

# **SB685 Testimony.pdf**

Uploaded by: Malcolm Augustine

Position: FAV

MALCOLM AUGUSTINE  
*Legislative District 47*  
Prince George's County

PRESIDENT PRO TEMPORE

Executive Nominations Committee

Education, Energy and the  
Environment Committee



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THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

February 27, 2024

**Senate Bill 685 - Program Open Space - Use of Property - Renewable Energy and Storage**

Dear Colleagues,

I am pleased to present **Senate Bill 685 - Program Open Space - Use of Property - Renewable Energy and Storage**, which centers on the approval of land use financed through Program Open Space for the purpose of providing the opportunity for an alternate and complementary use of solar and wind energy, as well as storing electricity in designated energy storage devices.

The primary goal of this legislation is to broaden the scope of potential uses of land acquired through Program Open Space, making it available for the development of renewable energy projects, with a specific focus on solar and wind power generation. Furthermore, it aims to facilitate the integration of diverse energy storage technologies into these projects.

Program Open Space has been instrumental in safeguarding Maryland's natural landscapes, protecting an impressive 415,000 acres of land. The initiative's impact goes beyond conservation, with over 6,900 grants distributed to local governments through Program Open Space Local, contributing to the overall enhancement of community quality. Notably, the establishment of a Greenways and Green Infrastructure network underscores our commitment to sustainable practices. Moreover, the program ensures accessibility by providing state and local park or public open space areas within a convenient 15-minute radius for most residents.

As a state, we have prioritized renewable energy. That renewable energy requires that 5 to 10 acres are required per megawatt for solar projects, while wind energy production utilizes 60 acres of land per megawatt. This holistic approach emphasizes both environmental preservation and responsible energy development.

The economic benefits derived from Program Open Space extend far beyond mere conservation efforts, profoundly impacting Maryland's business landscape and overall quality of life. The presence of parks and protected open spaces correlates with accelerated increases in home values, creating more attractive residential communities. Notably, businesses show a preference for locating in areas adorned with parks and quality environments, emphasizing the pivotal role Program Open Space plays in fostering a conducive business climate. As tourism stands as one of Maryland's leading industries, the historical structures, landscapes, parks, and forests supported by Program Open Space become crucial contributors to the sustained growth of this sector.

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In essence, the bill is for the purpose of the potential alternate use for Program Open Space to bolster the generation of renewable energy, specifically from solar and wind sources. It also emphasizes the importance of advancing energy storage capabilities. This legislative initiative underscores our commitment to championing sustainable practices and expanding the footprint of renewable energy across Maryland. Importantly, this effort aligns with our state's commitment to offshore wind initiatives. By leveraging the resources provided by Program Open Space, we are poised to make significant strides in promoting a cleaner and more sustainable energy landscape for Maryland.

I urge each of you to support this legislation, recognizing its potential to not only advance our environmental goals but also to position Maryland as a leader in the pursuit of renewable energy solutions. Together, let us work towards a greener, more sustainable future for generations to come.

Thank you for your attention to this critical matter. I urge the committee to give a **favorable** report for **Senate Bill 685 - Program Open Space - Use of Property - Renewable Energy and Storage**.

Sincerely,

A handwritten signature in cursive script that reads "Malcolm Augustine".

Senator Malcolm Augustine

**SB0685-EEE\_MACo\_SWA.pdf**

Uploaded by: Dominic Butchko

Position: FWA



## **Senate Bill 685**

### *Program Open Space - Use of Property - Renewable Energy and Storage*

MACo Position: **SUPPORT**  
**WITH AMENDMENTS**

To: Education, Energy, and the Environment  
Committee

Date: February 27, 2024

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS SB 685 WITH AMENDMENTS**. This bill would allow counties to use Program Open Space land to develop solar and wind energy generation.

Program Open Space (POS) is the heartbeat of Maryland's recreation and conservation landscape. Initially enacted in the 1960s, POS is funded via the transfer tax from the sale of real estate, and for the majority of jurisdictions, represents the most significant influx of capital and operating dollars for these purposes. Without POS, or if the scope of POS were to be dramatically expanded, decades of work meant to give Marylanders access to natural areas would likely be put in jeopardy.

While counties recognize the intent of SB 685 and applaud its underlying recognition of the importance of local decision-making, the breadth of the bill presents a challenge to the foundational premise of POS. In order to strike a balance between both the intent of the sponsor and of POS, counties propose a set of conceptual amendments which aim to open some areas for renewable energy development while placing guardrails around others.

#### **MACo Conceptual Amendments:**

- Reduce the authorization to develop renewable energy to rooftops, parking lots, and other developed parcels – rather than as competition for true “open space.”
- If land was purchased for recreation or conservation, but after 10 years is determined to no longer be suitable to a purpose under POS, the county may allow renewable energy development.
- Ban battery storage on POS land unless there are adequate fire suppression system installed and the batteries are not within a minimum distance of trees, playgrounds, or other areas designated by the Maryland Department of Natural Resources.

Counties applaud the forward-thinking nature of this bill, and offer amendments to balance the intent of both the sponsor and of POS. For this reason, MACo urges the Committee to give SB 685 a **FAVORABLE WITH AMENDMENTS** report.

**SB0685\_DNR\_SWA\_EEE\_2-27-24.pdf**

Uploaded by: Dylan Behler

Position: FWA



Wes Moore, Governor  
Aruna Miller, Lt. Governor  
Josh Kurtz, Secretary  
David Goshorn, Deputy Secretary

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February 27, 2024

**BILL NUMBER: Senate Bill 685 – First Reader**

**SHORT TITLE: Program Open Space - Use of Property - Renewable Energy & Storage**

**DEPARTMENT’S POSITION: SUPPORT WITH AMENDMENTS**

**EXPLANATION OF DEPARTMENT’S POSITION**

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The proposed Bill would allow for solar or wind power generation, as well as energy storage related to those types of uses to be conducted on Department lands. The Department appreciates the conversations with the sponsor on this legislation to better understand the intent – and we appreciate sponsors intent to provide flexibility in the event that there is land that is appropriate for the uses authorized in the legislation.

In that vein, we are offering one amendment to the legislation to clarify that the Department retains the ultimate authority and sole discretion with regard to any potential use of our lands under the authority granted in the bill.

It is also important to note that any effort to locate solar, wind or energy storage on Program Open Space funded acquisitions would require a significant investment of staff time to determine not only appropriate locations, but if locating the use on a particular site would be allowable under the above-mentioned restrictions. It could also involve significant coordination with Federal partners.

**BACKGROUND INFORMATION**

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Program Open Space was established in 1969 pursuant to Title 5, Subtitle 9 of the Natural Resources Article. Pursuant to the title, a portion of funds collected through the transfer tax flow to the Department (Program Open Space, Stateside) to acquire real property interests for “*recreation and open space purposes.*” The Department owns and manages over 500,000 acres throughout the State.

In addition to Program Open Space, Stateside funding many Department lands were acquired with Federal assistance and may also be encumbered with other restrictions on use:

1) Land & Water Conservation Funds (LWCF) – Approximately 10% of Department Lands are encumbered with LWCF funding. The National Park Service (NPS) could construe that additional adjacent Department Lands are considered to be impacted under LWCF regulations, making the total percentage higher than 10%. A final determination of what constitutes LWCF-impacted lands is a lengthy process that would require research and confirmation by NPS. Under LWCF guidelines, uses other than recreation would create a conversion of use, which would require the Department to identify

Contact: Dylan Behler, Director, Legislative and Constituent Services  
dylan.behler@maryland.gov ♦ 410-260-8113 (office) ♦ 443-924-0891 (cell)

and acquire other lands for recreation to replace any lands that might be impacted by solar, wind or energy storage uses. Approval and coordination is required with the National Park Service.

2) L-U or Land Utilization from the United States Department of Agriculture (USDA) – 42,000 +/- acres of Department lands in Garrett and Worcester Counties were granted by USDA and are restricted for public uses. Past opinions from the Office of the Attorney General have guided against conveying interests in these lands as it could result in a reversion of title to the USDA.

3) Maryland Wildlands Preservation System - 65,000 +/- acres are identified as Wildlands. Statute would likely prohibit any solar, wind or energy storage uses.

4) Thousands of acres are protected with funds from US Fish & Wildlife (including North American Wetlands Conservation Act funds) and the US Navy's Readiness & Environmental Protection Integration (REPI) and the US Army's Compatible Use Buffer Program (ACUB).

In addition to Department owned lands, 47,948 +/- acres of private lands are protected Program Open Space, Stateside conservation easements. Often, the above-mentioned Federal funding sources, in addition to other Federal programs such as the USDA/NRCS Farm and Ranchland Protection Program are partners for those easements.

Program Open Space, Local provides grants to local jurisdictions to acquire property for public recreation. Energy production or storage uses could create a conversion pursuant to Statute, which is similar to the conversion process for LWCF. Federal funding sources, especially LWCF, can also be part of these acquisitions as well.

#### **BILL EXPLANATION**

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The bill would allow for lands funded with Program Open Space to be used for solar or wind power generation, as well as the storage of energy generated from those uses.



BY:

(To be offered in the Education, Energy, and the Environment Committee)

AMENDMENT TO SENATE BILL 685

(First Reading File Bill)

AMENDMENT NO. 1

On page 2, in line 6, strike “SUBSECTION” and substitute “SUBSECTIONS”; in the same line, after “(B)” insert “AND (C)”; in line 13, after “(B)” insert “DECISIONS TO USE LAND OWNED OR MANAGED BY THE DEPARTMENT FOR THE USES SPECIFIED IN PARAGRAPHS (A)(1) AND (2) OF THIS SECTION ARE WITHIN THE SOLE DISCRETION OF THE DEPARTMENT.”

(C)”.

# **SB 685 Program Open Space-Use of Property-Renewabl**

Uploaded by: Cyndy Watts

Position: UNF



**Senate Bill 685**

*Program Open Space-Use of Property-Renewable Energy and Storage*

Position: **UNF**

Date: **February 26, 2024**

To: **Education, Energy, and  
the Environment**

The Caroline County Commissioners **OPPOSE** SB 685. This bill proposes to authorize the use of land acquired or developed with funds available under Program Open Space for the generation of electricity from solar or wind sources and the storage of electricity in energy storage devices.

Caroline County greatly values the Program Open Space initiative and its role in preserving and enhancing outdoor recreational opportunities, natural areas, and historic sites for the benefit of our residents and future generations. The program has been instrumental in supporting the development of parks, trails, and community projects that promote public health, environmental stewardship, and quality of life.

Allowing the use of Program Open Space lands for renewable energy generation and storage, particularly solar installations, presents significant challenges and conflicts with the primary objectives of the program. Caroline County has limited available land for recreational and conservation purposes, and the encroachment of solar facilities would jeopardize valuable open spaces and diminish the overall effectiveness of the Program Open Space initiative.

The Commissioners believe the preservation of Program Open Space lands is critical for maintaining biodiversity, protecting wildlife habitats, and mitigating the impacts of urbanization and development. Any alteration to the use of these lands should be approached with caution and careful consideration of the long-term consequences.

The Commissioners respectfully urge an unfavorable report on SB 685. The Commissioners remain committed to supporting renewable energy goals through responsible siting practices and collaboration with stakeholders to identify suitable locations for solar and wind projects that minimize adverse impacts on our natural resources and communities.

Sincerely,

J. Travis Breeding, President

**SB 685 - CBF - UNF.pdf**

Uploaded by: Doug Myers

Position: UNF



# CHESAPEAKE BAY FOUNDATION

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*Environmental Protection and Restoration  
Environmental Education*

## **Senate Bill 685**

Program Open Space – Use of Property – Renewable Energy and Storage

Date: February 27, 2024

Position: **Opposed**

To: Senate Education, Energy and the Environment Committee

From: Doug Myers  
MD Senior Scientist

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Chesapeake Bay Foundation (CBF) **OPPOSES** SB 685 which expands the use of Program Open Space to include acquisition of properties for renewable energy facilities.

While there will be challenges making the energy transition Maryland committed to in the Climate Solutions Now Act and Governor Moore's Maryland Climate Pathway, the transition is expected to be one driven by market forces and private investment. Significant financial incentives already exist and are accompanied by various policies to address solar, wind, and energy storage siting that will protect natural habitats and green spaces. For example, targeting already built areas like rooftops, brownfields, and highway rights of way accomplishes this protection and reduces the amount of energy loss in transmission because generation happens closer to where the energy is needed. Without creating any additional funding source, SB 685 will create competition with existing uses of Program Open Space used to protect critical fish and wildlife habitats, water quality, public access and recreation.

**CBF urges the Committee's UNFAVORABLE report on SB 685.**

For more information, please contact Matt Stegman, Maryland Staff Attorney, at [mstegman@cbf.org](mailto:mstegman@cbf.org).

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403

*The Chesapeake Bay Foundation (CBF) is a non-profit environmental education and advocacy organization dedicated to the restoration and protection of the Chesapeake Bay. With over 200,000 members and e-subscribers, including 71,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.*

# **Queen Anne's Conservation Association**

Uploaded by: Jay Falstad

Position: UNF

**QUEEN ANNE'S CONSERVATION ASSOCIATION**  
**P.O. BOX 157 – CENTREVILLE, MD 21651**

February 26, 2024

Dear Senate Education, Health and Environment Committee

On behalf of Queen Anne's Conservation Association, we send this letter urging an UN-FAVORABLE report on Senator Augustine's Senate Bill 685, authorizing the use of land developed with funds from Program Open Space to be used for generation of electricity from solar or wind sources.

Maryland's successful Program Open Space has been used to preserve land in a variety of ways, including protection of farmland, protection of wildlife habitat and other mechanisms of land preservation. Many of these properties have contractually obligated preservation easements on them, where landowners have taken advantage of various tax breaks. We urge the Senate to explore other options when considering land for solar or wind power, but Program Open Space lands should not be part of those considerations.

We urge an unfavorable report on SB-685

Sincerely,

**Jay Falstad**

*Executive Director,*

Queen Anne's Conservation Association

410-739-6570

[www.qaca.org](http://www.qaca.org)

*"Conservation is a cause that has no end. There is no point at which we will say our work is finished."*

*-Rachel Carson*

**FM - SB685 OPPOSE Feb 27 2024.pdf**

Uploaded by: Josh Hastings

Position: UNF





**FOREVER**  
MARYLAND

***Enhancing and Advancing Land Conservation***

**Board of Directors**

Sarah Knebel,  
*Chair*

Date: February 26, 2024  
Bill Number: **SB 685 - Program Open Space - Use of Property - Renewable Energy and Storage**

Kristin Kirkwood,  
*Vice Chair*

Committee: Senate Education, Energy and the Environment  
Position: Oppose

Steve Kline,  
*Treasurer*

Chairman Feldman and Members of the Education, Energy and Environment Committee:

David Lillard,  
*Secretary*

Forever Maryland, and the included land conservation partner organizations, oppose **SB 685 - Program Open Space - Use of Property - Renewable Energy and Storage** as land conservation and commercial energy production are broadly incompatible.

Nick Dilks

We are organizations that advocate for the preservation of Maryland land – including our state’s most important forests, habitat, historical lands, farms, parks, playgrounds, and more.

John Griffin

Francis (Joe) Hickman

Created by the Maryland General Assembly in 1969, *Program Open Space* and the state’s transfer tax has led Maryland to be recognized as a national leader in the conservation and protection of its vitally significant landscapes.

Katie Lautar

Kate Patton

We appreciate and greatly applaud Senator Augustine’s efforts to facilitate the necessary transformation to clean energy and look forward to future opportunities to identify appropriate locations, however we cannot support any efforts to place commercial solar facilities on properties or easements purchased with transfer tax revenues. These properties represent:

Barry Salisbury

- The best and most productive agricultural land;
- The most biologically important and ecologically sensitive areas;
- The parks and playgrounds enjoyed by residents throughout the state; and
- Irreplaceable cultural and historic resources.

Adair Stifel

Alisa L. Webb

Major Gary S. Burnett,  
*MET Liaison*

The programs funded by the transfer tax all currently allow solar energy for on-site use. This legislation would allow community solar and commercial/industrial scale solar on these lands -- thereby compromising the very resources that make Maryland a national leader in land conservation.

Josh Hastings  
*Executive Director*

**Advisory Council**

Phyllis Joris

We greatly support and champion the transition to a renewable energy economy, as well as the associated state goals, but these actions should not conflict with the state’s goals to plant 5 million trees, restore the Chesapeake Bay, restore critical habitat, to protect 40% of land by 2040, and more. For further information, please contact the organization’s Executive Director, Josh Hastings, at 410-251-5268 or [Josh@ForeverMaryland.org](mailto:Josh@ForeverMaryland.org).

Ann Jones

We respectfully request an unfavorable report.

Sincerely,

Forever Maryland and the following organizations:

**FOREVER MARYLAND FOUNDATION**

PO Box 4489 | Salisbury, MD 21803 | 410-251-5268 | [www.ForeverMaryland.org](http://www.ForeverMaryland.org)



**FOREVER**  
MARYLAND

*Enhancing and Advancing Land Conservation*

**American Chestnut Land Trust**  
Greg Bowen, Executive Director

**Baltimore County Land Trust Alliance**  
Ann Jones, Executive Director

**Baltimore Green Space**  
Katherine Lautar, Executive Director

**Catoctin Land Trust**  
David Lillard, Executive Director

**Cecil Land Trust**  
Alisa Webb, Executive Director

**Chesapeake Conservancy**  
Joel Dunn, President & CEO

**Eastern Shore Land Conservancy**  
Steve Kline, President & CEO

**Forever Maryland**  
Josh Hastings, Executive Director

**Harford Land Trust**  
Kristin Kirkwood, Executive Director

**Howard County Conservancy**  
Meg Boyd, Executive Director

**Land Trust Alliance**  
Andrew Szwak

**Lower Shore Land Trust**  
Matt Heim, Executive Director

**NeighborSpace of Baltimore County**  
Phyllis Joris, Executive Director

**Preservation Maryland**  
Nicholas Redding, President & CEO

**Scenic River Land Trust**  
Sarah Knebel, Executive Director

**Southern Maryland National Heritage Area**  
Lucille Walker, Executive Director

**The Conservation Fund**  
Bill Crouch, Maryland State Director

**Trust for Public Land**  
Kent Whitehead, Director/Sr Project Manager

**Valleys Planning Council**  
Renee Hamidi, Executive Director



**FOREVER MARYLAND FOUNDATION**

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# **SB 685 - Solar - Program Open Space - Letter of In**

Uploaded by: Grayson Middleton

Position: INFO



*Educate. Advocate. Innovate.*

Date: February 26, 2024  
To: Members of the Senate Committee on Education, Energy, and the Environment  
From: Grayson Middleton, Government Affairs Manager  
Re: SB 685 – Program Open Space – Renewable Energy and Storage – **Letter of Information**

Delmarva Chicken Association (DCA) is the 1,600-member trade association representing the meat-chicken growers, processing companies, and allied business members on the Eastern Shore of Maryland, the Eastern Shore of Virginia, and Delaware. We would like to offer our perspective on the conversation around solar on state and rural lands.

Chicken growers were some of the first to widely adopt solar technology in Maryland, and DCA fully supports its use as a cost-effective and environmentally friendly energy source.

However, as the state looks to expand solar siting, we want the preservation of prime and productive agricultural land to be prioritized. In our legislative policy, we have specifically requested that state-owned lands be used for solar farms, in addition to urban settings and small-scale solar operations in specific areas of agricultural counties. We think that starting the conversation on the use of state lands for solar is a good way to start taking some of the pressure from farms, which have been the center of focus for many seeking to expand solar energy in the state. We believe some of the current proposals to develop upwards of 20,000 acres of agricultural land for solar is untenable and detrimental to the agricultural economy, and we hope that the utilization of state lands and programs such as Open Space will make those proposals wholly unnecessary.

Should you have any additional questions, please feel free to contact me at Grayson Middleton at [middleton@dcahicken.com](mailto:middleton@dcahicken.com) or 410-490-3329.

Sincerely,

Grayson Middleton  
Government Affairs Manager