

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 779 (Delegate Lehman, *et al.*)
 Environment and Transportation

Natural Resources - Riverine Siting and Design Criteria - Requirements

This bill expands the duties of the Coast Smart Council to include the establishment of specified riverine siting and design criteria. The criteria must be established by July 1, 2027, and, beginning July 1, 2028, specified State and local capital projects – involving construction or specified reconstruction that costs \$500,000 or more and for which 50% or more of the project costs are funded with State funds – must comply with the criteria. The council must review and, if necessary, update the criteria every five years.

Fiscal Summary

State Effect: General fund expenditures increase by \$1.4 million in FY 2027, with ongoing costs incurred in future years. In addition, capital project costs increase for projects affected by the riverine siting and design criteria, potentially resulting in other projects being delayed or not funded, as discussed below. Revenues are not affected.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	1,432,800	965,700	975,600	485,700	245,800
Net Effect	(\$1,432,800)	(\$965,700)	(\$975,600)	(\$485,700)	(\$245,800)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local government capital project costs increase, as discussed below. Local government revenues are not directly affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: By July 1, 2027, the Coast Smart Council, in consultation with the Department of Natural Resources (DNR), the Maryland Department of the Environment (MDE), and the Maryland Department of Transportation (MDOT), must establish riverine siting and design criteria to address the 500-year flood impacts on State and local capital projects. The bill's requirements and the riverine siting and design criteria (1) apply to State and local capital projects for which at least 50% of the project costs are funded with State funds and (2) do not apply to a capital project that costs less than \$500,000.

The riverine siting and design criteria must include:

- a description of the data, models, methods, and maps to be used to define the 500-year flood event for sites in riverine areas;
- guidelines and any other directive applicable to the preliminary planning and construction of a proposed capital project;
- a requirement that the structure be designed and constructed or reconstructed in a manner to withstand flooding associated with a 500-year flood event, including a requirement for structures to be constructed or reconstructed in a manner that ensures that the structure will not be inundated by such an event; and
- provisions establishing a process to allow a unit of State or local government to obtain a waiver from compliance with the riverine siting and design criteria.

Beginning July 1, 2028, State or local capital projects that include the construction of a structure or highway facility or the reconstruction of a structure with substantial damage must be constructed or reconstructed in compliance with the riverine siting and design criteria.

By July 1, 2032, and every five years thereafter, the council, in consultation with DNR, MDE, and MDOT must review and, if necessary, update the riverine siting and design criteria. By December 1, 2032, and every five years thereafter, DNR must report – to the Senate Committee on Education, Energy, and the Environment and the House Environment and Transportation Committee – a summary of the results of the review of the criteria.

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;
- 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; and
- develop eligibility criteria, standards, and procedures for categorical exemptions from the application of the Coast Smart requirements for proposed capital projects that have been designed to include adaptation and resiliency features to prevent or mitigate damage to the maximum extent practicable.

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

The Coast Smart Council, in consultation with DNR and MDOT, 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 on such projects. The requirement also applies to the reconstruction of a structure with substantial damage.

State Fiscal Effect:

Administrative Costs

Coast Smart Council (within the Department of Natural Resources)

DNR indicates that the bill is expected to be implemented by the Coast Smart Council and its staff with existing resources; however, establishment of the riverine siting and design criteria is expected to significantly expand the number of projects that council-established criteria apply to, requiring increased staff time devoted to reviewing waiver requests and providing technical assistance and training regarding the criteria, in addition to the work of establishing the criteria and reviewing and reporting on it every five years. This analysis assumes that MDOT can consult with the council, as required by the bill, with existing resources. (See below, for the fiscal impact of MDE's contributions to establishing necessary data and mapping for the criteria.)

Maryland Department of the Environment

General fund expenditures for MDE are expected to increase by \$1.4 million in fiscal 2027, which accounts for the bill's October 1, 2026 effective date. This estimate reflects costs associated with the bill's requirement that the riverine siting and design criteria include a description of the data, models, methods, and maps used to define the 500-year event for sites in riverine areas, which DNR and MDE indicate will primarily be MDE's responsibility. MDE indicates that the bill creates a two-tiered regulatory system where State-funded projects must meet the 500-year flood criteria, while private and locally-funded (less than 50% State-funded) projects are subject to an existing 100-year flood standard (under COMAR 26.17.04). The estimate reflects the costs of:

- two regulatory and compliance engineers to amend existing regulations to be consistent with the riverine siting and design criteria, update technical guidance, and conduct enhanced, more complex, reviews of projects overlapping the 100-year and 500-year floodplains; and
- contractual services costs to hire specialized consultants to model and map the 500-year floodplain in riverine areas statewide – MDE indicates there are significant areas of the State for which valid 500-year flood inundation data is not available.

The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2.0
Salaries and Fringe Benefits	\$161,735
Consultant Costs	1,250,000
Other Operating Expenses	<u>21,027</u>
Total FY 2027 MDE Expenditures	\$1,432,762

Future year expenditures reflect (1) full salaries with annual increases and employee turnover; (2) annual increases in ongoing operating expenses; and (3) decreasing consultant costs (through fiscal 2030).

State Capital Costs

The bill is expected to increase costs (e.g., engineering, design, and construction costs) associated with State capital projects within riverine areas affected by 500-year flood impacts – potentially significantly – affecting capital projects under multiple agencies, including MDOT and the Maryland Transportation Authority, and higher education institutions. State capital expenditures are limited by capital debt policy/affordability limits, however, and cost increases for individual projects do not have a direct impact on overall State capital expenditures, but instead leave fewer funds available for other projects, potentially contributing to other projects being delayed or not funded.

Re-siting of projects that would otherwise be built in vulnerable areas presumably may lessen capital project cost increases resulting from the bill to the extent re-siting is possible. Increased project costs under the bill may also be offset, to at least some extent, by reduced insurance costs and/or reduced costs to remediate flood inundation damage after the fact.

Local Fiscal Effect: Similar to the impact on State capital project costs, local government capital project costs are expected to increase for affected projects (those funded with at least 50% State funding and in a riverine area affected by 500-year flood impacts), potentially significantly, to comply with riverine siting and design criteria. The Maryland Association of Counties cites cost increases resulting from elevation of construction or reconstruction, floodproofing, utility and access redesign, and potentially land acquisition or relocation – increasing local funding contributed to the (partially State-funded) projects and reducing funds available for other priorities.

Small Business Effect: Small businesses providing services – in sectors such as engineering, environmental consulting, and architecture – needed to assist State and local governments in complying with the riverine siting and criteria, may meaningfully benefit from the bill to the extent they can provide specialized services needed for compliance.

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 Transportation; University System of Maryland; Interagency Commission on School Construction; Maryland Stadium Authority; City of Annapolis; Calvert and Prince George's counties; Baltimore City Community College; Maryland Association of Counties; Department of Legislative Services

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Analysis by: Beatrice F. Amoateng

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