

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 377 (Delegate Gilchrist, *et al.*)
 Environment and Transportation

Natural Resources - Submerged Aquatic Vegetation Protection Zones - Revisions

This bill alters the definition of a “SAV (submerged aquatic vegetation) protection zone” as well as requirements relating to the designation and updating of SAV protection zones. The bill requires, among other things, that the zones be updated each year, rather than every three years.

Fiscal Summary

State Effect: General/special fund expenditures increase by \$451,300 in FY 2020 and by ongoing, but lesser, amounts in future years. Revenues are not affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF/SF Exp.	451,300	156,400	159,100	162,000	164,900
Net Effect	(\$451,300)	(\$156,400)	(\$159,100)	(\$162,000)	(\$164,900)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

SAV Protection Zone Definition

The bill defines “SAV protection zone” as an area of submerged aquatic vegetation with a density greater than 10% in at least one of the previous five years as mapped in aerial

surveys by the Virginia Institute of Marine Sciences (VIMS), in place of the current definition of “an area delineated by [the Department of Natural Resources (DNR)] for the protection from uprooting and the restoration of submerged aquatic vegetation.”

Updates and Reopening

In place of a requirement that DNR update the delineations of SAV protection zones every three years, DNR is required under the bill to update designations of SAV protection zones in 2020 and each year thereafter based on the five most recent aerial surveys mapped by VIMS. The updated designations must include areas where submerged aquatic vegetation with a density greater than 10% has been mapped by aerial surveys during at least one of the previous five years, replacing a requirement that updated delineations include areas where submerged aquatic vegetation has been mapped by aerial surveys during at least one of the previous three years.

With certain exceptions, the bill allows for a previously designated SAV protection zone to be opened to the use of specified gear (otherwise prohibited in SAV protection zones) if aerial surveys have shown the density of submerged aquatic vegetation in that area to be equal to or less than 10% during each of the past five years. This provision is established in place of provisions allowing (with certain exceptions) for a previously delineated SAV protection zone to be opened to the use of the specified gear if (1) aerial surveys have not shown any submerged aquatic vegetation in the area during the past three years or (2) aerial surveys have shown the density of submerged aquatic vegetation in that area to be less than 10% during each of the past six years.

Other Provisions

The bill repeals a provision requiring DNR, to the extent possible, to adjust SAV protection zones so that delineations are geographically manageable, utilizing straight lines and existing points of reference. A provision authorizing DNR to make revisions to the delineations of SAV protection zones at any time, if determined to be necessary, is also repealed. A provision that requires DNR to publish, by public notice, delineations of SAV protection zones and revisions to the zones is modified to require DNR to publish, by public notice, *maps and designations* of SAV protection zones and *updates* to the zones.

Current Law:

SAV Protection Zones, In General

“SAV protection zone” is defined as an area delineated by DNR for the protection from uprooting and the restoration of submerged aquatic vegetation. In a SAV protection zone,

a person is prohibited from using a hydraulic clam dredge, a traditional bottom dredge, and a shinnecock rake.

Updates and Reopening

In 2004 and every three years thereafter, DNR must update the delineations of SAV protection zones that were completed in 2001. The updated delineations must include areas where submerged aquatic vegetation has been mapped by aerial surveys during at least one of the previous three years. “Aerial survey” is defined as the annual aerial survey compiled by VIMS for the annual Bay-wide Submerged Aquatic Vegetation Mapping Program.

A previously delineated SAV protection zone may be opened to the use of the above-specified gear during an update if (1) aerial surveys have not shown any submerged aquatic vegetation in the area during the past three years or (2) aerial surveys have shown the density of submerged aquatic vegetation in that area to be less than 10% during each of the past six years. However, areas in the vicinity of Smith Island, South Marsh Island, and Bloodsworth Island that were closed to hydraulic clam dredging in the 1999 delineation may not be reopened.

Adjustment of Zones

To the extent possible, DNR must adjust SAV protection zones so that delineations are geographically manageable, utilizing straight lines and existing points of reference. However, to the extent possible, an adjustment must result in no net loss or gain of protected area (if needed, excluding small areas of vegetated bottom or including small areas of unvegetated bottom to prevent net loss or gain of protected areas resulting from an adjustment).

Other Provisions

DNR must utilize buoys or other visible landmarks as appropriate to mark SAV protection zones and may make revisions to the delineations of SAV protection zones at any time if determined to be necessary. DNR also must publish, by public notice, delineations of SAV protection zones and revisions to SAV protection zones.

SAV Protection Zone Definition for Aquaculture

Under separate provisions of statute, aquaculture leases may not be located in “SAV protection zones.” Under those provisions, the definition of “SAV protection zone” (unchanged by the bill) is an area of submerged aquatic vegetation as mapped in aerial surveys by VIMS in one or more of the five years preceding an aquaculture lease

application. An aquaculture leaseholder also may not place shellfish, bags, nets, or structures on submerged aquatic vegetation.

Background: DNR indicates that the abundance of submerged aquatic vegetation in the Chesapeake Bay, which benefits the health of the bay in various ways (*e.g.*, providing food and habitat, nutrient absorption, and oxygen production) has fluctuated greatly since VIMS began mapping the resource in 1984. DNR provides a [historical timeline](#) of submerged aquatic vegetation on its website, which indicates significant increases in acreage of submerged aquatic vegetation in recent years.

State Expenditures: General/special fund expenditures increase by \$451,288 in fiscal 2020, which accounts for the bill’s October 1, 2019 effective date. This estimate reflects the cost of hiring (1) one hydrographic engineering associate to perform the annual marine surveys, determine the geographic positions of the SAV protection zones, and oversee buoy placement and (2) a part-time contractual natural resources biologist (beginning January 1, 2020) to perform the mapping and publishing of designations of, and updates to, the SAV protection zones. It includes salaries, fringe benefits, one-time start-up costs (including a marine vessel, field vehicle, and 500 buoys), and ongoing operating expenses (including buoy maintenance).

The estimate assumes that some or all of the costs associated with on-water work (hydrographic engineering associate, vehicle, vessel, and buoys) may be covered by special funds (from the Waterway Improvement Fund, which currently funds the Hydrographic Operations section of DNR’s Fishing and Boating Services division), to the extent funds are available; however, general funds are assumed to be needed for the work associated with mapping and publishing designations of, and updates to, the SAV protection zones, as well as any of the on-water work that cannot be covered with special funds.

Regular Position	1.0
Contractual Position	0.5
Salaries and Fringe Benefits	\$54,883
Vehicle and Vessel	160,000
Buoys	225,000
Other Operating Expenses	<u>11,405</u>
Total FY 2020 State Expenditures	\$451,288

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Future year expenditures reflect applicable salaries with annual increases and employee turnover and ongoing operating expenses.

Small Business Effect: Shellfish harvesters may be meaningfully affected to the extent the bill results in a reduction in areas in which a hydraulic clam dredge, a traditional bottom dredge, and a shinnecock rake can otherwise be used, in a given year, in the absence of the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources; Maryland Watermen's Association; Department of Legislative Services

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Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510