** Passed Senate

**4. Title:** Shellfish sanitation; inspections; fees; penalty

**5. Summary:** Requires any person who operates an establishment for the processing of crabmeat or shellfish to have a permit from the State Health Commissioner. Permit fees shall be paid into a fund that supports the shellfish sanitation program.

**6. Fiscal Impact Estimates:** Final.

**Revenue Impact:**

	<i>Dollars</i>		
<i>Fiscal Year</i>	<i>GF</i>	<i>NGF</i>	<i>Positions</i>
2010	\$0	\$0	0.00
2011	(\$150,150)	\$150,150	0.00
2012	(\$150,150)	\$150,150	0.00
2013	(\$150,150)	\$150,150	0.00
2014	(\$150,150)	\$150,150	0.00
2015	(\$150,150)	\$150,150	0.00
2016	(\$150,150)	\$150,150	0.00

**7. Budget Amendment Necessary:** No. Language authorizing the assessment and collection of fees is included in Item 290 (Environmental Health Hazards Control) in HB/SB 30. General fund appropriation will be supplanted with the new revenue.

**8. Fiscal Implications:** The Virginia Department of Health's (VDH) Division of Shellfish Sanitation Program provides direct services through the classification of all tidal waters in Virginia for public health safety of shellfish harvesting and the inspection and certification of shellfish processing facilities. The division is solely supported with general fund appropriation and is not currently authorized to assess and collect fees. The division has been faced with a budget shortfall for several years, which has resulted in the elimination of positions and reduction of spending on essential replacement equipment and supplies. Language in the 2008 Appropriation Act directed VDH to conduct a study to examine the potential general fund savings of establishing and implementing a fee structure within the Shellfish Sanitation and Marina Programs. The proposed fee structure for the Division of Shellfish Sanitation is the third option recommended in the study.

The division classifies all tidal waters capable of growing shellfish (oysters, clam, and mussels) with respect to the public health safety of harvesting shellfish from those waters. The division evaluates the shellfish growing waters through numerous means, including conducting upland shoreline surveys for potential sources of pollutions, modeling and dye studies of marinas and proposed discharges, evaluating subsurface flow of septic tank drainfield effluents, collecting and analyzing seawater samples for fecal coliform bacteria contamination, collecting and analyzing shellfish for naturally occurring human pathogens and collecting shellfish and seawater samples for analyses by other institutions for the presence of heavy metals, radionuclides, pesticides and toxic algae. The division also regulates the wholesale processing and shipping of these shellfish through inspection and certification of shellfish dealers. The division inspects these dealers using the criteria set forth by the National Shellfish Sanitation Program and then certifies acceptable dealers, who then can sell the shellfish to other wholesale dealers, retail operations, restaurants, and the general public.

The Department of Environmental Quality (DEQ) sends all of its National Pollutant Discharge Elimination (NPDES) permit applications that might impact shellfish waters to the Division of Shellfish Sanitation for review to examine the potential to create a new or expanded shellfish growing area condemnation. The division reviews these permits at no charge. DEQ charges fees for most of the NPDES permits, based on the size of the discharge, the potency of the effluent and the type of applicant. DEQ's fees range from \$24,000 for major industrial discharges to over one million gallons per day and minor municipal charges of less than one million gallons per day to general permits of \$500 for storm-water and \$0 for domestic sewage discharges of less than 1,000 gallons per day.

SB 447 would allow VDH to assess and collect a fee of \$600 for its review of all NPDES permits. SB 447 would require DEQ to collect the fee for the Division of Shellfish Sanitation as an increase to DEQ's current fee for permits that pertain to discharges that can potentially reach shellfish waters. DEQ would transfer the funds quarterly to the Division of Shellfish Sanitation.

The Marine Resource Commission (MRC) regulates the harvest of shellfish resources with the goal of maximizing harvest while maintaining substantial populations. MRC collects fees for leased bottom land, harvesting licenses, oyster shucking taxes, and other various services. MRC assesses a \$25.00 processing fee (\$100.00 for projects over \$10,000) for review of permits for encroachment on state-owned bottom lands in shellfish waters. The division reviews these permit applications for potential public health impacts to shellfish waters at no cost.

SB 447 would also allow VDH to assess and collect a fee of \$50 for non-boat related permit reviews and \$100 for boat-related permit reviews. These fees would only be assessed for projects that could affect shellfish waters. MRC would collect the new fee for the Division of Shellfish Sanitation and transfer the funds quarterly to the division.

<b>Activity</b>	<b>Estimated Annual Number of Applications</b>	<b>Proposed Fees</b>	<b>Estimated Annual Revenue</b>
Facility Certifications	200	\$600	\$120,000
Department of Environmental Quality National Pollutant Discharge Elimination System Permit Reviews	42	\$600	\$25,200
Marine Resource Commission Non-Boat Permit Reviews	71	\$50	\$3,550
Marine Resource Commission Boat-Related Permit Reviews	14	\$100	\$1,400
<b>Total Annual Revenue</b>			<b>\$150,150</b>

**9. Specific Agency or Political Subdivisions Affected:** Virginia Department of Health, Department of Environmental Quality and Marine Resource Commission

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** While SB 447 would offset the budget shortfall faced by the Division of Shellfish Sanitation, it would also impose increases to the fees assessed and collected by DEQ and MRC. SB 447 would also require DEQ and MRC to transfer these funds to VDH on a quarterly basis.

**Date:** 2/15/2010 lrlj

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