

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 434

(Senator Klausmeier)

Education, Energy, and the Environment

Environment and Transportation

Natural Resources - Restorative Aquaculture Pilot Program

This bill requires the Department of Natural Resources (DNR) to establish and implement a Restorative Aquaculture Pilot Program to provide financial incentives to a holder of an aquaculture lease to maintain their lease, or a part of their lease, under specified restorative conditions for at least four years. **The bill terminates September 30, 2029.**

Fiscal Summary

State Effect: General fund expenditures increase by at least \$144,600 in FY 2024. Future years reflect annualization and inflation. These estimates do not account for the cost of the financial incentives, as discussed below. Revenues are not affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	144,600	171,300	178,900	186,900	196,800
Net Effect	(\$144,600)	(\$171,300)	(\$178,900)	(\$186,900)	(\$196,800)

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: The bill establishes that the General Assembly finds that, with appropriate siting, active use requirements that require annual shellfish seed plantings, and appropriate husbandry, shellfish aquaculture is a restorative activity that benefits water quality, oyster productivity, and habitat.

The pilot program must be designed to provide financial incentives to a holder of an aquaculture lease who:

- maintains the lease, in whole or in part, in accordance with specified criteria for restorative aquaculture identified by DNR;
- maintains the restorative conditions for at least four years; and
- meets any criteria the department, in consultation with the Aquaculture Coordinating Council, considers necessary.

DNR must identify criteria and metrics for restorative aquaculture that take into consideration (1) oyster density; (2) oyster biomass; (3) habitat complexity; and (4) any other criteria and metrics developed or identified in coordination with the Aquaculture Coordinating Council, the University of Maryland Center for Environmental Science, or other interested stakeholders. The criteria and metrics must be at least as stringent as the target criteria and metrics used in large-scale oyster restoration projects overseen or supported by the Chesapeake Bay Program.

DNR must establish eligibility requirements and financial incentives for the pilot program. The financial incentives must be designed in a manner that pays eligible lease holders (1) on a per-acre basis and at a rate determined by DNR in coordination with the Aquaculture Coordinating Council or (2) for oysters purchased by DNR for use in oyster restoration sanctuary projects. DNR may consult with interested stakeholders in establishing the financial incentives. The financial incentives must be financed through (1) private donations; (2) federal funding; (3) money appropriated in the State budget specifically for the payment of the incentives; or (4) any other funding from any other source accepted for the payment of the incentives.

A holder of an aquaculture lease who is participating in the pilot program may meet any requirements for the active use of the lease by shellfish seed planting only.

DNR must adopt regulations to carry out the pilot program by October 1, 2024. The regulations must include provisions for the verification of existing and improved conditions on aquaculture leases that are part of the pilot program.

Current Law:

Department of Natural Resources – Aquaculture

Statute designates DNR as the lead agency for (1) the development and overall management of aquaculture and aquaculture products; (2) coordinating and streamlining the process of applying for a State aquaculture permit; (3) enforcing laws, regulations, and

rules related to aquaculture; and (4) identifying economic development opportunities related to aquaculture.

Aquaculture Leases

A person who wishes to obtain an aquaculture lease must pay an application fee and complete and submit an application to DNR. Statute establishes general provisions that a leaseholder must follow, including the requirement that a leaseholder actively use the lease and comply with any standards for planting, harvesting, and use of the leased area established by DNR. Leaseholders must also mark the lease area and comply with any other DNR marking requirements, pay rent, and comply with Maryland Department of Health regulations carrying out the National Shellfish Sanitation Program. All leaseholders must also obtain and possess a shellfish aquaculture harvesting permit prior to engaging in any aquaculture activities on their lease.

Aquaculture Coordinating Council

The Aquaculture Coordinating Council was created by the General Assembly in 2005, and has various statutory responsibilities, including formulating and making proposals for advancing Maryland aquaculture and undertaking various efforts to support, study, and advance the aquaculture industry.

State Expenditures: General fund expenditures increase by at least \$144,631 in fiscal 2024, which accounts for the bill's October 1, 2023, effective date. This estimate reflects the cost of hiring a program administrator and a natural resource biologist to coordinate the process of establishing the program (including identifying criteria and metrics for restorative aquaculture and establishing eligibility requirements and financial incentives) and managing its implementation. DNR indicates that current staff are operating at capacity and cannot absorb the responsibilities of establishing and implementing the program. The estimate does not account for the cost of the financial incentives under the program, which cannot be reliably estimated at this time and may depend on (1) the outcome of consultation with interested stakeholders regarding the design of the incentives and (2) the level of participation in the pilot program. As mentioned above, the bill identifies several potential funding sources for the financial incentives. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2.0
Salaries and Fringe Benefits	\$129,813
Operating Expenses	<u>14,818</u>
Minimum FY 2024 State Expenditures	\$144,631

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 have a meaningful positive impact on small business aquaculture leaseholders who participate in the pilot program and receive financial incentives.

Additional Information

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

Designated Cross File: HB 1254 (Delegate Stein) - Rules and Executive Nominations.

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

Fiscal Note History: First Reader - March 2, 2023
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