



The Maryland Department of the Environment
Secretary Serena McIlwain
Senate Bill 546
Environment - State Wetlands - Shoreline Stabilization Measures

Position: Support with Amendments
Committee: Education, Energy, and the Environment
Date: February 20, 2024
From: Jeremy D. Baker

The Maryland Department of the Environment (MDE) **SUPPORTS SB 546 WITH AMENDMENTS**. MDE is supportive of living shorelines and appreciates the intent of the legislation to bring clarification on if/when a waiver shall be granted.

Senate Bill 546 would create a preference for the use of “nonstructural shoreline stabilization measures” such as living shorelines and marsh creation versus structural improvements like bulkheads or revetments. Additionally, the bill would amend § 16-201(c)(2)(ii) of the Environment Article to prohibit MDE from issuing a waiver to the nonstructural shoreline stabilization requirements under § 16-201(c)(2) to an applicant “solely on the basis of replacing a structural shoreline stabilization measure with the same or similar type of structural shoreline stabilization measure.” However, MDE believes as written SB 546 would create some additional burden on MDE through the need for additional detailed review of applications currently receiving an “automatic” waiver based on the presence of an existing functional structure.

MDE maintains a tool, the Maryland Shoreline Stabilization Mapper, which models and delineates areas where living shorelines are a suitable treatment option for erosion control, and where waivers for traditional erosion control structures should be permissible given current shoreline conditions and energy regimes. MDE is required under COMAR 26.24.04.01-1 to grant an automatic waiver for shorelines that are mapped as structural shoreline stabilization measures. The bill as currently written does not reference the adopted maps or override MDE statutory obligation to create such maps.

Finally, SB 546 would also amend § 16-205(f) to allow the Tidal Wetlands Compensation Fund to provide grants for the replacement of structural shoreline stabilization measures with nonstructural shoreline stabilization measures. Under the existing statute, MDE has the ability to provide funding to existing grant programs and to appropriate funds for the creation, restoration, or enhancement of tidal wetlands. As drafted, there is the potential that a grant program focused solely on replacing shoreline stabilization structures with nonstructural measures may reduce funding for other tidal mitigation projects which would result in higher wetland acreages and functional increases.

Amendments

MDE is supportive of the following amendments to SB 546, which would minimize the additional operational impacts to MDE, additional burden on applicants, and align decision-making for living shoreline locations with existing MDE mapping based on the best available data:

- Addition of language to § 16-201(c)(2)(ii)2 clarifying that MDE may not issue a waiver solely on the basis of replacing an existing structural stabilization measure “in areas that are not designated by Department mapping as appropriate for structural shoreline stabilization measures”; and
- Amending the reference to “grant funding” under § 16-205(f) to “Programs that incentivize”, to allow for continued flexibility in allocation of Tidal Wetlands Compensation Funds.

For the reasons detailed above, MDE urges a **FAVORABLE WITH AMENDMENTS** report for SB 546.

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