

DEPARTMENT OF TAXATION

2023 Fiscal Impact Statement

1. **Patron** Timothy V. Anderson

3. **Committee** House Finance

4. **Title** Oyster Shell Recycling Tax Credit

2. **Bill Number** HB 1438

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would establish a nonrefundable income tax credit for taxpayers that donate oyster shells for use in oyster restoration projects. The credit would only be available if the oyster shells are donated to either the Virginia Marine Resources Commission or a nonprofit entity engaged in oyster restoration activities. The amount of the credit would be \$4.00 per bushel of oyster shells, up to \$1,500 per taxable year for each taxpayer. The credit would be subject to an annual aggregate credit cap of \$250,000.

This bill would be effective for taxable years beginning on and after January 1, 2023, but before January 1, 2028.

6. **Budget amendment necessary:** Yes.

Items: Page 1, Revenue Estimates
274 and 276, Department of Taxation

7. **Fiscal Impact Estimates are:** Unknown. (See Line 8.)

7a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2023-24	\$267,068	1	GF
2024-25	\$75,898	1	GF
2025-26	\$75,898	1	GF
2026-27	\$75,898	1	GF
2027-28	\$75,898	1	GF
2028-29	\$75,898	1	GF

8. **Fiscal implications:**

Administrative Costs

This bill would result in administrative costs to the Department of Taxation ("the Department") of \$267,068 in Fiscal Year 2024, and \$75,898 annually in Fiscal Year 2025 and thereafter. These costs would be incurred for purposes of hiring one full time employee to administer the Department's responsibilities with respect to the credit, system updates,

and additional ongoing operational expenses related to overseeing this credit program. The Marine Resource Commission (“MRC”) considers the implementation of this bill as routine and does not require additional funding.

Revenue Impact

This bill would have an unknown negative General Fund revenue impact of up to \$250,000 annually beginning in Fiscal Year 2024. It is unknown to what extent taxpayer would donate oyster shells for recycling or claim the credit for doing so. Because the credit would be capped at \$250,000, that would be the maximum revenue impact per fiscal year.

9. Specific agency or political subdivisions affected:

Department of Taxation
Marine Resource Commission

10. Technical amendment necessary: No.

11. Other comments:

Sunset Dates for New Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the 2022 Appropriation Act provides that any new sales tax exemption or tax credit enacted by the General Assembly after the 2019 Session, but prior to the 2024 Session, must have a sunset date of not later than June 30, 2025.

Proposed Legislation

This bill would establish a nonrefundable income tax credit for taxpayers that donate oyster shells for use in oyster restoration projects. The credit would only be available if the oyster shells are donated to either the Virginia Marine Resources Commission or a nonprofit entity engaged in oyster restoration activities. The amount of the credit would be \$4.00 per bushel of oyster shells, up to \$1,500 per taxable year for each taxpayer. The credit would be subject to an annual aggregate credit cap of \$250,000.

Taxpayers would not be permitted to claim credits in excess of their income tax liability for the taxable year. Any unusable portion of the credit would be permitted to be carried forward by the taxpayer for up to five years or until the total credit amount is taken, whichever is sooner.

This bill would require the Department, in consultation with MRC, to develop guidelines, exempt from the Administrative Process Act, implementing the credit.

This bill would be effective for taxable years beginning on and after January 1, 2023, but before January 1, 2028.

Similar Legislation

Senate Bill 997 is identical to this bill.

cc : Secretary of Finance

Date: 1/21/2023 JLOF
HB1438F161