

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 428 (The President, *et al.*) (By Request - Administration)
 Education, Energy, and the Environment Rules and Executive Nominations

Chesapeake Bay Legacy Act

This Administration bill makes changes to State law relating to (1) a Maryland Leaders in Environmentally Engaged Farming (LEEF) Program; (2) regenerative practices and traditions, and healthy soils; (3) finfish harvested and processed by *ike jime*; (4) water quality monitoring; (5) fishery management plans; (6) aquaculture leases; (7) the Whole Watershed Restoration Partnership; (8) water quality trading; and (9) stream and floodplain restoration project requirements. **The bill takes effect July 1, 2025, and the LEEF Program terminates June 30, 2030.**

Fiscal Summary

State Effect: State expenditures and revenues are affected, as summarized in the table below, and discussed and shown in more detail in the Analysis section (including detail of indeterminate special fund revenues in FY 2026 through 2030 not fully reflected in the table below). The FY 2026 budget as introduced includes \$900,000 in general funds for the LEEF Program; the budgeted funding is not contingent on the enactment of this bill. **This bill establishes a mandated appropriation beginning in FY 2027.**

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
SF Revenue	\$900,000	\$900,000	\$900,000	\$900,000	\$900,000
GF Expenditure	\$900,000	\$900,000	\$900,000	\$900,000	\$900,000
SF Expenditure	\$900,000	\$900,000	\$900,000	\$900,000	\$900,000
Net Effect	-/(-)	-/(-)	-/(-)	-/(-)	-/(-)

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

Local Effect: Local government revenues may increase, as discussed below. Local expenditures are not directly affected.

Small Business Effect: The Administration has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill makes the following summarized changes related to the water quality and resources of the Chesapeake Bay:

- (1) **LEEF Program** (pp. 3-7 of the bill) – The bill establishes the LEEF Program to incentivize farmers’ adoption of (1) environmental (including bay- and climate-related) conservation practices and (2) practices that demonstrate engagement with Maryland communities (“community best practices”). The program is intended, in part, to encourage adoption of multiple practices across a farming operation or multiple farming operations and provides certification, according to tiers of recognition, for program participants. The program is administered by the Maryland Department of Agriculture (MDA), in coordination with other specified agencies, and is supported by a LEEF Program Fund. The Governor must include in the annual budget bill, for fiscal 2026 and each fiscal year thereafter (through fiscal 2030), an appropriation of at least \$900,000 to the fund. The LEEF Program Fund may only be used to support actions associated with fulfilling the program’s purpose and to cover MDA’s costs to administer the program; however, not more than 20% of the fund may be used for the department’s administrative costs each fiscal year.
- (2) **Regenerative Practices and Traditions – and – Healthy Soils** (pp. 8-9, 22-23) – The bill includes “regenerative practices and traditions” under the definition of “healthy soils” under the Maryland Healthy Soils Program. “Regenerative practices and traditions” are a form of land management and stewardship approaches and practices that (1) draws on traditions and innovations from African, Indigenous, and original land stewards; (2) promotes culturally important food and climate justice programs and initiatives; and (3) enhances the land and ecosystem. The bill also authorizes the Department of Natural Resources (DNR) to lease department-owned or -managed land to a person implementing practices that support healthy soils and regenerative practices and traditions. The lease term may be for a minimum of 10 years.
- (3) **Direct Sale of Finfish Harvested and Processed by *ike jime*** (pp. 9-10) – The bill establishes that a person who has a tidal fish license or commercial Chesapeake Channa license does not need to be licensed as a food establishment in order to harvest and process finfish on a vessel, by *ike jime*, for direct sale to restaurants.

- (4) **Water Quality Monitoring Program** (pp. 10-11) – The bill establishes a Water Quality Monitoring Program within DNR to (1) provide for a consistent statewide approach for improving water quality monitoring data, consistent with the most up-to-date scientific knowledge and technologies; (2) conduct long-term and targeted short-term monitoring and assessments to develop an understanding of and guide programs; (3) integrate monitoring data into planning processes to inform policy choices about the effectiveness of management actions; and (4) provide the general public with readily available monitoring data to guide recreational and other passive uses. DNR may assess and incorporate water quality monitoring data that meets the quality assurance and use goals of the State data sets into the program.
- (5) **Fishery Management Plan Requirements** (pp. 11-20) – The bill makes changes to provisions governing fishery management plans, the most significant of which reduces the number of specifically identified species for which DNR must prepare a fishery management plan and allows the department to (1) manage species in accordance with interstate/regional fishery management plans (of the Atlantic States Marine Fisheries Commission or a federal Regional Fishery Management Council), if applicable, and (2) prepare a Maryland-specific supplement to those plans if more restrictive measures are necessary to conserve the fishery. The bill retains DNR’s ability to prepare fishery management plans for any species necessary, including the remaining specifically identified species for which DNR is required to prepare a plan and other species for which there is not an interstate/regional plan. The bill also (1) requires changes in environmental/climate factors to be taken into account in the department’s plans (to the extent possible); (2) ensures that commercial and recreational fishing participants, including individuals licensed to guide fishing parties and charter boat captains, are each accounted for in meeting specified fishery management plan requirements; (3) changes a requirement that conservation and management measures implementing a fishery management plan be adopted by regulation to instead be an authorization for the measures to be adopted by regulation; and (4) modifies a hearing requirement (affecting Worcester County) for plans affecting the coastal bays.
- (6) **Aquaculture Lease Issuance and Reporting** (pp. 20-22) – The bill makes changes to procedures and requirements applicable to the issuance of an aquaculture lease, most notably: (1) clarifying/establishing timing of when a public informational meeting on, and/or a protest of, a lease application may be requested/submitted; (2) allowing DNR to require mediation before transmitting a protest to the Office of Administrative Hearings; (3) authorizing DNR, in consultation with the Aquaculture Coordinating Council, to charge a lease applicant reasonable advertising and survey fees; and (4) modifying an annual reporting deadline (from January 1 to January 31), to give a leaseholder additional time to report on the use of the lease during the prior year.

- (7) **Whole Watershed Restoration Partnership Permit Coordination** (pp. 23-29) – The bill adds requirements under the Whole Watershed Restoration Partnership (established by Chapters 558 and 559 of 2024), specifically: (1) that the State management team and project sponsor meet as soon as possible after a project is approved, inviting all relevant State and federal agencies, to develop a plan for permitting the project; (2) that the permit tracking dashboard that the Secretary of Natural Resources must establish (under Chapters 558 and 559) include the plan for permitting the project (with any confidential information redacted); and (3) that a project sponsor provide quarterly updates to the State management team with information necessary for the permit tracking dashboard, including the status of all State and federal permits.
- (8) **Water Quality Trading Credits for Oyster Restoration Projects** (p. 29) – The bill requires that the Maryland Department of the Environment (MDE), by December 31, 2025, (1) authorize oyster restoration projects funded in whole or in part by federal, State, or local governments to be eligible to generate water quality trading credits and (2) develop a process for certifying water quality trading credits generated by oyster restoration projects.
- (9) **Applicability of Stream and Floodplain Restoration Project Requirements** (p. 29) – The bill establishes that requirements established under Chapters 558 and 559 for stream and floodplain restoration projects (which, under Chapters 558 and 559, do not take effect until July 1, 2025) do not apply to permit or license applications submitted to MDE before July 1, 2025.

Current Law/Background: The following provide relevant current law and background corresponding to the provisions above:

- (1) **MDA Funding for Conservation Practices** – For context regarding MDA’s existing funding for resource and environmental conservation practices, the fiscal 2026 budget as introduced allocates \$38.2 million for the department’s conservation grants program (including \$15.1 million of reimbursable funds allocated to the program from DNR’s and MDE’s budgets) that is responsible for management and distribution of grants to Maryland farmers to implement best management practices that address resource concerns and promote environmental sustainability. The \$38.2 million allocated for the conservation grants program includes a \$900,000 general fund appropriation intended for the LEEF Program.
- (2) **Maryland Healthy Soils Program and DNR Agricultural Leases** – MDA’s Maryland Healthy Soils Program provides incentives, including research, education, technical assistance, and financial assistance, to farmers to implement farm management practices that contribute to healthy soils. The Governor is

required to include in the annual budget bill an appropriation of at least \$500,000 for the program (included in the fiscal 2026 budget as introduced). DNR leases property through its Land and Property Management Program, pursuant to authorization under State law for real property of the State to be leased for consideration the Board of Public Works (BPW) decides is adequate. A [BPW advisory](#) on DNR-managed property leases authorizes DNR to lease agricultural land and outbuildings for a term of five years or less. The bill's authorization of specified leases is not expected to materially affect the overall amount of land leased by DNR.

- (3) **Harvesting Finfish Using *ike jime*** – A summary of a University of Rhode Island-led grant project funded by the National Oceanic and Atmospheric Administration in 2023, describes *ike jime* as a traditional Japanese dispatch method that preserves the maximum freshness and taste of a fish (making the most difference when fish is consumed raw, such as in sushi or ceviche). DNR indicates that the bill ensures finfish harvesters that they can use this dispatch method (that involves piercing the skin of the fish) without needing to be licensed as a food establishment. Under State law, food processing plants (including, with respect to fisheries, crab meat picking plants and shellfish plants) are included under the definition of “food establishment.”
- (4) **Water Quality Monitoring** – DNR indicates that the bill's establishment of the Water Quality Monitoring Program in statute formalizes the department's current water quality monitoring in tidal and nontidal waters of the State and establishes policy directives to align existing work with scientific recommendations and improve restoration outcomes. The bill's authorization for DNR to assess and incorporate water quality monitoring data that meets quality assurance and use goals allows the department to incorporate community groups' water quality monitoring data when appropriate.
- (5) **Fishery Management Plans** – DNR is required by statute to prepare fishery management plans for various listed species and has specified authority to prepare plans for additional species. The plans contain a systematic description of a given fishery and the objectives and conservation and management measures for the fishery. Various requirements apply to both the plans and the conservation and management measures in the plans. Regardless of other statutory provisions under State fisheries law, once a fishery management plan has been adopted by regulation, the fishery must be harvested in accordance with the conservation and management measures in the plan and any regulations implementing or amending that plan. The department indicates that the bill's changes (1) more formally recognize the role of interstate/regional fishery management plans in the State's fishery management

efforts and (2) include in statute recognition of environmental/climate effects on fisheries in the State's fishery management efforts.

- (6) **Aquaculture Lease Issuance and Reporting** – Among other requirements that must be met for an aquaculture lease application, an applicant must mark the proposed area and DNR must provide notice (to affected property owners and others) and advertising of the proposed lease. Within 30 days of the publication of the last advertisement, any person with a specific right, duty, privilege, or interest different from the general public that may be adversely affected may file a protest with DNR, to be heard in accordance with the Administrative Procedure Act. The department must also hold a public informational meeting on a proposed lease on the request of any person. By January 1 of each year, a leaseholder must provide DNR a report documenting the use of the lease during the prior year.
- (7) **Whole Watershed Restoration Partnership** – Chapters 558 and 559 established the Whole Watershed Restoration Partnership to accelerate restoration of the Chesapeake and Atlantic Coastal Bays and their watersheds by equitably focusing assistance on actions and areas that are cost-effective and likely to demonstrate a rapid systemic response to restoration activity, including rapid de-listing of impaired streams identified under the federal Clean Water Act. The partnership is administered by a State management team that approves up to five projects every five years and works with, and awards funding to, project sponsors over those five years, including providing for coordinated and transparent State permitting, aided by a permit tracking dashboard that must be established by the Secretary of Natural Resources. DNR indicates that the bill clarifies in statute necessary coordination of permitting for projects under the partnership.
- (8) **MDE's Water Quality Trading Program** – MDE's Water Quality Trading Program (COMAR 26.08.11) creates a public marketplace of credits for nitrogen, phosphorus, and sediment reductions, where pollution sources subject to pollution limits can purchase credits to help comply with those limits, creating revenue for those creating nitrogen, phosphorus, and sediment reductions. The program currently offers certification of nutrient reduction credits for [oyster aquaculture](#) but not for oyster restoration projects, and public funding cannot be used for generation of credits.
- (9) **Stream and Floodplain Restoration Project Requirements** – Chapters 558 and 559 (which established the Whole Watershed Restoration Partnership) also established additional requirements applicable to stream and floodplain restoration projects related to public notice and application review by MDE. Those additional requirements take effect July 1, 2025. MDE indicates that, in the absence of the bill, it does not intend to impose the additional requirements on applications submitted

before July 1, 2025, but establishing in the law that the additional requirements only apply to applications submitted on or after July 1, 2025, helps to remove any uncertainty or risk for applicants and MDE regarding whether the requirements apply, beginning July 1, 2025, to any applications submitted prior to July 1, 2025.

State Fiscal Effect: The estimated effect of the bill on State finances is summarized in **Exhibit 1** and discussed further below.

Exhibit 1
Estimated State Fiscal Effect of the Bill

<u>Provision</u>	<u>Description</u>	<u>Agency</u>	<u>Type</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>	<u>FY 2030</u>
1	LEEF Program	MDA	GF Exp	\$900,000	\$900,000	\$900,000	\$900,000	\$900,000
			SF Rev	900,000	900,000	900,000	900,000	900,000
			SF Exp	900,000	900,000	900,000	900,000	900,000
			<i>SF Pos's</i>	<i>2.0</i>				
6	Aquaculture advertising/survey fees	DNR	SF Rev	-	-	-	-	-
8	Water quality trading credits for oyster restoration projects	DNR	SF Rev	-	-	-	-	-
State Net Effect				-/(-)	-/(-)	-/(-)	-/(-)	-/(-)
<i>Total Pos's</i>				<i>2.0</i>				

DNR: Department of Natural Resources
 Exp: expenditures
 GF: general fund
 MDA: Maryland Department of Agriculture
 Pos's: positions
 Rev: revenues
 SF: special fund
 -/(-): indeterminate increase/decrease
 -: indeterminate increase

Source: Department of Legislative Services

As summarized in Exhibit 1, the bill has the following effects on State finances:

- **LEEF Program** (provision 1) –

General Funds: MDA general fund expenditures increase by \$900,000 annually from fiscal 2026 through 2030, reflecting the bill’s requirement that the Governor include an appropriation of at least \$900,000 to the LEEF Program Fund each fiscal year, and assuming that the minimum amount (\$900,000) is appropriated each fiscal year. While the \$900,000 appropriation is discretionary in fiscal 2026 since a funding mandate must be enacted prior to July 1 of the year before the fiscal year to which the mandate applies (in this case, prior to July 1, 2024, in order for the funding mandate to apply to fiscal 2026), this analysis assumes \$900,000 is appropriated in fiscal 2026, consistent with the funding provided for the program in the fiscal 2026 budget as introduced (mentioned above under Current Law/Background).

Special Funds: LEEF Program Fund revenues and expenditures correspondingly increase by \$900,000 in fiscal 2026 through 2030, reflecting receipt and spending of the general fund appropriations. It is assumed that all revenues received by the fund are spent each fiscal year. The annual funding is expected to cover the costs of (1) two new positions to administer the program; (2) contractual services expected to be needed to reduce the burden on program participants of verifying implementation of multiple conservation and/or community best practices; and (3) financial incentives for program participants.

This analysis assumes that only MDA’s personnel costs are considered to be administrative costs and that contractual services MDA expects to need, to reduce the burden on program participants of verifying implementation of multiple conservation and/or community best practices, can be considered an “action associated with fulfilling the program’s purpose” that, under the bill, is not subject to the 20% administrative costs limit.

- **Aquaculture Advertising/Survey Fees** (provision 6) – DNR special fund revenues increase by up to \$13,725 in fiscal 2026 and future years, assuming (1) the department chooses to charge aquaculture lease applicants reasonable advertising and survey fees; (2) those fees do not generate an amount of money greater than the amount the department spends on advertising and surveys; and (3) the department spends, on average, \$415 for advertising and \$500 for survey work, per application, for 15 applications per fiscal year.

- **Water Quality Trading Credits for Oyster Restoration Projects** (provision 8) – DNR special fund revenues may increase by an indeterminate amount, as early as fiscal 2026, to the extent the department generates revenue from

water quality trading credits generated from its oyster restoration projects as a result of the bill. While it is not clear at this time how any such revenues are used by DNR, this estimate assumes that such revenues are received by DNR as special fund revenues in order for them to be designated for use in future oyster restoration efforts. Both MDE and DNR generally indicate that it is too early to accurately estimate whether and to what extent DNR may generate revenues from water quality trading credits associated with the department's oyster restoration efforts. However, *solely for purposes of illustrating* the general magnitude of revenues that might be generated, a DLS analysis of available information indicates that, if credit calculations currently applicable to oyster aquaculture, and current market prices, are applied to a conservative assumption of oysters (30 million oysters) that may generate credits from DNR's current effort to establish the [oyster sanctuary in the Manokin River](#), revenues generated are in the range of \$1.5 million.

Remaining provisions of the bill are not expected to materially affect State finances.

Local Fiscal Effect: Local governments may benefit from increased revenues to the extent they undertake oyster restoration projects that generate water quality trading credits. The bill includes oyster restoration projects funded in whole or in part by local governments among those that must be eligible to generate water quality trading credits and DNR indicates that there has been interest from at least one local government in undertaking an oyster restoration project.

Additional Information

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

Designated Cross File: HB 506 (The Speaker, *et al.*) (By Request - Administration) - Environment and Transportation.

Information Source(s): Anne Arundel, Baltimore, Cecil, Frederick, and Montgomery counties; Maryland Association of Counties; Maryland Department of Emergency Management; cities of Frederick and Havre de Grace; Maryland Municipal League; University System of Maryland; Maryland Department of Agriculture; Department of Budget and Management; Maryland Department of the Environment; Maryland Department of Health; Department of Natural Resources; Maryland Department of Planning; Office of Administrative Hearings; Maryland Energy Administration; National Oceanic and Atmospheric Administration; Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2025
rh/lgc Third Reader - April 3, 2025
Revised - Amendment(s) - April 3, 2025
Revised - Clarification - April 3, 2025

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Chesapeake Bay Legacy Act

BILL NUMBER: SB 428

PREPARED BY: Saif Ratul

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

 X WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Small aquaculture businesses may see a positive impact. Aquaculture lease applicants may see a faster process for lease issuance if the proposed changes are able to cut down on frivolous lease protests. Leases will have more time to submit their annual reports and this will be in conjunction with the agency changing regulations to issue lease permits and harvester cards at a different time of year so that lease operations can continue as reports are turned in. Right now both reports and permits are issued at the beginning of the year, and if there are issues with the reports, the permits are held which means some leases cannot be operated until the report issues are settled. This would alleviate that problem.

The regenerative agriculture leases could provide more of an opportunity for small agriculture businesses to access DNR owned land for agricultural leases.

Small farmers may be benefitted by the LEEF Program.