

February 23, 2023

The Honorable Brian J. Feldman
Senate Education, Health & Environmental Affairs Committee
Miller Senate Office Building,
2 West Wing 11 Bladen St.,
Annapolis, MD, 21401

RE: MBIA Letter of Opposition SB 471 Economic Development – Regional Institution Strategic Enterprise Zone Program – Alterations and Financing

Dear Chairman Feldman:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **SB 471 Economic Development – Regional Institution Strategic Enterprise Zone Program – Alterations and Financing**. MBIA **Opposes** the Act in its current version.

This bill would require that development projects be prohibited from being authorized for a discharge permit using the Maryland General Permit under certain circumstances. This bill has a variety of unintended consequences that will increase expense for developers and the state as well as having nearly impossible requirements that no reasonable construction project could remain in compliance with for any length of time.

The Maryland General Permit is designed to apply to most projects across the state and sets a universal standard of compliance for a variety of project situations. Individual permits are meant to apply to projects that do not fit into the normal scope of a development project. While MBIA acknowledges that this is an essential service this bill dramatically expands the scope of individual permits to encompass virtually every project. The general permit is meant to have a near universal standard for what protections and regulations a development project has to adhere to. This allows consistency of process, a clear standard for regulatory compliance, and sets the standard environmental protections and requirements that regulators have deemed acceptable for development projects across the state.

This bill would make individual permits apply to any project over 10 acres that drain into a floodplain which is virtually every development project. Making these projects subject to an individual permit would force regulators to spend an enormous amount of time and energy drafting these individual permits and provides no apparent benefits or watershed protections. Individual permits are no more protective of Tier 2 watersheds than the general permit so the additional expense and time serves no apparent environmental purpose. MDE already requires a permit to impact a floodplain designed to achieve suitable outfall. There is no need for an individual permit to impose a similar restriction since a regulatory framework already exists.

It is also unclear that even if this bill was passed that it would be possible for developers to fully comply with the law. Many key terms are undefined such as “Significant non-compliance” and it is unclear when developers will be liable for the new fines outlined in the bill. Additionally, the standard of “may not allow to cause or fail to control” runoff from a project is an impossible standard to fill. All projects will have at least some runoff and this standard could potentially punish any project even when the developer is making a good faith attempt at runoff control and compliance.

Because individual permits take longer they also bear an increased cost to developers that will be passed on to any consumers. MBIA estimates that the cost of an individual permit as opposed to a general permit development can potentially be hundreds of thousands of dollars and an additional 2 years to project completion. This drives up consumer costs during a period where Maryland faces a historic housing shortage and county governments are currently trying to incentivize more cost-effective housing. Since it is unclear what if any additional protections this bill will provide we suggest that this additional imposed expense is unnecessary. The individual permit also adds expense through increasing the amount of litigation necessary for project completion. General permit grants cannot be appealed but individual permit grants can be. This adds an additional layer of time and legal expense that will be passed on. These combined issues create massive additional expenses for consumers with no clear benefit.

For these reasons, MBIA respectfully requests the committee give this measure an unfavorable report. Thank you for your consideration.

cc: Members of the Senate Education, Health & Environmental Affairs Committee