

Department of Planning and Budget 2015 Fiscal Impact Statement

1. Bill Number: SB1271

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Deeds

3. Committee: Agriculture, Conservation and Natural Resources

4. Title: Submerged beds of rivers or creeks; claims of private ownership; arbitration.

5. Summary: Requires that the Department of General Services (the Department) order arbitration to resolve claims of ownership of a submerged bed of an inland river or creek upon the written request of a party claiming ownership and after a preliminary hearing. The bill requires that an arbitrator be appointed by the circuit court from a list of qualified persons maintained by the Department and that the arbitrator make a determination within six months of the Department's order. The costs of the arbitration shall be paid by the claimant, and the Department is required to estimate the cost of the proceeding and give the claimant the option of delaying the arbitration before beginning.

6. Budget Amendment Necessary: Yes

7. Fiscal Impact Estimates: Fiscal impact estimates are preliminary. See Item 8.

7a. Expenditure Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Fund</i> |
|--------------------|----------------|-------------|
| 2015 | 0 | |
| 2016 | \$32,000 | GF |
| 2017 | \$32,000 | GF |
| 2018 | \$32,000 | GF |
| 2018 | \$32,000 | GF |
| 2020 | \$32,000 | GF |
| 2021 | \$32,000 | GF |

8. Fiscal Implications: The bill requires the Department of General Services (DGS) to receive and submit claims of ownership of submerged beds of inland rivers or creeks for arbitration and maintain a list of qualified arbitrators. Administration of ownership claims is expected to require one part-time wage position at a cost of \$32,000 per year, which assumes 1,500 hours of work per year at a rate of \$20 per hour in addition to \$2,000 for related expense.

For each claim received, DGS is required to notify circuit courts in the jurisdiction of subject beds, conduct and advertise preliminary public claims hearings, and notify claimants of the estimated cost of arbitration. The amount of staff support necessary to fulfil these duties may vary based on the volume of claims. With no existing mechanism to try claims, only two

prior instances of ownership dispute are known and were made by suing private individuals for trespassing.

In instances where ownership claims are brought for submerged beds that the Commonwealth claims or its property abuts, legal assistance from the Office of the Attorney General (OAG) would be necessary. The OAG provides legal services to state agencies on a fee for service basis and DGS would be responsible for such costs.

Claimants will be responsible for arbitration fees and expenses. This would not include DGS costs.

Circuit courts are responsible for appointing arbitrators to each claim. The Office of the Executive Secretary of the Supreme Court reports that arbitrator appointments and related proceedings can be accommodated by the circuit courts with existing resources. The Office of the Attorney General also reports no expected fiscal impact.

9. Specific Agency or Political Subdivisions Affected: Department of General Services, Office of the Attorney General, circuit courts

10. Technical Amendment Necessary: No

11. Other Comments: None

Date: 2/3/2015

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