

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 711 (Senator Bailey)
Education, Health, and Environmental Affairs

Aquaculture – Water Column Leases – Conflict Resolution

This bill requires the Department of Natural Resources (DNR), in approving a water column lease, to consider conflict resolution between shoreline property owners and lease applicants before issuing the lease. **The bill takes effect June 1, 2020.**

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: A person who wishes to obtain an aquaculture, water column, or submerged land lease must pay an application fee and complete and submit an application to DNR. If an application for a submerged land or water column lease in the Chesapeake Bay or in the Atlantic Coastal Bays meets State law requirements, DNR must:

- advertise the application on the department’s website and once a week for two weeks in a newspaper published in the county or counties where the proposed lease is to be located;
- notify the owners of property directly in front of the proposed activity;
- notify each chair of an oyster committee in the county in which the proposed activity is located; and

- notify other interested parties that the department deems appropriate.

Within 30 days of publication of the last advertisement, any person who has a specific right, duty, privilege, or interest that is different from that held by the general public and may be adversely affected by the proposed lease may file a petition with the department protesting the issuance of the lease, which must be heard in accordance with specified requirements of the Administrative Procedure Act.

DNR must hold a public informational meeting on the issuance of a lease on the request of any person.

Immediately after termination of the 30-day period for filing a petition, or after a final decision dismissing a protest, DNR must survey the proposed leased area and issue a lease to the applicant.

Background: DNR and the U.S. Army Corps of Engineers began jointly accepting applications for new commercial shellfish aquaculture projects in the Chesapeake Bay, its tributaries, and the coastal bays in 2010, and a person now applies for a lease using the *Joint Application for State Commercial Shellfish Aquaculture Lease and Corps of Engineers Federal Permit*.

DNR recommends that applicants take various steps relating to siting of the lease before submitting an application, including (1) utilizing the department's Aquaculture Siting Tool, an online interactive mapping utility that can assist in identifying potential lease locations by minimizing known resource and other types of conflicts; (2) investigating a site or sites by boat to, among other things, note other uses of the site, and adjacent uses; (3) if needed, contacting DNR's Aquaculture Division to help determine if the proposed site meets statutory requirements; and (4) discussing the project with adjacent landowners to, among other things, uncover additional issues to consider, such as licensed shoreline or offshore blinds used for waterfowl hunting not readily visible during the on-site investigation. DNR indicates that all adjacent landowners also receive direct notice of the project through State and federal notification processes.

Small Business Effect: The bill may have a meaningful effect on applicants for a water column lease, though it is unclear whether the effect may be positive (by mitigating a conflict), or negative (by potentially extending the lease application process) for any given lease application.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of Natural Resources; Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2020
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