

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 1140

(Senator Mautz)

Education, Energy, and the Environment

Rules and Executive Nominations

Natural Resources - Submerged Aquatic Vegetation Surveys

This bill alters the definition of “aerial survey” for purposes of surveying submerged aquatic vegetation (SAV) to include any other survey that (1) encompasses the distribution of SAV in the Chesapeake Bay, the Atlantic Coastal Bays, or both; (2) uses a methodology approved by the U.S. Environmental Protection Agency’s (EPA) Chesapeake Bay Program (CBP); and (3) is approved by the Department of Natural Resources (DNR). The bill renames that term to instead be the “SAV survey,” updates the provisions related to the current SAV survey compiled by the Virginia Institute of Marine Sciences (VIMS), and makes conforming changes. DNR must study and report on the implications and feasibility of using alternative methods other than an aerial survey to delineate SAV protection zones. By December 1, 2025, DNR must submit the report to the General Assembly. **The bill takes effect June 1, 2024.**

Fiscal Summary

State Effect: DNR can complete the required study with existing budgeted resources. The bill does not affect DNR expenditures unless the department chooses to use additional methods to survey SAV. As discussed below, if DNR chooses to do so, general fund expenditures increase by an unknown amount, depending on the scope of any additional surveys and their associated costs.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: The required report must:

- analyze the current benefits and drawbacks of using an aerial survey to delineate SAV protection zones;
- analyze the implications and feasibility of using alternative methods or technologies for delineating SAV protection zones;
- analyze whether alternative methods or technologies may be used more frequently than every three years to delineate SAV protection zones; and
- analyze the benefits and drawbacks of increasing the look-back period in § 4-1006.1(c) of the Natural Resources Article (that subsection references both a three-year and a six-year lookback period).

Current Law:

Submerged Aquatic Vegetation

“SAV protection zone” means an area delineated by DNR for the protection from uprooting and the restoration of SAV. A person may not use a hydraulic clam dredge, a traditional bottom dredge, or a shinnecock rake in an SAV protection zone. Except in limited specific regions, a previously delineated SAV protection zone can be reopened to the use of the above tools if aerial surveys have not shown any SAV in the area during the past three years or have shown SAV density of less than 10% during each of the past six years.

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 SAV has been mapped by aerial surveys during at least one of the previous three years. “Aerial survey” means the annual aerial survey compiled by VIMS for the annual Bay-wide SAV Mapping Program.

To the extent possible, DNR must adjust SAV protection zones so that delineations are geographically manageable, utilizing straight lines and existing points of reference. To the extent possible, such an adjustment must result in no net loss or gain of protected area and, to prevent that outcome, may exclude small areas of vegetated bottom or include small areas of unvegetated bottom.

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

These provisions may not be construed to affect the authority of DNR to adopt any additional measures that it determines are necessary to protect SAV beds in the waters of the State.

Chesapeake Bay Program

CBP is a regional partnership focused on the restoration of the Chesapeake Bay. It is managed by EPA, and its principal partners include Maryland, Delaware, New York, Pennsylvania, Virginia, West Virginia, the District of Columbia, the Chesapeake Bay Commission, and EPA.

State Fiscal Effect: The VIMS survey is the oldest Bay-wide SAV survey in existence and has been conducted annually since 1984. The survey is used by Maryland, Virginia, and numerous federal agencies for SAV criteria assessments, tracking restoration goals, and assessing impacts to SAV habitat. The survey is funded through a combination of federal, state (Maryland and Virginia), and private funds. DNR contributes approximately \$75,000 annually, and the Maryland Department of the Environment also contributes. By contracting with VIMS, there are consistent standard operating procedures and guidelines for the acquisition of aerial and satellite imagery, photo interpretation and SAV bed delineation and bed density estimates, as well as quality assurance and quality control compliance. The VIMS survey covers both the Chesapeake Bay and the Atlantic Coastal Bays.

Both DNR and the Department of Legislative Services interpret the bill to allow, but not require, DNR to use a different method other than the aerial VIMS survey for SAV mapping. The VIMS survey is (1) jointly funded; (2) comes with a quality assurance program; and (3) relied on by DNR for multiple purposes, such as SAV restoration goals, but also water clarity attainment. Based on the clear utility and value to DNR, this analysis assumes that DNR does not replace the VIMS survey for its SAV mapping purposes, nor does it use an additional survey method, despite having the option to do so.

If, however, DNR were to use a different method *in addition to* the VIMS survey, general fund expenditures for DNR increase by an amount necessary to contract with an entity to conduct the survey. DNR cannot provide an estimate of what an additional SAV survey might cost, which also depends on the geographic scope of the survey, but advises that the VIMS survey costs approximately \$780,000 annually in total. As noted above, the VIMS survey is jointly funded and covers both the Chesapeake Bay and the Atlantic Coastal Bays.

DNR advises that it can complete the required study with existing staff who will be reprioritized from other programmatic duties.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 807 (Delegate Stein, *et al.*) - Environment and Transportation.

Information Source(s): Department of Natural Resources; U.S. Environmental Protection Agency; Department of Legislative Services

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