

# SENATE BILL 688

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By: **Senator M. Washington**

Introduced and read first time: February 6, 2026

Assigned to: Education, Energy, and the Environment

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Stream and Floodplain Restoration Projects – Requirements and**  
3 **Limitations**

4 FOR the purpose of requiring the Department of the Environment to prioritize certain  
5 practices when carrying out certain duties related to stormwater management;  
6 establishing certain restrictions on the use of a stream or floodplain restoration  
7 project to satisfy certain compensatory mitigation, permit, or total maximum daily  
8 load requirements; establishing requirements for stormwater management plans  
9 that include certain stream–related projects; altering certain responsibilities of the  
10 Department related to the review and assessment of stream and floodplain  
11 restoration projects; and generally relating to stream and floodplain restoration  
12 projects.

13 BY repealing and reenacting, with amendments,  
14 Article – Environment  
15 Section 4–203 and 4–204  
16 Annotated Code of Maryland  
17 (2013 Replacement Volume and 2025 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article – Environment  
20 Section 18–102  
21 Annotated Code of Maryland  
22 (2014 Replacement Volume and 2025 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
24 That the Laws of Maryland read as follows:

25 **Article – Environment**

26 4–203.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) The Department of the Environment shall implement the provisions of this  
2 subtitle and shall consult the Department of Natural Resources from time to time,  
3 including during the adoption of regulations, concerning the impact of stormwater on  
4 waters of the State.

5 (b) (1) The Department shall adopt rules and regulations which establish  
6 criteria and procedures for stormwater management in Maryland.

7 (2) The rules and regulations shall:

8 (i) Indicate that the primary goal of the State and local programs  
9 will be to maintain after development, as nearly as possible, the predevelopment runoff  
10 characteristics;

11 (ii) Make allowance for the difference in hydrologic characteristics  
12 and stormwater management needs of different parts of the State;

13 (iii) Specify that watershed-wide analyses may be necessary to  
14 prevent undesirable downstream effects of increased stormwater runoff;

15 (iv) Specify the exemptions a county or municipality may grant from  
16 the requirements of submitting a stormwater management plan;

17 (v) 1. Specify the minimum content of the local ordinances or the  
18 rules and regulations of the affected county governing body to be adopted which may be  
19 done by inclusion of a model ordinance or model rules and regulations; and

20 2. Establish regulations and a model ordinance that require:

21 A. The implementation of environmental site design to the  
22 maximum extent practicable;

23 B. The review and modification, if necessary, of planning and  
24 zoning or public works ordinances to remove impediments to environmental site design  
25 implementation; and

26 C. A developer to demonstrate that environmental site  
27 design has been implemented to the maximum extent practicable and standard best  
28 management practices have been used only where absolutely necessary;

29 (vi) Indicate that water quality practices may be required for any  
30 redevelopment, even when predevelopment runoff characteristics are maintained;

31 (vii) Specify the minimum requirements for inspection and  
32 maintenance of stormwater practices;

- 1 (viii) Specify that all stormwater management plans shall be designed  
2 to:
- 3 1. Prevent soil erosion from any development project;
  - 4 2. Prevent, to the maximum extent practicable, an increase  
5 in nonpoint pollution;
  - 6 3. Maintain the integrity of stream channels for their  
7 biological function, as well as for drainage;
  - 8 4. Minimize pollutants in stormwater runoff from new  
9 development and redevelopment in order to:
    - 10 A. Restore, enhance, and maintain the chemical, physical,  
11 and biological integrity of the waters of the State;
    - 12 B. Protect public health;
    - 13 C. Safeguard fish and aquatic life and scenic and ecological  
14 values; and
    - 15 D. Enhance the domestic, municipal, recreational, industrial,  
16 and other uses of water as specified by the Department;
  - 17 5. Protect public safety through the proper design and  
18 operation of stormwater management facilities;
  - 19 6. Maintain 100% of average annual predevelopment  
20 groundwater recharge volume for the site;
  - 21 7. Capture and treat stormwater runoff to remove pollutants  
22 and enhance water quality;
  - 23 8. Implement a channel protection strategy to reduce  
24 downstream erosion in receiving streams; and
  - 25 9. Implement quantity control strategies to prevent  
26 increases in the frequency and magnitude of out-of-bank flooding from large, less frequent  
27 storm events;
- 28 (ix) 1. Establish a comprehensive process for approving grading  
29 and sediment control plans and stormwater management plans; and
- 30 2. Specify that the comprehensive process established under  
31 item (i) of this item takes into account the cumulative impacts of both plans; and

1 (x) Incorporate the most recent precipitation data available.

2 (3) (i) The Department shall review and update the regulations  
3 adopted under this section at least once every 5 years.

4 (ii) In reviewing and updating the regulations adopted under this  
5 section, the Department shall:

6 1. At a minimum, revise water quality and water quantity  
7 control standards using the most recent precipitation data available; and

8 2. As necessary, update and revise the regulations to meet  
9 the requirements of this subtitle.

10 (4) (i) On or before November 1, 2021, the Department shall report to  
11 the General Assembly, in accordance with § 2–1257 of the State Government Article, on:

12 1. The most recent precipitation data available;

13 2. The Department's plans for immediately updating water  
14 quantity control standards for watersheds where flooding events occurred on or after  
15 January 1, 2000; and

16 3. The Department's plans for updating all other regulations  
17 adopted under this section.

18 (ii) After November 1, 2021, the Department shall report to the  
19 General Assembly, in accordance with § 2–1257 of the State Government Article, on any  
20 revisions the Department intends to make to the regulations adopted under this section  
21 before publishing the regulations.

22 (c) (1) At least 6 months before the proposal of regulations under this section,  
23 the Department shall:

24 (i) Post the regulatory process that the Department follows on the  
25 Department's website; and

26 (ii) Consult with the following groups and stakeholders on the  
27 impact of the proposed regulations:

28 1. The Commission on Environmental Justice and  
29 Sustainable Communities; and

30 2. Stakeholders with expertise on stormwater design  
31 standards and climate science, including stakeholders from:

32 A. An academic institution;

- 1 B. The Chesapeake Bay Program;
- 2 C. The Chesapeake Bay Commission;
- 3 D. The Maryland Emergency Management Agency;
- 4 E. The Maryland Association of Soil Conservation Districts;
- 5 F. Local government;
- 6 G. A private sector entity with design and construction  
7 experience; and
- 8 H. An association that has expertise in stormwater  
9 restoration projects.

10 (2) Before any regulations required under this section are adopted, the  
11 Department shall hold at least one public hearing in the affected immediate geographic  
12 areas of the State and shall consult with the affected counties and municipalities.

13 **(D) IN CARRYING OUT ITS DUTIES UNDER THIS SECTION, THE DEPARTMENT**  
14 **SHALL PRIORITIZE STORMWATER MANAGEMENT PRACTICES THAT:**

15 **(1) CAPTURE STORMWATER RUNOFF AT OR NEAR THE SOURCE IN**  
16 **ORDER TO PROMOTE INFILTRATION AND TO DELAY THE RELEASE OF RUNOFF TO**  
17 **STREAM CHANNELS; AND**

18 **(2) MINIMIZE DISTURBANCE TO EXISTING STREAMS, FLOODPLAINS,**  
19 **AND RIPARIAN AND UPLAND FORESTS.**

20 **(E) (1) EXCEPT AS AUTHORIZED UNDER TITLE 18 OF THIS ARTICLE, THE**  
21 **DEPARTMENT MAY NOT APPROVE THE USE OF A STREAM RESTORATION PROJECT**  
22 **THAT INVOLVES IN-STREAM CONSTRUCTION USING HEAVY EQUIPMENT TO**  
23 **MECHANICALLY ALTER THE DIMENSIONS, PATTERN, OR PROFILE OF A STREAM,**  
24 **INCLUDING ACTIVITIES THAT RELOCATE CHANNEL ALIGNMENT, REGRADE STREAM**  
25 **BANKS, OR CHANGE STREAMBED ELEVATION THROUGH EXCAVATION OR FILLING,**  
26 **FOR COMPLIANCE WITH:**

27 **(I) A MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT;**

28 **(II) A TOTAL MAXIMUM DAILY LOAD REQUIREMENT; OR**

29 **(III) A COMPENSATORY MITIGATION REQUIREMENT.**

1           **(2) COMPLETION OF THE CONSTRUCTION OF A STREAM**  
 2 **RESTORATION PROJECT MAY NOT BY ITSELF BE USED AS THE BASIS FOR AWARDING**  
 3 **ANY POLLUTION REDUCTION OR MITIGATION CREDIT.**

4           **[(d)] (F)** The Department may not delay the implementation of any new  
 5 requirements or standards established under regulations adopted under this section.

6           **[(e)] (G)** The Department shall provide technical assistance, training, research,  
 7 and coordination in stormwater management technology to the local governments  
 8 consistent with the purposes of this subtitle.

9 4–204.

10           **(a) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**  
 11 **INDICATED.**

12           **(2) (I) “INFEASIBLE” MEANS TECHNICALLY IMPRACTICABLE DUE**  
 13 **TO PHYSICAL, ENGINEERING, OR SITE–SPECIFIC CONSTRAINTS.**

14                           **(II) “INFEASIBLE” DOES NOT INCLUDE CONSIDERATION OF**  
 15 **COSTS, PROPERTY OWNERSHIP, OR ADMINISTRATIVE CONVENIENCE.**

16           **(3) (I) “NON–STREAM–DISTURBING STORMWATER MANAGEMENT**  
 17 **PRACTICE” MEANS AN UPLAND OR OUT–OF–STREAM PRACTICE THAT CAPTURES AND**  
 18 **MANAGES STORMWATER RUNOFF AT OR NEAR THE SOURCE.**

19                           **(II) “NON–STREAM–DISTURBING STORMWATER MANAGEMENT**  
 20 **PRACTICE” INCLUDES THE USE OF BIORETENTION, PERMEABLE PAVEMENT, TREE**  
 21 **PLANTINGS, BIOSWALES, GREEN ROOFS, OR STORMWATER INFRASTRUCTURE**  
 22 **REPAIR.**

23           **(B) (1)** After July 1, 1984, unless exempted, a person may not develop any land  
 24 for residential, commercial, industrial, or institutional use without **[submitting]:**

25                           **(I) SUBMITTING** a stormwater management plan to the county or  
 26 municipality that has jurisdiction~~[,]~~; and **[obtaining]**

27                           **(II) OBTAINING** approval of the plan from the county or  
 28 municipality.

29           **(2)** A grading or building permit may not be issued for a property unless a  
 30 stormwater management plan has been approved that is consistent with this subtitle.

31           **[(b)] (C)** The developer shall certify that all land clearing, construction,  
 32 development, and drainage will be done according to the plan.

1           **(D) A STORMWATER MANAGEMENT PLAN SUBMITTED UNDER THIS SECTION**  
2 **THAT INCLUDES A PROJECT INVOLVING IN-STREAM CONSTRUCTION OR THE**  
3 **MECHANICAL ALTERATION OF THE DIMENSIONS, PATTERN, OR PROFILE OF A**  
4 **STREAM SHALL INCLUDE AN ALTERNATIVES ANALYSIS THAT:**

5           **(1) ESTABLISHES THE SPECIFIC OBJECTIVES OF THE PROPOSED**  
6 **PROJECT;**

7           **(2) IDENTIFIES A REASONABLE RANGE OF**  
8 **NON-STREAM-DISTURBING STORMWATER MANAGEMENT PRACTICES CAPABLE OF**  
9 **ACHIEVING THE PROJECT OBJECTIVES; AND**

10           **(3) EVALUATES THE BENEFITS AND ADVERSE IMPACT OF EACH**  
11 **IDENTIFIED ALTERNATIVE STORMWATER MANAGEMENT PRACTICE.**

12           **[(c)] (E)** Each county or municipality may provide by ordinance for the review  
13 and approval of stormwater management plans by the local soil conservation district.

14           **(F) A COUNTY, MUNICIPALITY, OR SOIL CONSERVATION DISTRICT MAY NOT**  
15 **APPROVE A STORMWATER MANAGEMENT PLAN THAT RELIES PRIMARILY ON A**  
16 **PROJECT INVOLVING IN-STREAM CONSTRUCTION OR THE MECHANICAL**  
17 **ALTERATION OF THE DIMENSIONS, PATTERN, OR PROFILE OF A STREAM UNLESS THE**  
18 **PLAN DEMONSTRATES THAT:**

19           **(1) NON-STREAM-DISTURBING STORMWATER MANAGEMENT**  
20 **PRACTICES WERE EVALUATED IN ACCORDANCE WITH SUBSECTION (D) OF THIS**  
21 **SECTION AND FOUND TO BE INFEASIBLE; AND**

22           **(2) THE PROPOSED PROJECT IS NECESSARY TO ADDRESS**  
23 **DOCUMENTED PUBLIC SAFETY OR INFRASTRUCTURE CHALLENGES THAT CANNOT**  
24 **REASONABLY BE ADDRESSED THROUGH NON-STREAM-DISTURBING PRACTICES.**

25           **[(d)] (G)** (1) Each governing body of a county or municipality may adopt a  
26 system of charges to fund the implementation of stormwater management programs,  
27 including the following:

28                   (i) Reviewing stormwater management plans;

29                   (ii) Inspection and enforcement activities;

30                   (iii) Watershed planning;

31                   (iv) Planning, design, land acquisition, and construction of  
32 stormwater management systems and structures;

- 1 (v) Retrofitting developed areas for pollution control;
- 2 (vi) Water quality monitoring and water quality programs;
- 3 (vii) Operation and maintenance of facilities; and
- 4 (viii) Program development of these activities.

5 (2) The charges shall take effect upon enactment by the local governing  
6 body.

7 (3) The charges may be collected in the same manner as county and  
8 municipal property taxes, have the same priority, and bear the same interest and penalties.

9 (4) The charges shall be assessed in a manner consistent with §  
10 4–202.1(e)(3) and (f) of this subtitle.

11 **[(e)] (H)** (1) This subsection applies to a system of charges established by  
12 Montgomery County under subsection **[(d)] (G)** of this section.

13 (2) Except as provided in paragraph (5) of this subsection, the county may  
14 not impose the charge established under this section on a veterans' organization that is  
15 exempt from taxation under § 501(c)(4) or (19) of the Internal Revenue Code, a regularly  
16 organized volunteer fire department that is used for public purposes, or on roads, not  
17 including parking areas, that are owned by a homeowners association that is exempt from  
18 taxation under § 501(c)(4) of the Internal Revenue Code if the roads qualify for a State or  
19 county roadway maintenance reimbursement fund.

20 (3) Property owned by the State or a unit of State government in the county  
21 may be charged under the system of charges adopted by the county under this section if:

22 (i) The State or a unit of State government and the county agree to  
23 the collection of the charge from the State or a unit of State government that is based on  
24 the share of stormwater management services related to property of the State or a unit of  
25 State government located within the county;

26 (ii) The county agrees to appropriate into its own local watershed  
27 protection and restoration fund, on an annual basis, an amount of money that is based on  
28 the share of stormwater management services related to county property on an annual  
29 basis; and

30 (iii) The county demonstrates to the satisfaction of the State or a unit  
31 of State government that the charge collected under item (i) of this paragraph and the  
32 money appropriated under item (ii) of this paragraph were deposited into the county's local  
33 watershed protection and restoration fund.

1           (4) (i) The county may establish a program to exempt from the system  
2 of charges adopted under this section a property whose owner is able to demonstrate  
3 substantial financial hardship.

4           (ii) The county may establish a separate hardship exemption  
5 program or include a hardship exemption as part of a system of offsets to account for  
6 on-site and off-site systems, facilities, services, or activities that reduce the quantity or  
7 improve the quality of storm water discharged from the property.

8           (5) The county may impose the charge established under this section on  
9 property owned by a veterans' organization that is exempt from taxation under § 501(c)(4)  
10 or (19) of the Internal Revenue Code or a regularly organized volunteer fire department if:

11           (i) The county determines that the creation of a nondiscriminatory  
12 program for applying the charge to federal properties under the federal facilities pollution  
13 control section of the Clean Water Act is necessary in order for the county to receive federal  
14 funding for stormwater remediation; and

15           (ii) A veterans' organization that is exempt from taxation under §  
16 501(c)(4) or (19) of the Internal Revenue Code and a regularly organized volunteer fire  
17 department that is used for public purposes are provided with the opportunity to apply for  
18 an alternate compliance plan established under § 4-202.1(k)(3) of this subtitle instead of  
19 paying a charge imposed by the county under item (i) of this paragraph.

20 18-102.

21           (a) The Department may authorize a stream and floodplain restoration project in  
22 accordance with this section.

23           (b) Prior to the authorization of any stream and floodplain restoration project in  
24 the State, the Department shall:

25           (1) Assess documentation submitted by the project applicant for  
26 degradation criteria related to:

27           (i) An existing biological function-based parameter; and

28           (ii) A physical parameter, including an existing geomorphologic or  
29 hydraulic function-based parameter;

30           (2) Assess whether the project applicant incorporated the following  
31 cobenefits, as appropriate, into the application:

32           (i) The creation or restoration of wildlife habitat, riparian buffers,  
33 and wetland restoration;

- 1                   (ii)    The restoration of aquatic resources, such as freshwater mussels,  
2 fish passage, or oyster reefs;
- 3                   (iii)   Carbon sequestration;
- 4                   (iv)   Climate change mitigation, adaptation, or resilience;
- 5                   (v)    Improving and protecting public health; and
- 6                   (vi)   Recreational opportunities and public access to waterways and  
7 natural habitats;
- 8                   (3)   Assess documentation of community notifications **AND**  
9 **PRESENTATIONS** conducted by the project applicant prior to the submission of the  
10 application **FOR COMPLETION AND CONSISTENCY WITH THE TECHNICAL MATERIALS**  
11 **SUBMITTED TO THE DEPARTMENT**;
- 12                  (4)   Assess whether the applicant incorporated, to the extent practicable,  
13 recognized best management practices to:
- 14                   (i)    Maximize ecological uplift;
- 15                   (ii)   Minimize:
- 16                         1.    Impacts to wildlife habitats;
- 17                         2.    Tree loss and removal;
- 18                         3.    Earth disturbance; and
- 19                         4.    Disturbance to native vegetation;
- 20                   (iii)   Avoid impacts to:
- 21                         1.    Large noninvasive native plant communities; and
- 22                         2.    Specimen trees;
- 23                   (iv)   Use existing areas suitable for material staging areas to avoid  
24 forest removal;
- 25                   (v)    Limit construction access road widths;
- 26                   (vi)   Limit the impacts of ingress and egress points to minimize forest  
27 impacts; and

1 (vii) Where appropriate, prioritize the removal of nonnative and  
2 invasive:

3 1. Trees; and

4 2. Vegetation; [and]

5 (5) Establish a plan to provide for at least 5 years of monitoring in  
6 accordance with subsection (d) of this section;

7 **(6) ASSESS WHETHER THE PROPOSED PROJECT IS NECESSARY TO**  
8 **ADDRESS DOCUMENTED STREAM DEGRADATION THAT CANNOT REASONABLY BE**  
9 **ADDRESSED THROUGH NON-STREAM-DISTURBING STORMWATER OR WATERSHED**  
10 **MANAGEMENT PRACTICES; AND**

11 **(7) PRIORITIZE THE PRESERVATION AND NONDESTRUCTIVE**  
12 **MANAGEMENT OF STREAMS AND FLOODPLAINS THAT RETAIN INTACT ECOLOGICAL**  
13 **FUNCTION, INCLUDING MATURE RIPARIAN AND UPLAND FORESTS.**

14 (c) The Department's assessment review required under subsection (b)(3) of this  
15 section shall include:

16 (1) Whether the project applicant provided notice as required in § 18-101  
17 of this title;

18 (2) Whether the project applicant conducted a public meeting as required  
19 in § 18-101(d) of this title;

20 (3) Whether the project applicant placed appropriate project signage;

21 (4) Whether the project applicant considered the project's compatibility  
22 with local land use, especially in urban, suburban, and other high-visibility areas;

23 (5) Whether and how the project applicant considered and responded to  
24 relevant public input, including any resulting modifications to the project; [and]

25 (6) How the project applicant considered public input in the final  
26 application design;

27 **(7) WHETHER PROJECT COMMUNITY NOTIFICATIONS AND**  
28 **PRESENTATIONS WERE COMPLETE AND CONSISTENT WITH THE TECHNICAL**  
29 **MATERIALS SUBMITTED TO THE DEPARTMENT; AND**

30 **(8) ANY OTHER FACTORS THE DEPARTMENT CONSIDERS RELEVANT.**

1 (d) (1) On completion of a stream and floodplain restoration project, the  
2 Department shall provide for at least 5 years of monitoring per the design and permit  
3 associated with the design for each authorized project.

4 (2) The monitoring required under this subsection shall include an  
5 assessment of stream stability, stream and floodplain function, and vegetation viability  
6 within the affected project area.

7 (E) (1) IN THIS SUBSECTION, "INFEASIBLE" HAS THE MEANING STATED  
8 IN § 4-204 OF THIS ARTICLE.

9 (2) THE AUTHORIZATION OF A STREAM OR FLOODPLAIN  
10 RESTORATION PROJECT UNDER THIS SECTION DOES NOT, BY ITSELF, QUALIFY THE  
11 PROJECT FOR USE AS:

12 (I) COMPENSATORY MITIGATION FOR CONSTRUCTION  
13 IMPACTS ON WETLANDS, STREAMS, FORESTS, OR OTHER NATURAL RESOURCES; OR

14 (II) COMPLIANCE WITH A MUNICIPAL SEPARATE STORMWATER  
15 PERMIT OR TOTAL MAXIMUM DAILY LOAD REQUIREMENT.

16 (3) THE DEPARTMENT MAY APPROVE A STREAM OR FLOODPLAIN  
17 RESTORATION PROJECT FOR A USE DESCRIBED UNDER PARAGRAPH (2) OF THIS  
18 SUBSECTION ONLY IF THE DEPARTMENT DETERMINES THAT:

19 (I) NON-STREAM-DISTURBING ALTERNATIVES WERE  
20 EVALUATED AND FOUND TO BE INFEASIBLE; AND

21 (II) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE  
22 PROJECT PRODUCES MEASURABLE FUNCTIONAL LIFT AS DEMONSTRATED  
23 THROUGH POSTCONSTRUCTION MONITORING.

24 (4) (I) FOR PURPOSES OF PARAGRAPH (3) OF THIS SUBSECTION,  
25 MEASURABLE FUNCTIONAL LIFT:

26 1. SHALL BE DEMONSTRATED THROUGH  
27 IMPROVEMENTS TO BIOLOGICAL HABITAT OR ECOLOGICAL FUNCTION; AND

28 2. MAY NOT BE BASED SOLELY ON MODELED POLLUTION  
29 LOAD REDUCTIONS, HYDRAULIC PERFORMANCE, OR PHYSICAL CHANNEL  
30 STABILITY.

31 (II) WHERE BIOLOGICAL CONDITION IS A RELEVANT STREAM  
32 ASSESSMENT CONSIDERATION, A DEMONSTRATION OF MEASURABLE FUNCTIONAL

1 **LIFT SHALL INCLUDE DOCUMENTED IMPROVEMENTS TO BIOLOGICAL COMMUNITY**  
2 **CONDITIONS AS ASSESSED USING SCIENTIFICALLY ACCEPTED BIOLOGICAL INDICES**  
3 **OR EQUIVALENT INDICATORS.**

4           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2026.