



POSITION STATEMENT

Bill: HB 1284 Wetlands and Waterways Program – Stream Restoration Projects

Position: Informational

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Dear Chair Marc Korman and Vice Chair Regina T. Boyce,

The Maryland-National Capital Park and Planning Commission (M-NCPPC or “the Commission”) has not voted to take a position on this bill. However, the Commission respectfully requests that the Environment and Transportation committee consider this information and include it in the record.

What The Bill Does: This bill seeks to repeal an exemption for stream restoration projects from certain application fees for certain projects that impact a wetland or waterway. This bill also requires a person applying for a wetlands and waterways authorization for a stream restoration project associated with achieving certain restoration goals to include in the authorization application certain objectives, standards, and plans; requiring the Department of the Environment to conduct a certain community engagement process before issuing a certain wetlands and waterways authorization for a stream restoration project. Additionally, this bill requires the Department to maintain on its website certain information for certain stream restoration projects; requiring the Department to adjust certain pollution reduction credits in a certain manner; repealing an exemption for certain stream restoration projects from provisions of law under the Forest Conservation Act; and generally relating to wetlands and waterways and stream restoration projects.

Informational Background. With over 600 miles of streams across 37,000 acres of parkland in Montgomery County, the Montgomery County Parks Department recognizes the exceptional value of healthy waterways and takes our responsibilities as stewards of the natural environment seriously. We have a unique dual mission that involves a healthy balance of

conservation and recreation.

- The streams in Montgomery County have been damaged by decades of development that occurred prior to modern stormwater practices. In many areas of the county these systems continue to degrade under the pressures of the stormwater runoff that drains to them.
- In implementing stream restoration projects, Montgomery Parks is committed to following local, state, and federal guidelines, which closely regulate stream restoration as a certified technique to improve water quality and address ecological deficiencies while protecting existing resources.
- We restore streams for a variety of reasons and our approach is based upon a thoughtful and holistic interpretation of the entire natural system, leveraging a team of experts that includes engineers, biologists, arborists, and land managers.

Montgomery County Program. As a result of Montgomery Parks' extensive stream valley ownership, we have taken a leading role in developing a stream restoration program that prioritizes protection of existing natural resources, enhancement of degraded systems, local community involvement, and a long-term vision of building resiliency into these systems that will ensure they can function successfully into the future.

Montgomery Parks uses a multifaceted approach to stormwater management that includes a variety of Best Management Practices (BMPs), such as: green infrastructure, reductions in impervious surfaces, targeted stormwater management practices, installation of stormwater retrofits, pollution prevention measures, tree planting, NNI management, education and outreach, and restoration of parkland where appropriate.

Our stream restoration program, which is only one aspect of this broader approach to managing stormwater and mitigating the effects of uncontrolled stormwater runoff, has received wide support from environmental advocates and industry professionals alike and we remain committed to continuing this work through collaborations with leading educational professionals, community stormwater leaders, and practitioners.

Concerns with HB 1284 Wetlands and Waterways Program - Stream Restoration Projects.

Montgomery Parks implements stream restoration projects through our Capital Improvements Program and allows other entities to implement stream restoration projects on Commission-owned parkland for a variety of purposes, including for MS4 goals, TMDL goals, mitigation, habitat improvement, utility asset protection, park infrastructure protection, stabilization of storm drain outfalls, ecological restoration, flood mitigation, etc. HB 1284 does not appropriately account for the range and diversity of projects (and their goals) that require a Wetlands and Waterways permit.

- HB 1284 would significantly and unnecessarily increase the cost of stream restoration

projects, limiting the reach and implementation of this vital tool for managing our waterways.

- There is an existing workgroup within the Maryland Department of Environment (MDE) currently studying an alternative permitting process for Ecological Restoration, addressing many of the same issues raised within HB 1284. It would be premature to instate new requirements before MDE releases their findings from that study, which delves into many of the issues raised here, including project goals, public outreach, biology, and monitoring.
- Upland stormwater management and other alternative nutrient reduction practices are effective and should be promoted as complementary practices to stream restoration when possible, but due to the level of existing development in our County it is not practical to achieve all our water quality goals through these measures alone. Due to the division of authority across any given watershed, it is not reasonable to link assessments of stream projects to additional upland BMPs.
- Depending upon the purpose of the project, existing programs and regulations already have requirements for public outreach that are wide-reaching, effective, and comprehensive. The level of engagement being sought in this bill is limiting and intended to burden the process rather than improve the quality of coordination, input, and feedback from relevant stakeholders.
- Maintaining existing forested riparian resources is and should continue to be a high priority in Maryland for all types of development and construction, including stream restoration. Effective, proven measures for retaining trees during stream restoration projects could include surveys of 6" DBH trees and larger, along with consideration of each of those trees during the design and use of specialized construction measures to protect adjacent trees and roots.
- The biological monitoring requirements proposed are duplicative and unwarranted considering the monitoring programs that are already in place across the State and requirements already built into the various regulatory processes. Stream restoration post-construction monitoring is currently required by MDE and the Army Corps of Engineers pursuant to a Joint Permit Application approval and long-term monitoring is already required for projects implemented for MS4 and Compensatory Mitigation credits.
- Habitat creation is frequently incorporated as a project goal when it is applicable. However, many environmental variables influence the overall health of a stream and judging the success of any single project on biological uplift is not always justified and should only be considered on a case-by-case basis.