

SB775 Support Testimony, Heather Murren.pdf

Uploaded by: Johnny Mautz

Position: FAV

February 22, 2023

I write in support of Senate Bill 775.

In October 2021, Lane Engineering, LLC submitted a joint State/Federal application to MDE proposing to stabilize approximately 3,000 linear feet of shoreline at my property with a living shoreline. The living shoreline was designed as needed to provide adequate protection to a high energy shoreline that has suffered from significant erosion over the years. Aside from spending thousands of dollars on design and permitting, the project is estimated to cost over a million dollars to build. I have been forced to consider only stabilizing portions of the shoreline because the living shoreline requirements are cost prohibitive.

It has been a year and a half since applying for permits and to date, we still do not have the State or Federal permits necessary to stabilize my shoreline, and the property continues to erode. The State Wetlands License has been issued twice but after receiving significant pushback from NOAA regarding impacts to mapped SAV, we have been forced to redesign the project several times, with no tangible end in sight. I understand that the State and Federal regulations are at odds because the State requires shorelines be stabilized with a living shoreline, but the Federal agencies want to avoid and minimize impacts to the maximum extent practicable. Living shorelines are not only significantly more expensive but inherently have a much larger footprint than other structural stabilization measures, such as riprap or bulkheading. The living shoreline waiver process and the ongoing regulatory issues between State and Federal agencies has placed an unnecessary burden and hardship on myself and other homeowners who are simply trying to protect the property we own and pay taxes on.

Separate but related to my open application with MDE and the Corps, Lane Engineering has submitted a living shoreline waiver request to stabilize a 300 ft section of shoreline along an agricultural field at my property with riprap. This portion of shoreline is also mapped with SAV and is experiencing significant erosion. Lane Engineering has provided exhibits that document 88 ft of erosion since 1972 and approximately 6-10 ft of erosion since 2016. The shoreline is immediately adjacent to an actively used farm access road and needs to be stabilized as soon as possible. Given the site conditions, need to avoid impacting SAV and cost associated with stabilizing the rest of the property, we feel that riprap would be a practical and appropriate way to stabilize the farm parcel.

As an active environmental and conservation-minded landowner, I understand the benefit of living shorelines and my testimony should not be interpreted as opposition to nonstructural stabilization measures. My family has a long history of support for both land and aquatic conservation and wildlife. We have spent personal funds on habitat restoration with Shore Rivers and water quality buffers with Chesapeake Wildlife Heritage, along with introducing sustainable no-mowing fields on the property.

Senate Bill 775 would give homeowners like myself, some much needed relief and the ability to stabilize high priority areas with riprap, in conjunction with nonstructural stabilization measures along other portions of shoreline.

Heather Murren

SB 775_realtors_fav.pdf

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Position: FAV



Senate Bill 775 – Private Wetlands – Structural Shoreline Stabilization Measures -- Authorization

Position: Favorable

Maryland REALTORS® support SB 775 provides additional flexibility for Maryland residents seeking to stabilize their shoreline. The bill provides greater definition of structural measures and clarifies that shoreline stabilization projects can include elements that are both structural and nonstructural.

Maryland law currently favors nonstructural shoreline stabilization measures like “living shorelines” rather than hardened structures like seawalls. SB 775 defines the type of structural shoreline stabilization measures that residents may undertake as long as those structural measures are not more that 10% of the total linear footage of the project.

The REALTORS® believe SB 775 gives residents additional flexibility while supporting state law’s goal of favoring nonstructural shorelines.

The Maryland REALTORS® encourage a favorable report.

**For more information contact lisa.mays@mdrealtor.org or
christa.mcgee@mdrealtor.org**

SB775_ShoreRivers_oppose_AR.pdf

Uploaded by: Annie Richards

Position: UNF



Testimony in OPPOSITION of Senate Bill 775 – Private Wetlands - Structural Shoreline Stabilization Measures - Authorization

February 22, 2023

Dear Chairman Feldman and Members of the Committee,

Thank you for the opportunity to submit testimony **in opposition to SB775**, on behalf of ShoreRivers. ShoreRivers is a river protection group on Maryland’s Eastern Shore with more than 2,000 members. Our mission is to protect and restore our Eastern Shore waterways through science-based advocacy, restoration, and education.

At ShoreRivers, shoreline erosion is one of the most common reasons a community member reaches out for consultation from a Riverkeeper. Almost always, we recommend living shorelines as the most beneficial solution, both for the homeowner and for the health of the waterway. However, the cost of implementation is incredibly high due to fuel prices and the labor required to walk a project through the permitting process. As a result, many homeowners seek waivers to implement armored shorelines instead.

SB775 provides a pro forma waiver for armoring up to 10% of a shoreline. On the Eastern Shore, where it is not uncommon for private waterfronts to stretch thousands of feet, 10% represents a significant amount of shoreline. **To legislatively allow 10% without any agency review will incentivize the implementation of hardened shorelines on properties where a waiver would have been required in the past. Living shorelines are the gold standard for shoreline restoration, and this bill will move Maryland further away from its goal of incentivizing them.**

A recent study by the National Oceanic and Atmospheric Administration identifies that within a 1,000-foot shoreline, if 30% or greater is armored, there will be negative impacts on fish reproduction—a detriment to the biodiversity of the Chesapeake and to our local fishing economies. Additionally, as impacts of climate change increase, rising tides will spill over bulkheads and riprap, causing them to degrade and collapse. On the low-lying Eastern Shore, it is imperative that we implement the most resilient and dynamic shorelines to protect our communities.

Living shorelines provide important habitat to estuarian life found in the Chesapeake, as well as protection from flooding and runoff—these benefits far outweigh anything provided by armored alternatives. For these reasons, we urge the committee to adopt an unfavorable report, for SB775.

Sincerely,

Annie Richards, Chester Riverkeeper on behalf of ShoreRivers

ShoreRivers

Isabel Hardesty, Executive Director

Annie Richards, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper | Zack Kelleher Sassafras Riverkeeper

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Arundel Rivers Testimony UNFAV for SB775.pdf

Uploaded by: Elle Bassett

Position: UNF



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Testimony encouraging a UNFAVORABLE report on Senate Bill 775 – Private Wetlands – Structural Shoreline Stabilization Measures

Education, Energy, and the Environment Committee
February 23, 2023

Dear Chair Feldman and Members of the Committee,

Thank you for the opportunity to submit testimony in **OPPOSITION** of SB775, on behalf of Arundel Rivers Federation. Arundel Rivers is a non-profit organization dedicated to the protection, preservation, and restoration of the South, West and Rhode Rivers with over 3,500 supporters. Our mission is to work with local communities to achieve clean, fishable, and swimmable waterways for present and future generations.

Living shorelines protect our shorelines from erosion while providing key habitats for our waterways and ecosystems. They provide a wide host of co-benefits, including improving water quality by capturing sediment and filtering nutrient runoff; providing shoreline access and habitat to both aquatic and terrestrial animals and shorebirds; and absorbing wave energy and making our shorelines more resilient. Our state legislature has recognized the importance of these projects by passing the Living Shoreline Protection Act in 2008, which requires shoreline property owners to use natural solutions to prevent erosion if feasible. Senate Bill 775 seeks to allow up to 10% of a shoreline to opt out of this requirement and to armor a shoreline with a structural component such as bulkhead or riprap. These armored structural components do not provide any of the benefits mentioned above and can result in more erosion, increase wave activity, and deeper waters not suitable for some aquatic or terrestrial habitats.

There is currently the ability to apply for a waiver to allow for structural armored shoreline if non-structural work is not feasible. A waterfront property owner could apply to exempt 10% or more of a shoreline project through this waiver process, which is reviewed by Maryland Department of the Environment. Senate Bill 775 incentivizes armored shoreline techniques in areas that may be suitable for living shorelines and removes the ability for the Department to properly review these waiver requests.

Arundel Rivers Federation encourages shorelines with resilient living shorelines when possible, and respectfully requests an **UNFAVORABLE REPORT on SB 775**.

Sincerely,

A handwritten signature in cursive script that reads "Elle Bassett".

Elle Bassett
South, West and Rhode Riverkeeper
Arundel Rivers Federation

SB 775 CBF UNF.pdf

Uploaded by: Matt Stegman

Position: UNF



CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

Senate Bill 775

Private Wetlands - Structural Shoreline Stabilization Measures - Authorization

Date: February 23, 2023
To: Senate Committee on Education, Energy & the Environment

Position: **Oppose**
From: Matt Stegman
MD Staff Attorney

Chesapeake Bay Foundation (CBF) **OPPOSES** SB 775 which would permit the installation of structural shoreline stabilization measures as a lawful use of private wetland if the total structured shoreline elements constitute not more than 10% of the total project area. CBF is concerned that the bill will take discretion from Maryland Department of the Environment (MDE) experts and opens the door to ever-more hardening of Maryland's sensitive shorelines.

While armored shoreline elements degrade over time and may cause negative downstream effects, non-structural, or living shoreline, elements can protect land from erosion and become more stable over time as plants, roots, and oyster reefs grow. While adjustments to hard materials within the living shoreline might be needed, the actual living elements of a living shoreline - like oyster reefs and grasses - are expected to maintain elevation relative to predicted sea level rise through 2100.¹ Additionally, some living shoreline projects have been shown to accrete sediment on the landward side. Living shorelines further protect land from erosion by dampening wave energy. By contrast, bulkheads amplify and reflect wave energy.²

Non-structural shoreline stabilization elements also accrue habitat benefits for aquatic life. Experts from the Virginia Institute of Marine Science and William & Mary University have determined that threshold declines in key bay species occur at levels of between 10 and 30% of shoreline hardening. Notably, there was a 4% decrease in crab abundance for every 10% of additional shoreline hardening.

There are many circumstances where the limited use of structural shoreline stabilization is appropriate, however SB 775 overreaches by taking the determination of when these elements are appropriate from MDE and opens the door to potential future abuse of the practice by establishing a legislative threshold for shoreline armoring.

CBF urges the Committee's UNFAVORABLE report on SB 775.

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.

¹ National Oceanic and Atmospheric Administration (NOAA), *Guidance for Considering the Use of Living Shorelines*. 2015. Available at https://www.habitatblueprint.noaa.gov/wp-content/uploads/2018/01/NOAA-Guidance-for-Considering-the-Use-of-Living-Shorelines_2015.pdf. Accessed Feb. 13, 2023.

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MDE SB0775 Oppose.pdf

Uploaded by: Tyler Abbott

Position: UNF



**The Maryland Department of the Environment
Secretary Serena McIlwain**

SB0775

Private Wetlands - Structural Shoreline Stabilization Measures - Authorization

Position: OPPOSE

Committee: Education, Energy, and the Environment Committee

Date: February 23, 2023

From: Gabrielle Leach

The Maryland Department of the Environment (MDE) **OPPOSES** Senate Bill 775. The bill would make substantive changes to the 2008 Living Shorelines Act, codified at § 16-201(c) of the Environment Article, which governs the approval process for riparian landowners to construct improvements along their shoreline for protection against erosion. The right to protect the shore against erosion is extended to private tidal wetlands under § 16-304(3) of the Environment Article.

We wanted to make the committee aware that the Department met with the sponsor to discuss this bill, and has heard the concern from the sponsor that obtaining a waiver from the Department to construct a nonstructural shore erosion control at a site that qualifies for a living shoreline as mandated by the 2008 Living Shoreline Act (Act) is difficult. The Act prioritizes the use of “nonstructural shoreline stabilization measures” such as marsh creation which “preserve the natural environment,” over structural improvements like bulkheads or revetments, which result in a hardened shoreline that have potential harmful environmental impacts and provide minimal ecological value. MDE has received conflicting feedback regarding the issuance of waivers from living shoreline requirements. The Department has been studying this issue regarding waivers and making improvements to the waiver process and has been evaluating the success of implementing the Living Shorelines Act in Maryland over the last several years by analyzing data compiled by staff, field studies of living shoreline success, creation of an interagency workgroup and acquiring U.S. Environmental Protection Agency (EPA) grants funding to improve the living shoreline suitability maps (Maryland Structural Stabilization Mapper, or MSSM).

Bill Analysis

The bill proposes to allow a structural shoreline stabilization measure in conjunction with a nonstructural shoreline stabilization measure if the structural shoreline stabilization measure constitutes no more than 10% of the total linear footage that will be stabilized by the nonstructural shoreline stabilization measure even where the site does not meet the criteria under COMAR 26.24.04.01-2 for obtaining a living shoreline waiver. A recent evaluation of approximately 1,700 shoreline activities authorized by MDE on undeveloped shorelines (i.e., with no previously existing shoreline measure) between January 2015 and August 2020 concluded approximately 32% of projects authorized were living shorelines and approximately 68% were structural shoreline controls. If this bill passes the number of living shorelines

would decrease as an additional and automatic waiver criteria is created by this bill, which appears to undermine the intent of the Act.

An unintended consequence of the bill is that applicants may apply for this waived hybrid shoreline project (non-structural and structural) but only complete the structural component of the project, resulting in more hardened shorelines. Additionally, vegetated wetlands, including those above the mean high water line, are also considered private wetlands. Vegetated wetlands are considered a highly valuable resource as they assist with combating climate change. Impacts to this resource should continue to be avoided and minimized to the maximum extent possible, however more impacts to vegetated tidal wetlands may occur as a result of this new waiver to allow the construction of a structural measure.

For the reasons detailed above, MDE urges a **UNFAVORABLE** report for Senate Bill 775.