

**Department of Legislative Services**  
 Maryland General Assembly  
 2002 Session

**FISCAL NOTE**

House Bill 331 (Delegate Schisler)  
 Environmental Matters

**Marine and Estuarine Fisheries Commission - Establishment - Powers, Functions, and Duties**

This bill establishes a nine-member Marine and Estuarine Fisheries Commission (MEFC) as an independent State agency and transfers the authority to manage the State’s marine and estuarine fisheries from the Department of Natural Resources (DNR) to MEFC. The bill also establishes a Marine and Estuarine Fisheries Police Force and a Maryland Fisheries Endowment Fund in MEFC. The provisions of the bill that transfer certain funds, personnel, and authority to MEFC and require appointment of MEFC members become effective July 1, 2002. The members must be appointed by October 1, 2002, and the transfer must be complete by July 1, 2003. The remaining sections of the bill are effective July 1, 2003.

**Fiscal Summary**

**State Effect:** General fund expenditures could increase by at least \$3.4 million in FY 2003, which includes the start-up costs of transferring 258 full-time State positions and hiring 62 additional staff to support MEFC. Total revenues collected would not change; however, a significant portion of special fund revenues used for DNR overhead will be transferred to MEFC. Out-years reflect annual operating costs and inflation.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	3,423,200	3,588,200	3,722,300	3,864,100	4,014,300
Net Effect	(\$3,423,200)	(\$3,588,200)	(\$3,722,300)	(\$3,864,100)	(\$4,014,300)

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

**Local Effect:** None.

**Small Business Effect:** None.

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## **Analysis**

**Bill Summary:** The bill declares that MEFC will: (1) be solely responsible to the General Assembly for the restoration, development, cultivation, preservation, conservation, enhancement, and overall management of Maryland's marine and estuarine resources; (2) balance the responsible stewardship of these resources with their economic benefits; and (3) promote recreational activities associated with marine and estuarine fisheries for the enjoyment and general welfare of all citizens of the State.

The bill provides for the transfer of all personnel, powers, functions, duties, equipment, records, assets, and liabilities related to the management of marine and estuarine fisheries from DNR to MEFC by July 1, 2003. It directs MEFC and DNR to collaborate in all areas of mutual concern, including definition of boundaries and preparation of certain resource management programs. The Governor, with the approval of the General Assembly, will appoint the members of MEFC, and may not place MEFC in any principal department. Members may not be compensated but will be reimbursed for expenses related to MEFC activities.

MEFC is responsible for formulating and enforcing all policy related to the oversight, regulation, and stewardship of the State's marine and estuarine fishery resources. Examples of MEFC's responsibilities include:

- broad regulatory authority over recreational and commercial fishing, including licensing requirements and limits on fishing operations (e.g., catch size limits);
- issuance of commercial and recreational fishing licenses;
- management and development of the State's marine and estuarine fishery resources, including hatchery operations;
- participation in contracts with other states or authorities for conservation and management; and
- determination of State conservation needs, including research and preparation of fishery management plans for 23 species.

Further, MEFC must: (1) oversee the MEFC Police established by the bill; (2) appoint advisory committees to offer recommendations on regulations; (3) prepare and submit annual and supplemental budgets to the General Assembly; (4) apply for and administer any State or federal funds, or any other revenues associated with marine and estuarine fishery license fees, and any other funds related to MEFC activities; and (5) establish and manage an endowment fund and a conservation fund, with oversight by the Comptroller.

The bill establishes a Maryland Fisheries Endowment Fund in MEFC. The assets of the fund are derived from gifts, grants, contributions, or any other sources of donation. The income and principal must be used for MEFC purposes and does not replace or supplant State appropriations.

The bill provides for the election of officers and provides that the administrative head of MEFC is the executive director, who will be appointed by the chairman with the advice and consent of MEFC. The executive director shall receive the salary and have the staff authorized by MEFC and provided in the State budget. The bill specifies the duties of the executive director and requires the director to publish a report containing specified information for fiscal 2004 and each alternate fiscal year thereafter.

The bill authorizes MEFC to acquire, by purchase, lease, condemnation, or gift, title, or control of any marine or estuarine area of water or land in the State suitable to protect, propagate, or manage fish. The members of MEFC may create or dissolve an advisory committee for MEFC or any of its units. An advisory committee member receives the compensation provided in the MEFC budget.

The bill provides for the transfer of the following funds from DNR to MEFC by July 1, 2003:

- that portion of the State Chesapeake Bay and Endangered Species Fund designated to be administered by MEFC;
- all State funds from the sale of marine and estuarine fishery licenses and stamps; and
- all other State and federal funds received or to be received by DNR that are related to the conservation and management of marine and estuarine fisheries.

The bill also establishes a police force within MEFC that is responsible for the enforcement of all natural resource laws, rules, and regulations pertaining to marine and estuarine fisheries in the State. The executive director appoints the officers, who will have the authority to issue citations. The bill describes the duties of the clerks of the court with respect to noncompliance with citations. Any person who violates specified provisions relating to the MEFC Police Force or any rule or regulation or restriction adopted under those provisions is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$500 or imprisonment not exceeding three months, or both.

The bill provides MEFC with authority related to hearing oral arguments in contested cases, deliberations conducted in public meetings, and final decisions in accordance with

the Administrative Procedure Act. In levying fines or assessing penalties, MEFC must consider several specified items. The Attorney General is the legal adviser to MEFC. The Attorney General shall assign the number of assistant attorneys general authorized by law to the units of MEFC, including one to be designated as counsel to MEFC.

Certain provisions that provide or restrict DNR's authority regarding finfish licensing requirements, crab regulations, patent tong usage, nonnative aquaculture, and oyster dredging become effective upon the termination of current law.

**Current Law:** Marine and estuarine fishery resources are currently regulated by DNR. The Natural Resources Police (NRP) is responsible for enforcement of all the State's natural resources laws, including those related to marine and estuarine fishery resources.

**Background:** In fiscal 2003, DNR will have 1,643 permanent employees, plus 491 contractuales, many of whom are located in field offices throughout Maryland. Its \$290.6 million fiscal 2003 budget *allowance* includes \$100.7 million in general and reimbursable funds, \$25.3 million in federal funds, and \$164.6 million in special funds. The Fisheries Service within DNR manages the health and recreational use of Maryland's fresh and saltwater finfish and shellfish. DNR fish hatcheries stock coldwater and warmwater fish in streams and lakes throughout Maryland. Current initiatives include transplanting 60 million DNR hatchery-raised oysters in the Chesapeake Bay.

**State Revenues:** The revenues currently generated under the marine and estuarine divisions, including licensing fee revenues and federal funding and grants, would transfer to MEFC. Additional revenue may be generated from the endowment fund created under the bill, but that cannot be quantified at this time.

The revenue sources that will be transferred -- totaling \$32,871,051 in fiscal 2003 -- include the following:

- special fund revenue: \$13,904,692 (including \$142,726 for the Chesapeake Bay and Endangered Species Fund);
- general fund revenue: \$15,803,700; and
- federal fund revenue: \$3,162,659.

The Department of Legislative Services (DLS) advises that the bill's requirement for transfer of all State funds from the sales of marine and estuarine fish licensing revenue will mean a significant revenue loss for DNR, which would result in the need for additional funding.

**State Expenditures:** General fund expenditures could increase by \$3,423,212 in fiscal 2003 for additional personnel, equipment, real estate, and other operational expenses associated with transferring divisions to the newly created commission. This estimate reflects the cost of 62 new positions, and includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- transfer of 107 positions, 11 contractals from the Fisheries Service;
- transfer of 151 positions from the Natural Resources Police;
- transfer of existing office furniture, computers, equipment, and vehicles (including boats); and
- MEFC will share DNR’s computerized licensing system but will need to make modifications to the network.

Salaries and Fringe Benefits	\$2,101,081
Real Estate	335,138
Contractual Services	490,000
Equipment, including automobiles	235,455
Operating Expenses	<u>261,538</u>
<b>Total FY 2003 State Expenditures</b>	<b>\$3,423,212</b>

Future year expenditures reflect: (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

DLS cautions that the number of new positions and operating costs reflect the minimum necessary to begin operating a newly functioning commission. Additional personnel may be needed in the future to supplement services that are not transferred under the bill or to provide functions not carried out by the transferred personnel. DLS advises that because the bill transfers approximately 15% of DNR’s personnel to MEFC, it is possible that central support divisions at DNR (e.g., human resources, public affairs) would require fewer resources. Any resulting decrease in expenditures cannot be reliably estimated at this time.

Furthermore, it is unclear whether the new commission, including its police force, would require separate facilities and where those facilities would be located. The real estate costs included in this estimate are based on a statewide rental fee but could rise considerably. For example, the Department of General Services advises that there would not be sufficient State-owned property in Annapolis to house MEFC and that a private lease would cost as much as \$30 per square foot.

The fiscal 2003 budget allowance (general and special funds) and the number of full-time equivalent (FTE) and contractual positions for each transferred division is set forth below. DNR advises that, approximately 67% of the positions and operating budget of the Natural Resources Police would need to be transferred to enforce marine and estuarine fishery laws.

<u>Division</u>	<u>Positions (FTE/Contractual)</u>	<u>Fiscal 2003 Allowance</u>
Fisheries Service	107/11	\$4,783,354
Natural Resources Police	151	\$11,803,147
<b>Total</b>	<b>258/11</b>	<b>\$16,586,501</b>

**Additional Comments:** The Department of Budget and Management advises that the impact of the bill on federal grants cannot be reliably determined at this time. It further advises that the legislation could result in duplicative programs and decreased efficiency by reducing economies of scale. The Office of the Attorney General and the Administrative Office of the Courts indicate that the bill will have no impact on their operations.

### **Additional Information**

**Prior Introductions:** In 1994 a similar bill was introduced as HB 1244. The House Environmental Matters Committee held a hearing on the bill but took no further action. The bill would have created a nine-member Fisheries Commission as the primary State unit with licensing and enforcement authority that could regulate and supervise freshwater and saltwater fisheries. The bill specified that the members of the commission represent the various commercial and recreational fishing communities and the environmental community. The bill's stated purpose was to increase the responsiveness and fiscal responsibility of the regulatory structure. It would also have established a Game and Wildlife Commission to assume DNR's responsibility for wildlife management, enforcement, and regulation.

**Cross File:** None.

**Information Source(s):** Department of Natural Resources, Department of Budget and Management, Judiciary (Administrative Office of the Courts), Office of the Attorney General, Department of Legislative Services

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