

Support of SB 651 - Natural Resources – Forest Mit

Uploaded by: Colby Ferguson

Position: FAV



Maryland Farm Bureau, Inc.

3358 Davidsonville Road • Davidsonville, MD 21035 • (410) 922-3426

March 1, 2022

To: Senate Education, Health & Environmental Affairs Committee

From: Maryland Farm Bureau, Inc.

Re: **Support of SB 651 - Natural Resources – Forest Mitigation Banks and the Forest Conservation Fund – Alterations**

On behalf of our member families, I submit this written testimony in support of SB 651, legislation that removes the requirement that a forest mitigation bank had to be approved on or before December 31, 2020, to be eligible, and it extends the deadline from 2 years to 5 or from 3 growing seasons to 6 for the Department of Natural Resources to accomplish the reforestation or afforestation for which certain money is deposited to the Forest Conservation Fund.

A bill last year (HB991) was amended at the end of session to include the deadline date. Unfortunately, that date kicked out many projects that had been in the pipeline for several years and had been held up because of the Attorney General's ruling in 2020. This bill looks to correct that unintended consequence and allow those projects to complete the long and expensive process.

MARYLAND FARM BUREAU SUPPORTS SB 651 AND REQUEST A FAVORABLE REPORT

A handwritten signature in black ink, appearing to read 'Colby Ferguson'.

Colby Ferguson
Director of Government Relations

For more information contact Colby Ferguson at (240) 578-0396

SB0651-EHE_MACo_SUP.pdf

Uploaded by: Dominic Butchko

Position: FAV



Senate Bill 651

Natural Resources - Forest Mitigation Banks and the Forest Conservation Fund - Alterations

MACo Position: **SUPPORT**

To: Education, Health, and Environmental
Affairs Committee

Date: March 1, 2022

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS** SB 651. The bill would modify certain aspects of the Forest Conservation Fund to give counties more time to use the resources distributed under the program.

Forest mitigation is an essential practice in ensuring that development does not come at the cost of our trees. Forest mitigation banks allow project developers to meet off-site forest conservation requirements by purchasing easements on established forestlands, protecting them in perpetuity. In areas where replanting on-site is not feasible, forest mitigation banks account for a reasonable forest conservation practice by providing "credits" to developers. Many counties use mitigation banking to comply with the Forest Conservation Act.

SB 651 would serve to strengthen the Forest Conservation Fund in several ways. The primary benefits would be the extension of timeframes by which local jurisdictions can use forest conservation funds for reforestation or afforestation and the restoration of the ability for counties to use the forest banking as a mitigation measure. The bill also removes a December 2020 deadline for approval of forest conservation plans; while also temporarily preserving the practice of forest banking until the completion of the Harry R. Hughes Center's study slated for December 2023.

MACo has engaged with the sponsor and other organizations regarding proposed amendments that will ensure counties can use forest mitigation banks in the future while also securing significant forest protections that are necessary for many counties' climate and stormwater goals. Counties support these potential multi-party amendments should the Committee choose to pursue a compromise approach.

SB 651 serves to improve a program that counties have relied on since 1990 to aid forest mitigation. Accordingly, MACo urges a **FAVORABLE** report for SB 651.

SB 651_CEGardner_Support.pdf

Uploaded by: Jan Gardner

Position: FAV



JAN H. GARDNER
Frederick County
Executive

SB 651

**Natural Resources – Forest
Mitigation Banks and the
Forest Conservation Fund -
Alterations**

County Position: SUPPORT

Date: March 1, 2022

Committee: Education, Health and Environmental Affairs

Frederick County Executive Jan Gardner urges **SUPPORT** for Senate Bill 651 – Natural Resources – Forest Mitigation Banks and the Forest Conservation Fund – Alterations.

Local governments work diligently to balance growth and economic activities with the commitment to protect natural resources and the environment and to address climate change issues. Over the past two decades, local jurisdictions have protected existing forests and valuable forest ecosystems through the State’s forest banking program.

County Executive Gardner supports the provisions in the proposed legislation that:

- Restores the ability for local jurisdictions to continue to save existing forests and preserve existing forest ecosystems through the banking program by removing the approval deadline of December 31, 2020 for a forest conservation plan;
- Ensures the ability of local jurisdictions to include existing forest in the banking program in order to protect sensitive areas, including stream buffers, forested floodplain, wetlands, and habitats for rare, threatened or endangered species;
- Preserves the practice of forest banking until the Harry R. Hughes Center on Agro-Ecology completes a study to evaluate forest and tree cover in Maryland, and submits its findings to the General Assembly by December 1, 2023;
- Extends the timeframe that local jurisdictions have to use forest conservation funds for reforestation or afforestation from two years (or three growing periods) to five years (or six growing periods) to provide sufficient time to effectively use these funds for planting projects; and
- Ensures adequate time so support local jurisdictions planting efforts, which include the identification of suitable planting sites, negotiation with property owners, development and execution of legal agreements, creation of reforestation plans, and acquisition of surveying or planting services through the required procurement processes.

Frederick County Executive Gardner urges **SUPPORT** for Senate Bill 651.

MBIA Letter of Support SB 651.pdf

Uploaded by: Lori Graf

Position: FAV

March 1, 2022

The Honorable Paul G. Pinsky
Senate Education, Health & Environmental Affairs Committee
Miller Senate Office Building,
2 West Wing 11 Bladen St.,
Annapolis, MD, 21401

RE: Support SB 651 Natural Resources - Forest Mitigation Banks and the Forest Conservation Fund - Alterations

Dear Chairman Pinsky:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **SB 651 Natural Resources - Forest Mitigation Banks and the Forest Conservation Fund - Alterations**. MBIA **Supports** the Act in its current version.

This bill would alter the definition of “qualified conservation” and extend the number of growing seasons that the Forest Conservation Fund has to complete reforestation or afforestation. MBIA respectfully supports this measure. Forest Mitigation Banking is an important component of the States Forest Conservation Act that both conserves and manages existing forest and plants new forest in high priority areas, especially large contiguous tracts of forest. Additionally, Forest Banking can only be utilized to satisfy mitigation requirements once all other conservation and mitigation options in the laws list of priorities has been exhausted.

Mitigation Banking provides a financial incentive to property owners to protect forest resources in a perpetual conservation easement. This means that allowing mitigation banks has a positive effect both for the environment and the regulated community. This policy has been in existence for 20 years and requires that banking credits that preserve existing forest be purchased at a 2:1 ratio making it an excellent tool for forest preservation.

For these reasons, MBIA respectfully requests the Committee give this measure a favorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the Senate Education, Health & Environmental Affairs Committee

SB 651_MayorBriggs_Support.pdf

Uploaded by: Zach Gulden

Position: FAV



Town of Emmitsburg

Mayor Donald N. Briggs

Board of Commissioners
Timothy O'Donnell, *President*
Clifford Sweeney, *Vice President*
T.J. Burns, *Treasurer*
Joseph Ritz III
Frank Davis

Town Manager
Cathy Willets

Town Clerk
Julie Scott

SB 651

Natural Resources Forest Mitigation Banks and the Forest Conservation Fund – Alterations

Town Position: SUPPORT

Date: March 1, 2022
Committee: Education, Health, and Environmental Affairs

The Town of Emmitsburg Mayor, Donald N. Briggs, urges **SUPPORT** for Senate Bill 651 – Natural Resources – Forest Mitigation Banks and the Forest Conservation Fund – Alterations.

Local governments work diligently to balance growth and economic activities with the commitment to protect natural resources and the environment and to address climate change issues. Over the past two decades, local jurisdictions have protected existing forests and valuable forest ecosystems through the State's forest banking program.

Town Mayor Briggs supports the provisions in the proposed legislation that:

- Enables local jurisdictions the continued ability to save existing forests and preserve existing forest ecosystems through the banking program by removing the approval deadline of December 31, 2020 for the approval of a forest conservation plan;
- Ensures the ability of local jurisdictions to include existing forest in the banking program in order to protect sensitive areas, including stream buffers, forested floodplain, wetlands, and habitats for rare, threatened or endangered species;
- Preserves the practice of forest banking until the Harry R. Hughes Center on Agro-Ecology completes a study to evaluate forest and tree cover in Maryland, and submits its findings to the General Assembly by December 1, 2023;
- Extends the timeframe that local jurisdictions have to use forest conservation funds for reforestation or afforestation from two years (or three growing periods) to five years (or six growing periods) to provide sufficient time to effectively use these funds for planting projects; and
- Ensures adequate time to support local jurisdictions planting efforts, which include the identification of suitable planting sites, negotiation with property owners, development and execution of legal agreements, creation of reforestation plans, and
- acquisition of surveying or planting services through the required procurement processes.

Town Mayor Briggs urges **SUPPORT** for Senate Bill 651.

SB 651 Forest Banks Sign On Testimony.pdf

Uploaded by: Erik Fisher

Position: FWA



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**SB 651
Natural Resources - Forest Mitigation Banks and the Forest Conservation Fund -
Alterations**

Position: SUPPORT WITH AMENDMENT

Date: March 1, 2022

Contact: Robin Jessica Clark, Chesapeake Bay Foundation

Our organizations request a FAVORABLE report WITH AMENDMENT on SB 651 from the Education, Health and Environmental Affairs committee. As originally drafted, SB 651 would allow a practice that results in greater forest loss during development without providing an effective conservation benefit. However, this practice could be permitted with enhanced mitigation.

We must plant new forests to replace the functions of those that are lost.

Maryland's forested landscape is shrinking. Forest loss leads to poor water quality, fragmentation and reduction of wildlife habitat, less carbon sequestration, dirty air, increased temperatures, localized flooding, and lower property values. Development is the single largest driver of forest loss in the state.

Maryland's Forest Conservation Act (FCA) was passed in 1991 to reduce forest loss from development. The FCA requires replanting of trees to offset a small fraction of losses on development sites. This planting requirement leads to a smaller loss of forest than if the law did not exist, but still adds up to significant net loss across the state.

If adopted as drafted, SB 651 would authorize forest mitigation banks to offer planting credit for placing a preservation easement on trees elsewhere that already exist, rather than planting new trees to offset forest clearing. This would allow development projects to remove up to 100% of the forest on a site with no replanting required at all.

Full mitigation of forest lost during development can adequately balance planting and preservation strategies.

Preservation of existing forest can be a valued part of forest conservation during development, but only where balanced with newly planted areas to help offset those that are lost. Full mitigation generates both the need and ability to deploy a diversified mitigation strategy where new plantings and conservation of high-value forest each play a role. To facilitate this, we recommend that SB 651 be amended to permit the use of preservation banking credits in projects that achieve equal or greater acreage of mitigation for each acre of forest removed.

Forest preservation banking credits should not be allowed in other cases until the Forest Conservation study directed by the General Assembly is complete.

This Committee has identified a number of key questions that need answers before expanding any authorization for forest mitigation banking within the FCA. In 2019, SB 729 was passed by the General Assembly to direct a technical study scoped with extensive stakeholder feedback. That analysis, which is not yet complete, is to report on:

a review of forest mitigation banking in the State, including:

- 1. capacity and location of active banks;*
- 2. regulation of citing siting and creation of new banks;*
- 3. geographic limitations on the use of mitigation banks;*
- 4. the relationship between fee-in-lieu rates under the Forest Conservation Act and the market for forest mitigation banks; and*
- 5. whether expanding the use of forest mitigation banks could provide water quality improvements and other beneficial results.*

The General Assembly affirmed the importance of this analysis in HB 991 of 2021, stating:

It is the intent of the General Assembly to review the findings in the technical study... and, based on the findings, to consider any legislative or other changes necessary to improve the implementation and effectiveness of the Forest Conservation Act, including any changes to the forest mitigation banking program in the State.

This information is critical to identifying the appropriate role of mitigation banks in maintaining forest cover across the state. Many of the stakeholders who engaged on forest conservation policy through SB 729 and HB 991 have based our expectations on this expressed intent, and we look forward to the study's completion. Maryland's forests would not be well served by SB 651's piecemeal approach to a comprehensive statewide update.

As drafted, SB 651 would codify a major mitigation policy without information this Committee identified as critical to updating mitigation standards within the FCA. And it would make these changes without setting any parameters or priorities for the development risk, location, or ecological value of existing forest offered for credit.

We respectfully request a **FAVORABLE** report **WITH AMENDMENT** from this Committee on SB 651.

Erik Fisher
Maryland Land Use Planner, AICP
Chesapeake Bay Foundation

Randy Lyons
Legislative Chair
Sierra Club Maryland Chapter

Elly Cowan
Director of Government Relations
Preservation Maryland

Betsy Smith
President
Clean Water Lingore, Inc.

Michelle Dietz
Director of Government Relations
Nature Conservancy

Trey Sherard
River Keeper
Anacostia Watershed

David Lillard
Executive director
Catocin Land Trust

Sylvia Tognetti
Friends of Ten Mile Creek & Little Seneca
Reservoir

Annie Richards
Chester Riverkeeper
ShoreRivers

Jeffrey P. Schomig
Board Member and Chair, Advocacy
Committee
Severn River Association

Kim Coble
Director
Maryland League of Conservation Voters

Emily Ranson
Maryland Director
Clean Water Action

Jodi Rose
Executive Director
Interfaith Partners for the Chesapeake

Kit Gage
Advocacy Director
Friends of Sligo Creek

Gary Allen
President
Maryland Forestry Foundation

Alice Wilkerson
Executive Director
Strong Future MD

Stu Kohn
President
Howard County Citizens Association

Jay Falstad
Executive Director,
Queen Anne's Conservation Association

Nancy Wilkinson, Team Lead
Environmental Justice Ministry
Cedar Lane Unitarian Universalist Church

Betsy Nicholas
Executive Director
Waterkeepers Chesapeake

Jim Brown
Director of Policy
Audubon Mid-Atlantic

Marian Dombroski
Director
Friends of Quincy Run

Document S. 651 Testimony Forests_pdf.pdf

Uploaded by: Lani Hummel

Position: FWA

SB 651 Natural Resources - Forest Mitigation Banks and the Forest Conservation Fund – Alterations Position: SUPPORT WITH AMENDMENT Date: March 1, 2022 Lani Hummel Annapolis, MDI am requesting a FAVORABLE report WITH AMENDMENT on SB 651 from the Education, Health and Environmental Affairs committee. As originally drafted, SB 651 would allow a practice that results in greater forest loss during development without providing an effective conservation benefit. However, this practice could be permitted with enhanced mitigation. We must plant new forests to replace the functions of those that are lost. Maryland's forested landscape is shrinking. Forest loss leads to poor water quality, fragmentation and reduction of wildlife habitat, less carbon sequestration, dirty air, increased temperatures, localized flooding, and lower property values. Development is the single largest driver of forest loss in the state. Maryland's Forest Conservation Act (FCA) was passed in 1991 to reduce forest loss from development. The FCA requires replanting of trees to offset a small fraction of losses on development sites. This planting requirement leads to a smaller loss of forest than if the law did not exist, but still adds up to significant net loss across the state. If adopted as drafted, SB 651 would authorize forest mitigation banks to offer planting credit for placing a preservation easement on trees elsewhere that already exist, rather than planting new trees to offset forest clearing. This would allow development projects to remove up to 100% of the forest on a site with no replanting required at all. Full mitigation of forest lost during development can adequately balance planting and preservation strategies. Preservation of existing forest can be a valued part of forest conservation during development, but only where balanced with newly planted areas to help offset those that are lost. Full mitigation generates both the need and ability to deploy a diversified mitigation strategy where new plantings and conservation of high-value forest each play a role. To facilitate this, I recommend that SB 651 be amended to permit the use of preservation banking credits in projects that achieve equal or greater acreage of mitigation for each acre of forest removed. Forest preservation banking credits should not be allowed in other cases until the Forest Conservation study directed by the General Assembly is complete. This Committee has identified a number of key questions that need answers before expanding any authorization for forest mitigation banking within the FCA. In 2019, SB 729 was passed by the General Assembly to direct a technical study scoped with extensive stakeholder feedback. That analysis, which is not yet complete, is to report on: a review of forest mitigation banking in the State, including: capacity and location of active banks; 2. regulation of citing siting and creation of new banks; 3. geographic limitations on the use of mitigation banks; 4. the relationship between fee-in-lieu rates under the Forest Conservation Act and the market for forest mitigation banks; and 5. whether expanding the use of forest mitigation banks could provide water quality improvements and other beneficial results. The General Assembly affirmed the importance of this analysis in HB 991 of 2021, stating: It is the intent of the General Assembly to review the findings in the technical study... and, based on the findings, to consider any legislative or other changes necessary to improve the implementation and effectiveness of the Forest Conservation Act, including any changes to the forest mitigation banking program in the State. This information is critical to identifying the appropriate role of mitigation banks in maintaining forest cover across the state. Many of the stakeholders who engaged on forest conservation policy through SB 729 and HB 991 have based our expectations on this expressed intent, and we look forward to the study's completion. Maryland's forests would not be well served by SB 651's piecemeal approach to a comprehensive statewide update. As drafted, SB 651 would codify a major mitigation policy without information this Committee identified as critical to updating mitigation standards within the FCA. And it would make these changes without setting any parameters or priorities for the development risk, location, or ecological value of existing forest offered for credit. I respectfully request a FAVORABLE report WITH AMENDMENT from this Committee on SB 651.

SB0651_DNR_LOI_EHEA_3-1-22.pdf

Uploaded by: Bunky Luffman

Position: INFO



Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor
Jeannie Haddaway-Riccio, Secretary
Allan Fisher, Deputy Secretary

Bill Number: Senate Bill 651

Short Title: Natural Resources - Forest Mitigation Banks and the Forest Conservation Fund - Alterations

Department's Position: Letter of Information

Explanation of Department's Position

The Maryland Department of Natural Resources (DNR) provides the following information on SB 651. Senate Bill 651 revises the definition of qualified conservation to include forest mitigation banks that conserve existing forest and that are approved by state or local forest conservation programs. Since the late 1990s, conservation of existing forest has been a highly successful tool within forest mitigation programs. It has resulted in the conservation and protection of over 5,365 acres in large blocks of existing forest, which is a priority for retention, in participating counties statewide. This forest retention mitigation banking tool has also been important in increasing the amount of green space statewide without additional tax payer dollars. While many tree planting programs exist, there are few programs that protect mature forests.

The bill also extends the time that the department has to accomplish the required mitigation plantings, afforestation or reforestation, for which the forest conservation funds were deposited from 2 years or 3 growing seasons to 5 years and 6 growing seasons. If the plantings are not accomplished within this time frame the funds may be returned. The increased timeline accurately reflects the reality of a tree planting project in contracting and post-planting care. Tree plantings are generally planned at least one fiscal year before the planting is to occur. For large plantings, there is often a 12- month procurement cycle. This, coupled with seasonal limitations for the site preparation, planting, and maintenance, can easily take more than two years from start to finish. To maximize operational efficiencies, the Maryland Forest Service prefers to contract multiple mitigation plantings at one time, which can increase the time between planning and planting. The change to the forest conservation fund language will allow this practice to continue and supports assurance that trees have survived critical early years.

For any additional information, please feel free to contact our Legislative and Constituent Services Director, Bunky Luffman.

Contact: Bunky Luffman, Director, Legislative and Constituent Services
Bunky.luffman1@maryland.gov ♦ 410-689-9165