

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 959 (Senator Mautz, *et al.*)
 Education, Energy, and the Environment

Environment - Wetlands - Landward Boundaries

This bill requires that any fast land created under a tidal wetlands license be described by metes and bounds. It further requires the Maryland Department of the Environment (MDE) to precisely update the landward boundaries of relevant wetlands following the completion of any improvements consisting of shoreline stabilization measures authorized under specified provisions of Title 16 of the Environment Article. The landward boundaries of the wetlands must be shown on suitable maps or aerial photographs on a scale of one inch to 200 feet. MDE must adopt regulations to implement the bill’s provisions related to updating the landward boundaries of relevant wetlands upon completion of affected shoreline stabilization measures.

Fiscal Summary

State Effect: General fund expenditures for MDE increase by \$735,700 in FY 2026; out-years reflect annualization, inflation, and ongoing costs. State expenditures (multiple funds) may increase beginning in FY 2026 for State agencies that undertake shoreline stabilization projects. State revenues are not anticipated to be materially affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	735,700	912,800	941,300	970,900	1,000,500
GF/SF Exp.	-	-	-	-	-
Net Effect	(-)	(-)	(-)	(-)	(-)

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

Local Effect: Local government expenditures may increase beginning in FY 2026, as discussed below. Local revenues are not anticipated to be directly affected.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Wetlands Regulation

Wetlands in the State are protected, and the Wetlands and Waterways Program within MDE administers a statewide program for the management, conservation, and protection of Maryland's tidal wetlands and nontidal wetlands and waterways. Pursuant to current law and MDE regulations, and subject to certain exceptions, a person may not dredge, fill, or construct or reconstruct structures in:

- State wetlands, without a license issued by the Board of Public Works (BPW) (or MDE, as MDE is delegated authority to authorize certain activities in State wetlands); or
- private wetlands, without a permit issued by MDE.

Riparian Owner's Rights

In general, except as specifically provided, a riparian owner may not be deprived of any right, privilege, or enjoyment of riparian ownership that the riparian owner had prior to July 1, 1970. Further, provisions of Title 16 of the Environment Article that address wetlands and riparian rights do not transfer the title or ownership of any land or interest in land. The Court of Special Appeals has noted "The term 'riparian rights' indicates a bundle of rights that turn on the physical relationship of a body of water to the land abutting it. These rights are significantly different from each other in many respects, and yet they share a common name just as riparian landowners attempt to share the common benefits that arise from adjacency to defined bodies of water," *Gunby v. Old Severna Park Improvement Ass'n*, 174 Md.App. 189, 239 (2007).

A person who is the owner of land bounding on navigable water is entitled to any natural accretion to the person's land, to reclaim fast land lost by erosion or avulsion during the person's ownership of the land to the extent of provable existing boundaries. The person may make improvements into the water in front of the land to preserve that person's access to the navigable water or protect the shore of that person against erosion, as specified. After an improvement has been constructed, the improvement is the property of the owner of the land to which the improvement is attached. A right covered in Subtitle 2 of Title 16 of the Environment Article (which addresses State wetlands) does not preclude the owner from developing any other use approved by BPW. The right to reclaim lost fast land relates only to fast land lost after January 1, 1972, and the burden of proof that the loss occurred after this date is on the owner of the land.

Shoreline Stabilization

Generally, improvements to protect a person's property against erosion must consist of nonstructural shoreline stabilization methods (also known as living shorelines) that preserve the natural environment, such as marsh creation, except in areas designated by MDE mapping as appropriate for structural shoreline stabilization measures and in areas where a property owner can demonstrate to MDE that such measures are not feasible, including areas of excessive erosion, areas subject to heavy tides, and areas too narrow for effective use of nonstructural shoreline stabilization measures.

State Expenditures:

Maryland Department of the Environment

General fund expenditures increase by \$735,659 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of hiring six employees within MDE (one assistant Attorney General, one Geographic Information System (GIS) analyst, and four natural resource planners) to (1) develop and adopt regulations; (2) review GIS data/maps and surveys that must be submitted by applicants so that MDE can track, verify, and update landward boundaries of affected wetlands; (3) track completed projects; (4) facilitate and oversee mapping updates; and (5) handle related legal matters that arise. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses (including contractual costs to update maps following project completion). The information and assumptions used in calculating the estimate are stated below:

- MDE authorizes an estimated 560 shoreline stabilization projects annually;
- MDE does not currently update wetland mapping for affected shoreline stabilization projects;
- MDE lacks sufficient resources (even with the additional staff assumed in this fiscal and policy note) to conduct detailed field surveys for affected projects, so it is assumed that project applicants likely need to submit GIS data/maps and pay for any additional survey work directly;
- the bill's requirements only apply to shoreline stabilization measures conducted once the bill takes effect (*i.e.*, to the extent that the bill applies to projects completed prior to the bill's effective date, implementation costs are significantly higher);
- the last statewide mapping of tidal wetlands occurred in 1972, was conducted for guidance purposes only, and required significant public notice and outreach;
- even with additional staff and resources, MDE does not have the expertise or capacity to precisely update landward boundaries of relevant wetlands following project completion and needs contractual assistance on an ongoing basis to update maps as required; and

- estimated contractual costs for comprehensive mapping updates are based on routine costs for the Chesapeake Bay Critical Area Commission to update maps through a partnership with Salisbury University.

Positions	6.0
Salaries and Fringe Benefits	\$428,946
Contractual Services (Mapping Updates)	262,500
Other Operating Expenses	<u>44,213</u>
Total FY 2026 MDE Admin. Expenditures	\$735,659

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, including ongoing contractual services for comprehensive mapping updates.

Other State Agencies

Any State agencies (such as the Maryland Port Administration) that own riparian property and use structural shoreline stabilization measures could incur additional costs to complete additional survey and mapping work. Accordingly, State expenditures (multiple funds) may increase beginning in fiscal 2026. Based on cost information provided by MDE, survey costs could total between \$2,000 and \$4,000 per project, with higher costs for larger projects.

Local Expenditures: MDE advises that the bill likely has an operational and potential fiscal impact on local governments. MDE notes that some local jurisdictions have requirements for updating property boundary mapping, which may require entities undertaking shoreline stabilization projects to obtain local approval. Accordingly, the bill could result in an increase in workload at the local level. The Maryland Municipal League also notes the potential for increased local administrative costs.

Local governments that own riparian property and use structural shoreline stabilization measures could also incur additional costs beginning in fiscal 2026 to complete additional survey and mapping work.

Small Business Effect: Because the bill increases costs to complete shoreline stabilization projects (due to additional survey and mapping work), the bill has several potential impacts on small businesses. Demand for small businesses that offer engineering, surveying, mapping, and recordation services may increase under the bill. On the other hand, increased costs to complete shoreline stabilization projects may depress the demand for such work.

Additional Information

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

Designated Cross File: None.

Information Source(s): Kent and Montgomery counties; Maryland Municipal League; Town of Bel Air; Maryland Department of the Environment; Board of Public Works; Department of Legislative Services

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rh/lgc

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