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**BILL NO.:**            **SB 526**

**TITLE:**                **Natural Resources – Forest Preservation and Retention**

**SPONSOR:**           **Senator Elfreth**

**COMMITTEE:**        **Education, Energy, and the Environment**

**POSITION:**          **SUPPORT WITH AMENDMENTS**

**DATE:**                **March 2, 2023**

Baltimore County **SUPPORTS WITH AMENDMENTS** Senate Bill 526 – Natural Resources – Forest Preservation and Retention. SB 526 updates the state’s Forest Conservation Act (FCA) with a goal to slow, and possibly reverse, the continued loss of forest land across the state.

The bill would provide each county the opportunity to develop their own forest conservation program and present that plan to DNR for approval that the plan is sufficient to achieve no-net-loss of forest over a four year period. If a county opts not to create their own plan, or if DNR rejects the plan, then a 1:1 replanting ratio for forest loss would apply to that jurisdiction with a 2:1 replanting ratio within “priority areas” within that jurisdiction. The bill contains many positive provisions toward helping to increase forest cover, protect priority forests, and better account for tree canopy added within urban areas, however there are several areas that Baltimore County believes should be amended to ensure local jurisdictions can implement the legislation, by adding clarification and specificity. The following are issues within the bill we believe should be addressed:

1. This bill changes the definition of “forest land” as it pertains to state goals for forests, separate from the Forest Conservation Act (FCA) itself, but this new definition conflicts with the FCA definition of “Forest” (and “Forest Cover”) stated in 5-1601. As a result, the state goal for “forest land” would not be measured in the same way as the FCA would measure “forest cover” and so the measures of success in meeting the state goal and the FCA goal become disconnected. An amendment to ensure that both are measured similarly would help ensure that forest conservation (under FCA) and forested area are measured the same way.

2. The “Forest Land” definition appears to be an incomplete approximation of the way the Chesapeake Bay Program (CBP) maps forest land use. This change might require the State to modify land use map data for Chesapeake Bay modeling. CBP land use has a number of carve outs from “forest” land such as agricultural windbreaks, natural succession, and canopy over other surfaces. A result of these carve outs is that CBP “forest” land” cover includes patches much smaller than 1 acre in size and more narrow than 240 feet in width. We should ensure comparability among existing State and regional programs and methodologies to ensure data and tracking compatibility.
3. Definitions of “forest” and “reforestation” may impact NPDES MS4 permit (e.g. impervious surface restoration) and TMDL compliance of counties. The existing definitions in Title 5 allow “forest” to be as small as 10,000 sq ft. Excluding tree covered areas between 43,560 (1 acre) and 10,000 sq ft from the definition of forest makes MS4 permit and TMDL compliance more challenging in some jurisdictions. We are concerned this provision could result in reclassification of tree plantings from “reforestation” to “tree canopy expansion” which has lower modeled efficacy for pollutant load reductions, thus increasing costs for pollutant load reductions. At a time when we need all the trees we can get, especially in more developed communities, raising costs associated with doing so is problematic.
4. The bill is not clear regarding whether or how a county must account for losses that qualify for Declarations of Intent, such as clearing for agriculture, single lot intra-family transfers, and forestry activities. Currently, such changes in land use are not required to be mitigated under the FCA. The bill should clarify how these, and potentially other forest losses, are “counted” toward the four-year “no net loss” goal.
5. Amendments to clarify the method for crediting street trees and remediation of degraded forest land toward FCA satisfaction should be added to the bill, to ensure a local jurisdictions understands how to add such measures to its local implementation plan.

Baltimore County lauds the intent of SB 526 to increase flexibility for local jurisdictions responsible for FCA implementation while raising expectations for forest replacement associated with losses due to regulated activities. Further clarification and additional specificity, however, are necessary to ensure local jurisdictions can implement the new requirements.

Accordingly, Baltimore County requests a **FAVORABLE WITH AMENDMENTS** report on SB 526. For more information, please contact Jenn Aiosa, Director of Government Affairs at [jaiosa@baltimorecountymd.gov](mailto:jaiosa@baltimorecountymd.gov).