

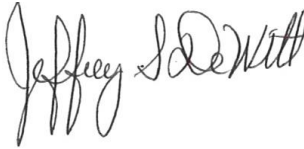
Government of the District of Columbia  
Office of the Chief Financial Officer



Jeffrey S. DeWitt  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jeffrey S. DeWitt  
Chief Financial Officer 

**DATE:** November 7, 2016

**SUBJECT:** Fiscal Impact Statement – Fisheries and Wildlife Omnibus Amendment Act of 2016

**REFERENCE:** Bill 21-386, Draft Committee Print as shared with the Office of Revenue Analysis on November 4, 2016

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**Conclusion**

Funds are sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill.

**Background**

Title I Natural Resources Education

This subtitle designates the American shad as the official fish and the Hay's Spring amphipod as the official amphipod of the District of Columbia.

The American shad is a game fish native to the eastern United States and Canada. American shad is an anadromous species – a fish that leaves the ocean for river systems, including the Potomac River, in order to spawn. The Department of Energy and Environment (DOEE) works with the U.S. Fish and Wildlife Service to grow the shad population. According to the Chesapeake Bay Program, in 2015 the shad population in the Potomac River reached 133 percent of its population target.<sup>1</sup>

The Hay's Spring amphipod is a small fresh-water crustacean found in a small number of springs in Rock Creek Park. The U.S. Fish and Wildlife Service added the Hay's Spring amphipod to its endangered species list in 1982. Very little is known about the amphipod and there are no recovery plans currently underway to help grow the species.

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<sup>1</sup> [http://www.chesapeakebay.net/indicators/indicator/american\\_shad\\_abundance](http://www.chesapeakebay.net/indicators/indicator/american_shad_abundance).

## Title II Natural Resources Conservation

This title authorizes the Mayor to protect various spaces in the natural environment, such as critical wetlands, critical conservation areas, and areas along the shoreline, and to prevent or mitigate invasive plants and nonindigenous nuisance species.

First, the title allows the Mayor to identify, designate, and protect critical areas, which include wetlands, conservation areas, aquifers, and frequently flooded areas. The Mayor must develop policies and regulations to preserve these critical areas with a focus on the preservation of fish and wildlife habitats.

Second, the Mayor may issue guidance and regulations to protect shoreline lands from erosion and flooding by using living shoreline projects and other stabilization measures.

Third, the title bans the possession, import, purchase, sale, planting, or breeding of invasive plants<sup>2</sup> or nonindigenous nuisance species<sup>3</sup> without a permit. A government agency or research institution may apply to the Mayor for a permit to bring these banned plants or animals into the District if they provide assurances that the plants or animals will not escape and the agency or institution will not release the plants or animals. The bill also authorizes the Mayor to take any steps necessary to suppress, control, eradicate, or prevent an invasive plant or nonindigenous nuisance species, including the entry and inspection of privately owned property. If a person fails to comply with a Mayor's enforcement order, the Mayor can impose a civil fine of up to \$37,500 per day per offense and a person who causes significant harm can be criminally fined, by the Mayor, for up to \$50,000 per day per offense.

## Title III (A) Authorizing Fishing Licensure by Private Entities

The subtitle allows the Mayor to authorize private entities to sell recreational fishing licenses and endorsements<sup>4</sup> on behalf of the District. The entity must be a lawful establishment, open to the public during regular business hours, demonstrate an ability to sell licenses, and employ enough employees to efficiently issue licenses. The entities will collect the license fees and remit them to the District. The subtitle allows the Mayor to deny, revoke, modify, or suspend<sup>5</sup> an entity's right to sell licenses for a number of reasons, including: if the entity's owner or leadership is convicted of a felony, the entity was misleading in its application, the business is not legally allowed to operate in the District, or if the entity fails to provide any information or documents required by the bill.

## Title III (B) Licensure of Implements for Fishing

This subtitle authorizes the Mayor to issue regulations that license bows, arrows, spears, and other devices to capture or kill fish. The bill allows DOEE to enter into agreements with other District and federal agencies to enforce fishing equipment violations.

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<sup>2</sup> As defined in the bill.

<sup>3</sup> As defined in the bill.

<sup>4</sup> Fishing endorsements are licenses for fishing events.

<sup>5</sup> The subtitle also allows the Mayor to suspend an entity's license to sell on an emergency basis for up to thirty days.

The Honorable Phil Mendelson

FIS: Bill 21-386, "Fisheries and Wildlife Omnibus Amendment Act of 2016," Draft Committee Print as shared with the Office of Revenue Analysis on November 4, 2016

The bill also allows the Mayor to issue recommendations regarding the safe consumption of fish from the District's waterways.

#### Title IV (A) Clarification of Natural Resource Protection Duties

The subtitle allows DOEE's Natural Resources Division to develop an aquatic resources education program and other experiential learning activities.

The subtitle also designates the Director of DOEE as the National Resources Trustee.<sup>6</sup> The Trustee's role is to oversee natural resource policy and planning, enforce the District's natural resource laws, and lead projects that protect and enhance the environment.

#### Title IV (B) Protecting Aquatic Life Through Fisheries Management and Enforcement

The subtitle clarifies that no person can hunt, fish, capture or harm fish in District waters without possessing a license and that the Mayor can issue administrative orders indicating which seasons, methods, and species and volume are appropriate for the taking of fish. A person who violates this portion of the law shall be subject to a civil penalty of up to \$50,000 per day per offense.

The subtitle allows the Mayor to seek reimbursement for the costs of water pollution control education activities the Mayor runs at various times throughout the year.

#### Title IV (C) Expanding Protection for Amphibians and Invertebrates

The Council is authorized to restrict, prohibit, and regulate the taking, possession, and sale of wild animals in the District. This subtitle adds amphibians and invertebrates to the definition of wild animals.<sup>7</sup>

#### Title V Special Purpose Revenue Funds

The subtitle establishes the Fishing License Fund, a non-lapsing special purpose revenue fund, under the authority of DOEE<sup>8</sup> to receive funds from the sale of fishing licenses and endorsements.<sup>9</sup> The District can only use proceeds in the Fund to support the District's fish and wildlife agency.

#### Title VI Conforming Amendment

This subtitle adds illegal activities around invasive plants and nonindigenous nuisance species as a offense triggering forfeiture under the District's civil asset forfeiture laws.<sup>10</sup>

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<sup>6</sup> 42 U.S.C. 9607(f)(2)(B).

<sup>7</sup> The current definition applies to mammals, birds, fish, and reptiles not ordinarily domesticated.

<sup>8</sup> The Fund is currently established under the authority of the Department of Health (D.C. Official Code § 7-731(c)).

<sup>9</sup> This applies to sales both directly from the government and through third party vendors (as authorized in Title III, Subtitle A).

<sup>10</sup> Civil Asset Forfeiture Amendment Act of 2014, effective June 16, 2015 (D.C. Law 20-278; D.C. Official Code § 41-301 et seq.).

## **Financial Plan Impact**

Funds are sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill.

Title I designates the American Shad as the official fish of the District and the Hay's Spring amphipod as the official amphipod of the District. There are no costs associated with either designation.

Title II enhances the Mayor's ability to protect environmentally important locations in the District through the designation of critical areas and the protection of shorelines. DOEE's Natural Resources Administration is made up of four divisions<sup>11</sup> that will work together to identify and protect these newly designated critical areas. These divisions are currently working on the issues that will be relevant to the critical areas and they can absorb any costs associated with the new focus on critical areas. DOEE also works on shoreline protection and can absorb any costs associated with new regulations and programs to protect shorelines. The title also expands the Mayor's authority to deal with invasive plants and nonindigenous nuisance species. The Fisheries and Wildlife Division under the Natural Resources Administration oversees these issues and can absorb any costs associated with a new permit program for invasive plants and nonindigenous nuisance species. The Division also has an enforcement staff that will enforce the relevant provisions of this title with its existing resources. It is unknown the amount of fines the Mayor will be able to collect from violations of enforcement orders.

Subtitle III(A) authorizes the Mayor to allow private entities to sell fishing licenses and endorsements on behalf of the District. DOEE currently works with private entities to sell and distribute fishing license and there are no costs associated with this subtitle's implementation. The private entities will collect the license fees and remit them to the District.

Subtitle III(B) authorizes the Mayor to license certain types of fishing equipment and provide guidance on the safe consumption of fish from the District's waterways. DOEE can absorb any costs associated with the subtitle's implementation.

Subtitle IV(A) allows the Natural Resources Division of DOEE to develop an aquatic resources education program as well as other experiential learning activities. DOEE currently operates the Aquatic Resources Education Center located in Anacostia Park<sup>12</sup> that provides opportunities for schools and community groups to interact with aquatic life and learn about conservation. The Center will receive approximately \$470,000 in fiscal year 2017 from federal grants to support its operations.<sup>13</sup> The subtitle also designates the Director of DOEE as the official trustee of the District's natural resources as it relates to natural resource protection and federal programs; there are no costs associated with this designation.

Subtitle IV(B) authorizes the Mayor to establish fishing seasons, methods, and allowable species and volume through administrative orders that are posted online. These orders will help streamline DOEE's current efforts and there are no costs associated with this subtitle. The subtitle also allows

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<sup>11</sup> These divisions are Fisheries and Wildlife, Water Quality, Watershed Protection, and Stormwater Management.

<sup>12</sup> The center is located at 1900 Anacostia Drive, S.E.

<sup>13</sup> The Center receives approximately \$450,000 annually from federal grants to support its operations.

The Honorable Phil Mendelson

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the Mayor to charge fees for activities at the Aquatic Resources Education Center and other water pollution control educational activities. At this time, it is unknown what activities DOEE will charge for and how much it will charge. Additionally, the amount of fines the Mayor will be able to collect from violations of this subtitle is unknown.

Subtitle IV(C) adds amphibians and invertebrates to the definition of wild animals. DOEE can implement this subtitle within its existing resources.

Title V reorganizes an existing special purpose revenue fund, the Fishing License Fund, so that the fund's establishing authority is under DOEE. The Fund is currently established under the authority of the Department of Health and receives \$94,000 annually. DOEE must spend resources in the Fund on administration of the District's fish and wildlife agency. There are no costs imposed or additional revenues expected from this title's implementation.

Title VI makes violations of the District's invasive plants and nonindigenous species restrictions a forfeitable offense whereby the District can seize the plants or animals during an enforcement action. There are no costs associated with this provision and it is unknown how much revenue the District might receive from the sale of forfeited assets.