

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 687 (Senator M. Washington)
Education, Energy, and the Environment

Environment - Flood Risk Review Process - Establishment

This bill requires the Maryland Department of the Environment (MDE) to establish and implement a “flood risk” review process for areas identified by MDE or the Department of Natural Resources (DNR) (either in regulation or statute) as being at risk of tidal or nontidal flooding. The process applies to MDE’s review of any plan or permit related to a proposed development within an identified flood risk area. The bill establishes requirements for the flood risk review process and requires MDE to consult with specified local and State entities before issuing a final determination on a plan or permit subject to a flood risk review. A final determination issued by MDE must be incorporated into the local stormwater management approval process and is binding on the local approving authority.

Fiscal Summary

State Effect: General fund expenditures for MDE increase significantly, potentially by tens of millions of dollars in FY 2027 and by more than \$1.0 million annually thereafter. State expenditures (multiple fund types) for State agencies subject to the new flood risk review process may increase, potentially significantly, likely not before FY 2028; to the extent any portion of such costs are funded in the capital budget, total capital spending is not affected, but less funding is available for other capital projects. State revenues are not anticipated to be affected.

Local Effect: Potential significant increase in expenditures for local governments subject to the new flood risk review process, likely not before FY 2028. Local revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: “Flood risk” means the potential for impacts to life, property, infrastructure, or natural resources resulting from tidal flooding, nontidal flooding, or stormwater runoff. The definition applies throughout Title 5 of the Environment Article, which governs water resources.

The flood risk review process must:

- include an evaluation of the potential impacts of the proposed development on downstream flooding, as specified;
- ensure consistency with any watershed study or a specified flood management plan developed under specified existing statutory provisions and updated through the Advancing Stormwater Resiliency in Maryland Initiative (A-StoRM);
- incorporate data regarding current and projected precipitation intensity, duration, and frequency using (1) the most recent climate-adjusted precipitation data and modeling required under specified existing statutory provisions and (2) land use and impervious surface change trends identified by the Maryland Department of Planning (MDP) and A-StoRM; and
- require MDE to condition, modify, or deny approval of the plan or permit if MDE determines that the proposed development would (1) increase downstream flood hazards or flood damage to existing communities; (2) impair the effectiveness of watershed-scale flood management strategies developed under specified existing statutory provisions; or (3) conflict with stormwater quantity standards adopted under A-StoRM.

Before issuing a final determination on a plan or permit subject to a flood risk review under the bill, MDE must consult with each affected local jurisdiction, MDP, and, as appropriate, DNR or a watershed advisory group convened under A-StoRM.

Current Law:

Flood Hazard Management Act of 1976

Pursuant to the Flood Hazard Management Act of 1976, MDE is responsible for various initiatives designed to address flood hazards, including (1) assisting in the development of guidance to minimize the impacts of flooding; (2) providing State guidelines and technical assistance to local governments to manage flood areas; and (3) administering the Comprehensive Flood Management Grant Program. For the purposes of State law regarding flood control and watershed management, “subdivision” is defined as any

county, including Baltimore City, and any incorporated municipality that has the authority to adopt and enforce land use and control measures for the areas within its jurisdiction.

MDE and subdivisions must coordinate flood management activities with all related programs, including the National Flood Insurance Program, the Sediment Control Program, and the State water pollution control and abatement programs.

Watershed Studies: MDE was required, by January 1, 1982, in consultation with specified agencies and with the consideration of recommendations submitted by subdivisions, to designate a priority list of watersheds for the purpose of flood control planning and management and to establish a schedule for the completion of studies of those watersheds. For each watershed designated as a priority, MDE, in cooperation with the subdivisions and specified State agencies, must conduct flood assessment studies of the watersheds that include specified information. By mutual agreement between MDE and an affected subdivision, MDE may delegate all or part of the study of the priority watershed to the appropriate subdivision.

Flood Management Plans: By July 1, 1990, each subdivision, in cooperation with MDE and other specified agencies, was required to prepare a flood management plan based on the findings of the watershed studies. In any interjurisdictional watershed, the portions of the plan that relate to the watershed must be reviewed and approved by MDE as one plan. Each subdivision must implement the flood management plan for its watershed within one year of completion, as specified.

Stormwater Management Act and Related Regulations

The intent of the Stormwater Management Act is to reduce, as much as possible, the adverse effects of stormwater runoff. To achieve that goal, pursuant to § 4-203 of the Environment Article, MDE is in charge of implementing the Stormwater Management Act and is required to adopt rules and regulations that establish criteria and procedures for stormwater management in Maryland. In implementing the Act, MDE must consult with DNR from time to time, including during the adoption of the regulations. Statute outlines several requirements for the regulations. MDE must review and update the regulations at least once every five years. In reviewing and updating the regulations, MDE must (1) at a minimum, revise water quality and water quantity control standards using the most recent precipitation data available and (2) as necessary, update and revise the regulations to meet the statutory requirements.

Additionally, each county and municipality must have an ordinance implementing a stormwater management program that is consistent with flood management plans and that meets certain minimum requirements. Each county or municipality may provide by ordinance for the review and approval of stormwater management plans by the local soil

conservation district. Each governing body of a county or municipality may also adopt a system of charges to fund the implementation of their stormwater management programs, as specified.

MDE must provide technical assistance, training, research, and coordination in stormwater management technology to local governments. MDE is also required to inspect and review local stormwater management programs at least once every three years.

Stormwater Management Plans Required

Generally, a person may not develop any land for residential, commercial, industrial, or institutional use unless the person has submitted a stormwater management plan and has received approval of the plan from the applicable local approval authority. State and federal agencies are required to submit a stormwater management plan and obtain State approval from MDE prior to undertaking specified construction activity.

Advancing Stormwater Resiliency in Maryland Initiative

Chapters 640 and 641 of 2021 amended the Stormwater Management Act by, among other things, requiring MDE to use updated data sources for stormwater regulations to address flooding and generally update its approach to stormwater and flooding regulations to reflect environmental changes due to anthropogenic climate change and be climate resilient for the future. In response to the Acts, MDE launched the A-StoRM initiative, which includes a variety of data gathering and stakeholder engagement efforts to better understand the State's regulatory needs on related issues and ultimately implement regulatory updates that will allow the State to become more resilient to climate impacts.

State/Local/Small Business Effect:

Maryland Department of the Environment

MDE advises that the bill imposes a significant burden on the agency; it estimates that its general fund expenditures increase by roughly \$28.0 million in fiscal 2027 – mostly to hire consultants and purchase commercially available models – but also to hire two regulatory and compliance engineers and one natural resources planner to begin implementing the bill. MDE advises that in future years, in addition to the ongoing costs associated with those three positions, MDE likely needs to hire additional staff.

The estimated fiscal 2027 costs are largely driven by the need to hire consultants to develop hydrologic and hydraulic models for the State that will be used to identify, delineate, and map the flood inundation areas for 100-year and 500-year storm events. Developing these models requires (1) the collection of stormwater infrastructure data; (2) locating and

mapping (with elevations) existing buildings, terrain, roads, culverts, storm drains, stormwater practices, flood control practices, streams, and conveyance systems; (3) populating the hydrologic and hydraulic models; and (4) running the models for existing land cover conditions, proposed full buildout land cover conditions, and existing and future precipitation throughout the State. For context, MDE advises that it took 20 years and \$16.0 million in federal grant funding to complete county-level watershed studies with drainage areas greater than or equal to 640 acres to develop the models and digital Flood Insurance Rate Maps for the State.

MDE further advises that applying the new process to its review of plans or permits in flood risk areas significantly increases its workload in future years, resulting in the need for additional staff, although the number of staff needed is unknown at this time.

The Department of Legislative Services (DLS) concurs that the bill establishes substantial new responsibilities for MDE and that general fund expenditures increase significantly for MDE to hire consultants, purchase software, and hire staff. However, without actual experience under the bill, a reliable estimate of the increase in costs cannot be made at this time. DLS anticipates, however, that general fund expenditures increase significantly, potentially by tens of millions of dollars in fiscal 2027 and by more than \$1.0 million annually thereafter.

Department of Natural Resources and Maryland Department of Planning

DNR is unable to reliably estimate the scope of its involvement in identifying flood risk areas but anticipates that it can likely implement the bill with existing resources.

MDP advises that it can share already available Chesapeake Bay Program high-resolution land use/land cover data with MDE using existing resources. The data covers 2013 to 2021 and includes changes in both the overall development and impervious surface footprints.

Impact on the Regulated Community

The bill likely has significant, cascading impacts on a variety of State agencies, local governments, and potentially small businesses, but the impacts cannot be reliably predicted at this time because impacts will largely depend on the number and location of areas identified to be at risk of tidal or nontidal flooding and the flood risk review process established by MDE under the bill. However, given the minimum required components of the flood risk review process and the breadth of the potentially affected plans and permits, it is anticipated that permitting and compliance costs for affected entities likely increase, potentially significantly for some – likely not before fiscal 2028 – due to the new State-level review for affected permits and plans, an increase in permit and plan review

times, and the potential need to incorporate conditions or modifications identified as necessary to address flood risk issues flagged during MDE's review.

To the extent any portion of the increased costs for any affected State projects is funded through the capital budget, there is no effect on total capital spending, which is established annually by the Governor and the General Assembly through the capital budget process; however, any increase in costs for affected projects reduces funding available for other capital projects.

Additional Information

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

Designated Cross File: None.

Information Source(s): Maryland Department of the Environment; Department of Natural Resources; Maryland Department of Planning; Maryland Department of Transportation; Maryland Department of Emergency Management; Baltimore City Community College; University System of Maryland; Morgan State University; Interagency Commission on School Construction; Department of General Services; Maryland Stadium Authority; Maryland Association of County Health Officers; Talbot and Wicomico counties; Department of Legislative Services

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