

## Department of Planning and Budget 2004 Fiscal Impact Statement

**1. Bill Number:** HB 182

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Enrolled

**2. Patron:** Oder

**3. Committee:** Passed Both Houses

**4. Title:** Royalties for use of state-owned bottomland

**5. Summary/Purpose:** The bill exempts riparian owners of (i) commercial facilities engaged in the business of ship construction or repair; (ii) commercial facilities providing services relating to shipping of domestic or foreign cargo; and (iii) commercial facilities engaged in the business of selling or servicing watercraft from the assessment by the Marine Resources Commission of rents and royalties for the use of state-owned bottomland. The Commission retains the authority to charge permit fees to other entities for the use of bottomland, the recovery of underwater historic property, and the removal of bottom material. The bill further provides that the payment for any easement granted to a public service corporation, phone company, natural gas company, or cable television or other multi-channel video service shall be \$100 and the easement shall be for 40 years. The bill includes enactment clauses that cancel uncollected rents and royalties that were assessed prior to July 1, 2004 and prohibits the collection of rents and royalties, except pursuant to subsection C of § 28.2 – 1206, until July 1, 2005.

**6. Fiscal impact:** See Item 8.

**7. Budget amendment necessary:** No. The appropriation may be adjusted administratively to account for royalty revenues after July 1, 2005.

**8. Fiscal implications:** In 1988, Governor Baliles suspended the collection of royalties for the use of state-owned bottomlands. The suspension did not apply to royalties collected for removing material, or dredging bottomlands, but rather to royalties for the use of bottomland, such as construction of a pier or laying a pipe along a riverbed. The Governor suspended the collection of royalties in response to concerns raised by the shipbuilding and repair industry, and he convened a special blue ribbon panel to examine the issue. The Marine Resources Commission has continued to assess royalties for permit applicants since then, but has not attempted to collect the funds in keeping with the moratorium.

Following the blue ribbon panel's report, several changes to the royalty program were implemented through legislation enacted by the 2000 General Assembly Session (Chapter 1056, 2000 Acts of Assembly). These changes established the Marine Habitat and Waterways Improvement Fund and capped the royalty for "commercial facilities engaged in the primary business of ship construction and repair" at a one-time permit fee of \$5,000 in

lieu of any other royalties. The bill also had a delayed effective date of July 1, 2001 to enable the legislature to revisit the issues in the 2001 Session if desired. No further actions were taken during the 2001 General Assembly Session.

The Marine Resources Commission continues to assess, but not collect, the royalties for use of state-owned bottomland. The 2003 Appropriation Act, Chapter 1042, Item 398, states that:

“It is the intent of the General Assembly that beginning July 1, 2004, the Marine Resources Commission shall collect all fees and royalties assessed by the Commission for the use of state-owned bottomlands under the provisions of Chapter 12 of Title 28.2, Code of Virginia. Prior to resuming the collection of any such fees, the Secretary of Natural Resources shall review the report of the Virginia Delegation of the Chesapeake Bay Commission made pursuant to House Joint Resolution 633 (2003) and shall submit a plan for the collection of such fees to the Chairmen of the House Appropriations and Senate Finance Committees.”

The bill does not affect the current budget of the Marine Resources Commission. Because the royalties have been assessed but not collected, the revenue is not included in the agency's appropriation. However, the bill does impact the revenue that would have been available for the agency's programs if the agency was able to resume collection of the royalties on July 1, 2004, as directed in the Appropriation Act. Based on the average assessments over the past 15 years, the Marine Resources Commission estimates that in FY 2005, revenue from royalties for the use of state-owned bottomlands would be \$80,000 to \$100,000. Under the provisions of the bill, this revenue will not be available because collection is delayed until July 1, 2005.

After July 1, 2005, the commission estimates that the assessment of rents and royalties from entities other than the exempted businesses will be \$30,000 to \$40,000. Under the statute establishing the Marine Habitat and Waterways Improvement Fund, these funds are to be used solely for improving marine habitat and waterways, including the removal of obstructions or hazardous property from state waters.

**9. Specific agency or political subdivisions affected:** Marine Resources Commission.

**10. Technical amendment necessary:** No.

**11. Other comments:** None.

**Date:** 03/22/04 mar

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cc: Secretary of Natural Resources