

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 777 (Senator Hershey)
Education, Health, and Environmental Affairs

Aquaculture Leases - Notice - Homeowners Associations

This bill requires the Department of Natural Resources (DNR) to notify any homeowners association that governs property directly in front of a proposed submerged land or water column lease of the application for the proposed lease.

Fiscal Summary

State Effect: The bill can be implemented with existing resources.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: 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 (1) 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; (2) notify the owners of property directly in front of the proposed activity; (3) notify each chair of an oyster committee in the county in which the proposed activity is located; and (4) notify other interested parties DNR 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 DNR protesting the issuance of the lease, to be heard in accordance with contested case provisions of the

Administrative Procedure Act. DNR must also 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 lease 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 indicates that it issues approximately 40 leases per year.

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. All adjacent landowners also receive direct notice of the project through State and federal notification processes.

Small Business Effect: To the extent the bill's notification requirement results in protests of the issuance of leases that otherwise would not occur, an applicant for a lease to engage in shellfish aquaculture may be meaningfully affected by the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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