



Larry Hogan, Governor
Boyd Rutherford, Lt. Governor
Jeannie Haddaway-Riccio, Secretary

February 10, 2021

The Honorable Paul G. Pinsky
Chair, Education, Health and Environmental Affairs Committee
2 West Miller Senate Office Building
Annapolis, MD 21401

The Honorable Cheryl C. Kagan
Vice Chair, Education, Health and Environmental Affairs Committee
2 West Miller Senate Office Building
Annapolis, MD 21401

Re: Letter of Information – Senate Bill 528 – Coast Smart Siting and Design Criteria – Private Construction or Reconstruction Projects and Enforcement

Dear Chair, Vice Chair, and Committee Members:

The Maryland Department of Natural Resources respectfully provides the following information on Senate Bill 528, which would require private construction and reconstruction to adhere to the Coast Smart siting and design criteria as well as require enforcement of the criteria through the department or a local delegated authority.

Since the inception of the Coast Smart siting and design criteria, the Coast Smart Council and the department has continually assessed the impact of the criteria on resiliency in Maryland. This assessment has included collaborative work meetings with other workgroups of the State like the Adaptation and Resiliency Working Group of the Maryland Commission on Climate Change. This continual assessment of hazards and how well the siting and design criteria address those hazards has allowed for the successful and efficient roll out of expanded siting and design criteria over the past few years. Most recently, in 2019 and 2020, the Council revised the siting and design criteria to accommodate an expanded scope and updated the program documents to improve the efficiency of the criteria application.

The department's fundamental issue to SB 528 is its attempt to fit a round peg in a square hole. While it is important to have the conversation of responsible decision-making regarding private development in the face of climate change, mandating responsibility for such a significant undertaking with a body specifically encompassing government agencies with expertise only in State-owned infrastructure is just not appropriate. The accomplishments of the Coast Smart Council to date speak for themselves, but going beyond their intended mission to make wise investments with taxpayer dollars is a prelude to failure.

Beyond the structural errors of SB 528, the bill creates different locational requirements for private projects that are not applicable to State and local projects. Using the FEMA Special Flood Hazard Area versus updated boundaries that include areas outside the Special Flood

Hazard Area is confusing. It would therefore prove difficult to enforce if criteria applied to projects in certain areas for state or local construction but not for private construction.

Finally, and most importantly, SB 528 creates an enforcement authority for private construction projects within the department. Currently, the Coast Smart program is self-certifying. Each agency incorporates the Coast Smart siting and design criteria into their own appropriate policies and procedures. This bill totally changes that structure. The Coast Smart Council and the department do not have any enforcement authority to review or approve projects or the expertise on staff. It is unclear how the department would enforce these requirements or delegate its authority to local jurisdictions. It could also potentially require regulations to be put in place where none currently exist. There would also be a measurable burden on local governments, assuming the department would try to delegate to local municipalities as much as possible, which would likely translate to more staff and training needed at the local level.

Thank you for allowing the department to provide the above information on SB 528 for the committee's careful consideration.

Respectfully submitted,

James W. McKitrick
Director, Legislative and Constituent Services

cc: The Honorable Mary Lehman