

**Department of Legislative Services**  
Maryland General Assembly  
2024 Session

**FISCAL AND POLICY NOTE**  
**Third Reader**

Senate Bill 299

(Chair, Education, Energy, and the Environment  
Committee)(By Request - Departmental - Natural  
Resources)

Education, Energy, and the Environment

Environment and Transportation

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**Coast Smart Council - Duties and Authority**

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This departmental bill expands the duties of the Coast Smart Council to include developing eligibility criteria, standards, and procedures for categorical exemptions from Coast Smart requirements for specified proposed capital projects. The projects must have been designed to include adaptation and resiliency features to prevent or mitigate damage to the maximum extent practicable. The bill also authorizes the council to recommend regulations for adoption by the Secretary of Natural Resources.

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**Fiscal Summary**

**State Effect:** The bill does not materially affect State finances or operations, as discussed below.

**Local Effect:** The bill does not materially affect local government finances or operations, as discussed below.

**Small Business Effect:** The Department of Natural Resources (DNR) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

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**Analysis**

**Current Law:** “Coast Smart” means a construction practice in which preliminary planning, siting, design, construction, operation, maintenance, and repair of a structure or highway facility avoids or minimizes future impacts associated with coastal flooding and

sea level rise inundation. It includes design criteria and siting criteria that are applicable throughout the entire life cycle of a project.

Generally, the Coast Smart Council in DNR must:

- study and provide analysis regarding standards and factors relevant to the establishment of Coast Smart siting and design criteria;
- develop siting and design criteria to establish and implement Coast Smart practices and requirements;
- develop eligibility criteria, standards, and procedures for applying for and obtaining a waiver from compliance with the Coast Smart requirements; and
- establish procedures for evaluating Coast Smart waiver applications that include the consideration of proposed capital projects with regard to (1) the anticipated need to prepare for, respond to, and recover from extreme weather events, sea level rise inundation, coastal flooding, storm surges, and shoreline erosion and (2) the need to prevent danger to life and property and to avoid environmental, socio-economic, and economic harm.

*Coast Smart Requirements for Specified State and State-supported Local Capital Projects*

The Coast Smart Council, in consultation with DNR and the Maryland Department of Transportation, must establish Coast Smart siting and design criteria to address sea level rise inundation and coastal flood impacts on State and local capital projects. The criteria must include:

- guidelines and any other directives applicable to the preliminary planning and construction of a proposed capital project;
- a requirement that a structure be designed and constructed or reconstructed in a manner to withstand the storm surge from a storm that registers as a category 2 on the hurricane wind scale, including a requirement for structures to be constructed or reconstructed at a minimum elevation above the projected storm surge; and
- provisions establishing a process to allow a unit of State or local government to obtain a waiver.

Beginning July 1, 2020, if a State or local capital project costs \$500,000 or more, is funded with at least 50% State funds, and includes the construction of a structure or highway facility, then the structure or highway facility must be constructed in compliance with the siting and design criteria established by the council to address sea level rise inundation and coast flood impacts such projects. The requirement also applies to the reconstruction of a structure with substantial damage.

**Background:** DNR advises that the bill codifies the use of categorical exemptions for certain capital projects that have an obvious necessity to be placed or built contrary to Coast Smart siting and design criteria. Current exemptions listed on the Coast Smart Program [document](#) (page 12) are water-dependent uses, passive public access, historic structures, temporary structures or uses, and emergency use. The Coast Smart guidelines indicate projects requesting an exemption must complete a certain form for review by the agency funding the project. Allowing the council to recommend regulations for adoption by the Secretary of Natural Resources allows any future modifications to be implemented more quickly once a need is identified.

**State/Local Expenditures:** Both the State and local governments are already using categorical exemptions under the Coast Smart Program; the bill generally codifies the ability of the council to utilize such exemptions. As such, while both the State and local governments likely benefit from a more streamlined and potentially expedited project review process, the bill does not materially affect State or local government finances or operations.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Department of Natural Resources; Maryland Department of Emergency Management; Maryland Department of Transportation; Department of General Services; Interagency Commission on School Construction; University System of Maryland; Maryland-National Capital Park and Planning Commission; Kent, Montgomery, and Worcester counties; towns of Bel Air and Leonardtown; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services.

**Fiscal Note History:** First Reader - January 22, 2024  
rh/lgc Third Reader - February 28, 2024

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Analysis by: Stephen M. Ross

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510

## **ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES**

TITLE OF BILL: Coast Smart Council – Duties and Authority

BILL NUMBER: SB0299

PREPARED BY: Sarah Lane

### **PART A. ECONOMIC IMPACT RATING**

This agency estimates that the proposed bill:

\_X\_ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESSES

### **PART B. ECONOMIC IMPACT ANALYSIS**

Coast Smart criteria only apply to state and local government capital projects, thus small business structures are not required to adhere to siting and design criteria.