

**Department of Legislative Services**  
 Maryland General Assembly  
 2023 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 638 (Senator Mautz)  
 Education, Energy, and the Environment

**Natural Resources - Submerged Aquatic Vegetation Protection Zones - Aerial Surveys**

This bill alters the definition of “aerial survey” as it relates to submerged aquatic vegetation (SAV) protection zones to mean an aerial survey compiled by an entity approved by the Department of Natural Resources (DNR), rather than the annual aerial survey compiled by the Virginia Institute of Marine Science (VIMS) for the annual Bay-wide Submerged Aquatic Vegetation Mapping Program. The bill also requires DNR to update the delineations of SAV protection zones by March 1, 2024, and each March 1 thereafter (instead of every three years).

**Fiscal Summary**

**State Effect:** General/special fund expenditures increase by *up to* \$781,300 in FY 2024. Future years reflect annualization, inflation, and maximum ongoing costs. Revenues are not affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF/SF Exp.	781,300	490,800	508,700	527,600	551,000
Net Effect	(\$781,300)	(\$490,800)	(\$508,700)	(\$527,600)	(\$551,000)

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

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

## Analysis

**Current Law:** “SAV protection zone” is defined as an area delineated by DNR for the protection from uprooting and the restoration of submerged aquatic vegetation. In a SAV protection zone, a person is prohibited from using a hydraulic clam dredge, a traditional bottom dredge, and a shinnecock rake. DNR is required to use buoys or other visible landmarks as appropriate to mark SAV protection zones.

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” is defined as the annual aerial survey compiled by VIMS for the annual Bay-wide Submerged Aquatic Vegetation Mapping Program.

A previously delineated SAV protection zone may be opened to the use of the above-specified gear during an update if (1) aerial surveys have not shown any submerged aquatic vegetation in the area during the past three years or (2) aerial surveys have shown the density of submerged aquatic vegetation in that area to be less than 10% during each of the past six years. However, areas in the vicinity of Smith Island, South Marsh Island, and Bloodsworth Island that were closed to hydraulic clam dredging in the 1999 delineation may not be reopened.

**State Expenditures:** General/special fund expenditures increase by *up to* \$781,256 in fiscal 2024, which accounts for the bill’s October 1, 2023 effective date. This estimate reflects the cost of hiring (1) three Geographic Information System (GIS) analyst positions; (2) one hydrographic engineering associate; and (3) one environmental specialist. DNR indicates that the current frequency of updates to the delineations of SAV protection zones, every three years, is able to be managed within existing staff’s workload, with other responsibilities put aside every three years to handle work associated with the update. However, DNR indicates that shifting to a yearly update, with a potential change in the contract for aerial imagery (which the bill does not require, but allows for) requires a more ongoing effort, with dedicated GIS and hydrographic engineering staff, and an environmental specialist to establish consistent standard operating procedures and guidelines for the acquisition and interpretation of aerial imagery and to perform quality assurance of the imagery (functions DNR currently relies on VIMS for). This estimate does not account for any change in contract costs resulting from changing the contract for aerial surveys/imagery. The estimate includes salaries, fringe benefits, one-time start-up costs (including a marine vessel, field vehicle, and 500 buoys), and ongoing operating expenses (including buoy maintenance).

The Department of Legislative Services notes that while the resources DNR indicates it needs to implement the bill provide greater capacity and flexibility to update

SAV protection zone boundaries more frequently, it is not clear that the full amount of resources indicated by DNR is needed – which is why the estimate above reflects that general/special fund expenditures increase by *up to* \$781,256 in fiscal 2024. The level of GIS staff and buoys estimated to be needed, for example, seem to indicate that boundaries may be updated with more precision under the bill, but that is not required. Accordingly, costs could be less.

The estimate assumes that some or all of the costs associated with on-water work (hydrographic engineering associate, vehicle, vessel, and buoys) may be covered by special funds (from the Waterway Improvement Fund, which currently funds the Hydrographics Operations section of DNR’s Fishing and Boating Services division), to the extent funds are available; however, general funds are assumed to be needed for the remaining costs as well as any of the on-water work that cannot be covered with special funds.

Positions	5.0
Salaries and Fringe Benefits	\$302,961
Vessel and Vehicle	180,000
Buoys	250,000
Other Operating Expenses	<u>48,295</u>
<b>Maximum FY 2024 State Expenditures</b>	<b>\$781,256</b>

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

**Small Business Effect:** Shellfish harvesters may be meaningfully affected by more frequent updates to SAV protection zones to the extent the updates materially affect where a hydraulic clam dredge, a traditional bottom dredge, or a shinnecock rake can be used in a given year.

### Additional Information

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

**Designated Cross File:** None.

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

**Fiscal Note History:** First Reader - March 2, 2023  
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