

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 1164 (Southern Maryland Delegation)
Environmental Matters

Potomac River Fisheries Commission - Authority - Leasing Land Beneath the
Potomac River

This bill authorizes the Potomac River Fisheries Commission (PRFC) to regulate the leasing of the river bottom and the water column for cultivating oysters or clams in areas of the Potomac River within its geographical jurisdiction. The bill also authorizes PRFC to levy license, leasing, or repletion fees related to such leases. The bill may not take effect until similar legislation is enacted by Virginia.

Fiscal Summary

State Effect: None. PRFC is a semi-autonomous agency.

Local Effect: None.

Small Business Effect: Potential meaningful. To the extent PRFC chooses to levy fees for the use of Potomac River bottomlands and the water column for aquaculture purposes, it would result in an increase in oyster and clam harvest revenue for the fishing industry. Those interested in leasing the bottomlands and the water column would be required to pay any fees established by PRFC.

Analysis

Current Law: PRFC operates under the Potomac River Compact of 1958. Maryland ratified the compact in 1959 (Chapter 269). PRFC is authorized to make, adopt, and publish rules and regulations for authorizing and regulating the dredging of oysters in areas of the Potomac River within its geographical jurisdiction and may levy license and repletion fees.

Background: The compact states that leasing, dredging, and patent tonging shall be authorized by PRFC only if such authorization is granted by joint action of the legislatures of Maryland and Virginia. In previous years, both legislatures passed legislation that authorized PRFC to regulate all dredging techniques. Until recently, however, neither legislature had considered giving PRFC the authority to lease the Potomac River bottom and water column.

Maryland and the Commonwealth of Virginia, in cooperation with the U.S. Army Corps of Engineers, are currently preparing an Environmental Impact Statement (EIS) to evaluate oyster restoration alternatives for the Chesapeake Bay. The draft EIS is anticipated in May/June 2007; it will evaluate the environmental, social, and economic issues surrounding eight potential oyster restoration alternatives. PRFC anticipates that the final EIS will identify oyster cultivation via aquaculture as an important oyster restoration strategy. Currently, PRFC lacks the authority to lease the Potomac River bottomlands and the water column for aquaculture purposes.

During the 2007 legislative session, the Virginia General Assembly passed legislation (Virginia HB 3037) granting PRFC the authority to, among other things, extend the regulatory jurisdiction of PRFC to the leasing of bottomlands and water columns in the Potomac River. The Virginia legislation does not take effect until Maryland enacts similar legislation, the Governor of Maryland issues a proclamation declaring the provisions of the Maryland act to be effective, and the Governor of Virginia declares the provisions of the Virginia act to be effective.

Additional Comments: To the extent PRFC chooses to levy fees associated with the use of Potomac River bottomlands and the water column for aquaculture purposes, PRFC revenues would increase. To the extent the bill results in an increase in oysters harvested, revenues from the existing oyster inspection tax also would increase. To the extent PRFC revenues increase as a result of the bill, PRFC advises that it would incur additional expenditures associated with public oyster restoration projects.

The Department of Natural Resources advises that there is some ambiguity with regard to the interpretation of this bill. Maryland's current lease laws and regulations restrict leasing of land to residents, prohibit leasing some lands in Charles County, and set the water bottomland leasing rental cost at \$3.50 per acre annually. Because this bill does not address those issues specifically, it is unclear whether these existing provisions are applicable or affected.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Potomac River Fisheries Commission, Department of Legislative Services

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