

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 437 (Senator Klausmeier)
 Education, Energy, and the Environment

Aquaculture - Tidal Fisheries Advisory Commission, Oyster Advisory Commission, and Leases

This bill (1) requires the Department of Natural Resources (DNR), in coordination with specified entities, to identify State-owned land that is adjacent to waterways that, generally, could support aquaculture and (2) establishes provisions relating to the acceleration of the review and issuance of an aquaculture lease for such land. The bill also alters (1) notice requirements for DNR relating to an application for a submerged land or water column lease; (2) provisions relating to public informational meetings held by DNR when a person protests the issuance of such a lease; and (3) the timeframe within which DNR must survey a proposed leased area and issue a lease to an applicant after the time period for filing a protest has terminated or a protest is dismissed. Finally, the bill alters the composition of the Tidal Fisheries Advisory Commission. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures increase by \$398,800 in FY 2024. Future years reflect annualization and inflation. Revenues are not materially affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	398,800	335,900	350,700	366,200	385,500
Net Effect	(\$398,800)	(\$335,900)	(\$350,700)	(\$366,200)	(\$385,500)

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/Current Law:

Identification of Land and Acceleration of Review and Issuance of an Aquaculture Lease

Under the bill, DNR, in coordination with the Aquaculture Coordinating Council, the Maryland Department of the Environment (MDE), the Wetlands Administrator for the Board of Public Works, and the Department of General Services, must identify State-owned land that is adjacent to waterways that (1) could support aquaculture in a manner that is compatible with the existing uses of the waterways and (2) have environmental conditions that could support the cultivation of bivalve mollusks.

The bill also requires DNR to (1) coordinate with the U.S. Army Corps of Engineers to preapprove for aquaculture leasing the land identified above; (2) accelerate the review of an aquaculture lease application for such land; and (3) accelerate the issuance of an aquaculture lease for such land. DNR is authorized to adopt regulations to carry out these provisions.

Submerged Land or Water Column Leases – Public Notice and Informational Meetings and Requirement to Survey the Proposed Leased Area and Issue a Lease

With respect to an application for a submerged land or water column lease in the Chesapeake Bay or in the Atlantic Coastal Bays, current law requires DNR to 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. The bill (1) requires DNR to advertise the application on its website *within 30 days after receipt of the complete application* and (2) repeals the requirement to publish the notice in a newspaper.

Under current law, 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. The protest must be heard in accordance with the requirements of the Administrative Procedure Act.

Under current law, DNR is *required* to hold a public informational meeting on the issuance of a lease on the request of *any person*. The bill repeals this requirement. Under the bill, DNR is *authorized* to hold a public informational meeting on the issuance of a lease on the request of *any person who has a specific right, duty, privilege, or interest that is different from that held by the general public*.

Under current law, after the time period for filing a protest has terminated or a protest is dismissed, DNR must *immediately* survey a proposed leased area and issue a lease to an applicant. Under the bill, DNR must do so *within 180 days*.

State Fiscal Effect: General fund expenditures increase by \$398,780 in fiscal 2024, which accounts for the bill’s July 1, 2023 effective date. This estimate reflects the cost of hiring (1) three natural resource biologists within DNR to conduct initial survey work, coordinate with other agencies to identify and screen potential lease areas for accelerated processing of lease applications, process lease applications, and conduct continued evaluation of the identified areas to ensure they meet all statutory requirements for aquaculture leasing and (2) one natural resource planner within MDE to complete pollution source assessments of the land area impacting the identified aquaculture areas, in compliance with the National Shellfish Sanitation Program. The bill does not indicate how extensive the effort to identify areas for accelerated lease application processing should be, but this estimate assumes a relatively extensive effort. Both DNR and MDE indicate that their current staff do not have the capacity to absorb this additional work. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	4.0
Salaries and Fringe Benefits	\$335,871
Operating Expenses	<u>62,909</u>
Total FY 2024 State Expenditures	\$398,780

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Small Business Effect: The bill may meaningfully increase small business opportunities by establishing areas that allow for accelerated aquaculture lease application review and lease issuance.

Additional Information

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

Designated Cross File: HB 1262 (Delegate Stein) - Rules and Executive Nominations.

Information Source(s): Maryland Department of the Environment; Department of General Services; Department of Natural Resources; Board of Public Works; Department of Legislative Services

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km/lgc

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