



March 4, 2024

The Honorable Marc Korman
Chair, Environment and Transportation Committee
Room 251, House Office Building
Annapolis, MD 21401

Re: OPPOSE -- HB 1284 (Wetlands and Waterways Program - Stream Restoration Projects)

Dear Chairman Korman:

On behalf of the Maryland Municipal Stormwater Association (MAMSA), I am writing to **oppose** HB 1284, which would add extensive and burdensome requirements to local stream restoration projects.

MAMSA is an association of the State's local governments and leading stormwater consultant firms who work for clean water and safe infrastructure based on sound science and good public policy.

MAMSA strongly supports stream restoration projects as a tool to help recover the hydrological and ecological functions of streams that have been damaged over time by land development. These projects have been thoroughly vetted in the Chesapeake Bay Watershed by multiple Chesapeake Bay Program Expert Panels that represent a broad scientific community. The most recent Expert Panel Memo, which was issued in October, 2020, was written by representatives from the U.S. Environmental Protection Agency, the Maryland Department of the Environment, Virginia Tech, the University of Maryland, and stream restoration practitioners, among others. MAMSA members rely on and stand by the implementation of these projects based on their positive impacts to the natural environment.

MAMSA **opposes** HB 1284 for the following reasons:

- **Permit Fees.** Under current law, stream restoration projects are exempt from application fees because these projects “enhance the State’s wetland or water resources.” ENV. §5-203.1(b)(2)(iv). Eliminating this exemption (p. 3, l. 8) would cost Maryland’s local governments a minimum of \$750 per project.
- **Application Requirements.** HB 1284 would mandate that a permit applicant provide specific objectives for the project, a monitoring plan, a plan for minimizing tree removal, standards for determining stream success, a plan for addressing upland best management practices, and a plan for addressing “potential unintended consequences.” (p. 3, l. 18 through p. 4, l. 22). As noted above, stream restoration is conducted to improve the conditions of our State’s waterways. Unless the goal is to do away with all stream restoration projects, we can think of no reason to burden localities with these extensive application requirements.
- **Public Engagement Process.** MAMSA members do not object to involving the public in local stream restoration projects. In fact, localities appreciate community feedback on these important and expensive projects. Localities would rather know early if the community has concerns before they spend local resources on a project that may ultimately be unsuccessful.

That said, HB 1284's requirements for notice to all property owners within ¼ mile of the project and within 1 mile downstream of the project area, posting of four signs, a 60-day public comment, and at least two public meetings at two stages in the development process (p. 4, l. 23 through p. 5, l. 15) are excessive. As a concrete example of our concerns, the bill would require a public meeting before any final approval of the project. At that stage, engineering and design are complete, making it very difficult to make changes based on feedback. MAMSA localities want to hold public meetings in the earlier phases of design, so we are able to change plans to address local concerns.

- **Modified Reduction Credits.** HB 1284 directs the Maryland Department of the Environment (MDE) to adopt regulations to change the amount of pollution reduction credits stream restoration projects that account for “tree loss and a respective decrease in credit allocation based on acres or number of trees removed” and, for a municipal separate storm sewer system (MS4) permit, adjust credits if there were trees removed “in excess” of initial plans (p. 5, l. 25 through p. 6, l. 8). This is punitive and uses a stick instead of a carrot. Maryland's localities are working hard to reduce the discharge of pollutants to local waterbodies and the Chesapeake Bay. MAMSA strongly objects to punishing localities for implementing stream restoration projects.
- **Forest Conservation Plans.** Under current law, stream restoration projects with a binding maintenance agreement of at least five years are exempt from the Forest Conservation Act (Nat. Res. §5-1601, et seq.). HB 1284 would eliminate this exemption, forcing localities to develop a Forest Conservation Plan. (p. 6, l. 24-26). As with the application requirements above, this requirement would be very burdensome at the local level.

Please feel free to contact me with any questions at Lisa@AquaLaw.com or 804-716-9021.

Sincerely,



Lisa M. Ochsenhirt, MAMSA Deputy General Counsel

cc: Environment and Transportation Committee, HB 1284 Sponsors