

HB233 IN FAVOR_SR Testimony.pdf

Uploaded by: Annie Richards

Position: FAV



2/05/24

**Testimony in SUPPORT of HB233–
Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Climate, Equity,
and Administrative Provisions**

To Chair Korman and Members of the Committee,

Thank you for this opportunity to submit testimony in **SUPPORT** of **HB233** on behalf of ShoreRivers. ShoreRivers is a river protection group on Maryland’s Eastern Shore with more than 2,500 members. Our mission is to protect and restore our Eastern Shore waterways through science-based advocacy, restoration, and education.

The state’s—aptly named—Critical Area is a prime opportunity to increase public access and foster environmental stewardship for local residents. It is also the final barrier on our lands to abate polluted runoff bound for our rivers, and the first line of defense for our communities facing the growing impacts of climate change. However, with no major update in more than 15 years and concerns over inadequate pollution control highlighted by the recent [CESR Report](#)—released by the Bay Program’s Science and Technical Advisory Committee—it is **time to incorporate climate resilience and equity values into the Critical Area Program to ensure that future development projects sited along our tidal waters will:**

- Reduce nonpoint source pollution from stormwater runoff;
- Reduce negative environmental impacts to overburdened communities;
- Increase community and infrastructure resilience in the face of climate impacts;
- Increase the potential for equitable access so that no Marylander is left behind when it comes to enjoying the natural wonders of the Chesapeake Bay.

The state continues to recognize that the Critical Area has the highest potential for nutrient delivery¹: “In accordance with the Chesapeake Bay Watershed Implementation Plan, the standard nitrogen rate used to determine the nitrogen delivery rate to surface water is as follows: **(1) An 80% delivery rate in Critical Area;** (2) a 50% delivery rate within 1,000 feet from any perennial surface water; and (3) a 30% delivery rate from distances greater than 1,000 feet from any perennial surface.” These nutrient loads can be further augmented from storm surge and rising tides. A recent study incorporated into the CESR report² estimated: “that the amount of dissolved inorganic N[itrogen] contributed during a seasonally high tide event in one Bay segment exceeded its annual N load allocation by 30%.” Rising tides and increased storm surge due to climate impacts will continue to negatively affect our waterways, especially from nonpoint source land uses like urban stormwater runoff. That same stormwater runoff, and subsequent flooding, has great potential to impact communities within the Critical Area. Overburdened and underserved communities often occupy low-lying areas of a watershed, and stand to bear the brunt of those impacts. **As the state endeavors to update floodplain maps and evolve environmental justice**

¹ <https://mde.maryland.gov/programs/pressroom/pages/1243.aspx>

² [A Comprehensive Evaluation of the Systems Response \(Macías-Tapia et al., 2021\)](#).

ShoreRivers

Isabel Hardesty, Executive Director
Annie Richards, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper
Ben Ford, Miles Wye Riverkeeper | Zack Kelleher, Sassafras Riverkeeper

policies, the Critical Area Commission is appropriately positioning their department to utilize and implement those advancements when appropriate.

In addition to extending comprehensive review deadlines for local counties to afford local planers more flexibility, **HB233 will incorporate climate resilience values by:**

- Targeting portions of local grant funds to update for climate and equity;
- Adding coastal resilience into the finding goals and regulatory authorities of the Critical Area law;
- Identifying and resolving location and design conflicts between plans for new development and known climate hazards;
- Authorizing grants to local jurisdictions for coastal resilience into local critical area programs;
- Using coastal resilience considerations in locating new areas for growth allocation.

HB233 will incorporate equity values by:

- Requiring the commission to *consider* environmental justice as a factor when approving new development, including an assessment of environmental impacts and proposed mitigation on underserved or overburdened communities;
- Requiring access to inclusive public participation processes at the state and local levels;
- Requiring local jurisdictions to incorporate considerations for environmental justice into local critical area programs.

The Critical Area Program continues to be essential for protecting tidal waterways and wildlife habitat across Maryland. We commend the Critical Area Commission staff for bringing this important update before you, which will improve development siting along our waterways so that our infrastructure and our financial investments have better protection from climate impacts, and so development impacts to all communities can be evaluated more equitably. Thank you for your consideration, and we look forward to this Committee giving **HB233 a favorable report.**

Sincerely,

Annie Richards, Chester Riverkeeper on behalf of [ShoreRivers](http://ShoreRivers.org).

UMCES testimony CAC HB233 .pdf

Uploaded by: david nemazie

Position: FAV



HB233 Chesapeake and Atlantic Coastal Bays Critical Area Protection Program - Climate, Equity, and Administrative Provisions

Environment and Transportation Committee:

Chair: Delegate Mark Korman; Vice-Chair: Delegate Regina Boyce

Testimony from:

Dave Nemazie: Chief of Staff, University of Maryland Center for Environmental Science

Chair Korman and members of the Environment and Transportation Committee thank you for allowing me to provide this testimony on background and in support of HB233 on behalf of the University of Maryland Center for Environmental Science (UMCES).

Since its founding in 1925, UMCES has been leading the way toward better management of Maryland's natural resources and the protection and restoration of the Chesapeake Bay. It's often referred to as "the institution of the environment for the state of Maryland."

With more than 3,000 miles of shoreline and 72% of the state's population living and working along the coast, Maryland's coastal communities face particular risks to the impacts of a changing climate. Climate change is causing increasingly frequent and severe storms, hotter summers, warmer winters, sea level rise, and changes in precipitation patterns. Critical areas, particularly shorelines, can provide buffering against storm surges, while green infrastructure can slow stormwater runoff, reducing the impact heavy rains have on communities.

The goal of HB233 is for the Critical Area Commission to take climate change and resiliency as well environmental justice and equity into consideration when making decisions, among other administrative changes. My testimony largely focuses on the importance of considering climate change and resiliency in its decision-making process.

Maryland's coastline is literally on the front-line of the impacts from climate change such as sea level rise, storm surge, and coastal and precipitation flooding. UMCES' [Sea-Level Rise Projections \(2023\)](#) found that sea level along Maryland's shores will very likely rise a foot between 2000 and 2050—as much as it did over the whole of the last century—and could rise a foot and a half. The sea-level rise that Maryland will experience during the first half of this century will be greater than that experienced during the whole of the last century. Whether the rise is that much or greater will largely be determined by how much and how soon global society is able to reduce its greenhouse gas emissions.

For the last decade, the State of Maryland has invested in and made progress toward adaptation and resiliency. The [Maryland Coastal Adaptation Report Card](#) was developed through a collaboration between the Adaptation and Resiliency Work Group (ARWG) of the Maryland Commission on Climate Change (MCCC) and University of Maryland Center for Environmental Science. By developing a suite of adaptation and resiliency indicators this report established thresholds based on stakeholder expertise, the Coastal Adaptation Report Card gives a snapshot of current adaptation status in Maryland's coastal zone, and establishes a framework for measuring future progress. The report card features 15 indicators - such as flood mapping, plans for nuisance flooding and green infrastructure, as well shoreline erosion.

The tools to develop predictions that are being applied to understanding the rate and impact of climate change are getting more accurate and can be used on smaller scales. For example, storm surges caused by extreme weather can now accurately identify vulnerable areas on a street-by-street scale by combining field tools associated with weather and water gauges and powerful computer models.

Finally, it is important to recognize that the impacts of climate change will disproportionately impact those who can least afford the changes. That is another reason why it is crucial for the Critical Area Commission to consider environmental justice and equity into its decision making process.

UMCES supports HB233 and seeks the Committee's favorable report.

HB 233 - CBF - FAV .pdf

Uploaded by: Doug Myers

Position: FAV



CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

House Bill 233

Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Climate, Equity, and Administrative Provisions

Date: February 7, 2024
To: House Environment and Transportation Committee

Position: Favorable
From: Gussie Maguire
Maryland Staff Scientist

Chesapeake Bay Foundation (CBF) **SUPPORTS** HB 233, which adds provisions for climate resilience, environmental justice, and equity to the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program.

The critical area provides habitat for Maryland's native species and crucial ecosystem services like water quality improvement and flood mitigation. Given the increased instances of severe precipitation and coastal flooding already affecting the state which are predicted to become more frequent¹, expanding the program's charge to include a response to these impacts is imperative. Requiring local jurisdictions' programs to address how development in the critical area disproportionately harms underserved communities ensures that Maryland's residents will be able to equitably enjoy the benefits of protecting these natural buffer zones.

Climate Resilience

Much of Maryland's coastal wetlands in the critical area have already been lost to sea level rise, converted to open water and no longer able to buffer inland areas from the impacts of tidal and storm flooding.² Only nine days into the new year, Maryland weathered a damaging rainfall and flooding event. Annapolis experienced the third-biggest flood in its history, with waters 5.1 feet above normal levels.³ Though the area around City Dock is officially considered to be within the "hundred-year" floodplain by the Federal Emergency Management Agency, three of the top five flood events have occurred since 2003.⁴ As "historic" floods become the norm, Maryland cannot afford to neglect its natural infrastructure. Enhancing protections for the state's wetlands and their innate buffering capacity will help prevent economic damage and keep residents safe.⁵ Requiring jurisdictions to assess how climate-related changes have altered this natural infrastructure as part of their critical area planning allows their plans to keep pace with the effects of climate change.

¹ <https://statesummaries.ncics.org/chapter/md/>

² <https://www.fisheries.noaa.gov/national/habitat-conservation/coastal-wetland-habitat>

³ <https://www.capitalgazette.com/2024/01/10/annapolis-city-dock-sustains-significant-flooding-overnight-officials-say/>

⁴ https://water.weather.gov/ahps2/crests.php?wfo=lxw&gage=apam2&crest_type=historic

⁵ <https://www.epa.gov/wetlands/basic-information-about-wetland-restoration-and-protection>

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403

In addition to serving as sponges for stormwater runoff and rising tides, wetlands in Maryland's Critical Areas also provide ecosystem services in the form of "blue carbon" storage. The Maryland Department of the Environment's December [2023 Climate Pollution Reduction Plan](#) outlines the pressing need for all avenues of decarbonization throughout the state, including protecting tidal wetlands and their ability to sequester atmospheric carbon. This will be a critical component of helping the state achieve its ambitious net-zero emissions goals.⁶

Environmental Justice

Historically, low-income communities of color have been excluded from the benefits of waterfront and water-adjacent living, and instead have been subjected to disproportionate impacts of climate change and pollution.⁷ Poorer neighborhoods tend to be located in low-lying areas, and many communities experience frequent flooding due to inadequate, improperly installed stormwater management, as in the case in Baltimore County's Turner Station.⁸ And while Turner Station has unique public waterfront parks, other communities bear the brunt of climate change impacts without any access to the water under good conditions as much of Maryland's shoreline is privately owned. Codifying provisions for public access specifically for underserved and overburdened communities helps right this longstanding wrong. Furthermore, language requiring that the Critical Area Commission include member individuals from historically underrepresented communities helps ensure that that these communities will be able to voice development concerns going forward.

Water Quality Improvement

Maryland's wetlands are natural filters, so protecting them through these enhancements to the Critical Area Program will help improve the waters of the state, preserving their critical economic and recreational functions and moving the state closer to achieving its total maximum daily load (TMDL) targets. Wetlands adjacent to agricultural land act as a buffer to trap sediment and excess nutrients, and as the recent Chesapeake Bay Program's Scientific and Technical Advisory Committee evaluation demonstrates, protecting this function will be a key part of the playbook for future nonpoint source pollution reduction.⁹

CBF urges the Committee's FAVORABLE report on HB 233.

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

⁶<https://mde.maryland.gov/programs/air/ClimateChange/Maryland%20Climate%20Reduction%20Plan/Maryland%27s%20Climate%20Pollution%20Reduction%20Plan%20-%20Final%20-%20Dec%2028%202023.pdf>

⁷<https://mde.maryland.gov/programs/air/ClimateChange/MCCC/Documents/MCCC%20Annual%20Report%202023/MCCC%20Annual%20Report%202023.pdf>

⁸https://www.dundalkeagle.com/news/federal-funds-will-help-turner-station-prevent-flooding/article_9de90017-cd1a-56ba-a655-aa7f602bfaba.html

⁹<https://www.chesapeake.org/stac/wp-content/uploads/2023/05/CESR-Final-update.pdf>

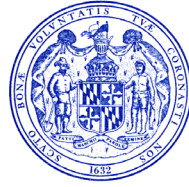
HB 233 Bill Report.pdf

Uploaded by: Erik Fisher

Position: FAV

Wes Moore
Governor

Aruna Miller
Lt. Governor



Erik Fisher
Chair

Katherine Charbonneau
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

February 1, 2024

BILL NUMBER: House Bill 233 – First Reader

**SHORT TITLE: Chesapeake and Atlantic Coastal Bays Critical Area Protection Program
– Climate, Equity, and Administrative Provisions**

DEPARTMENT’S POSITION: SUPPORT

EXPLANATION OF COMMISSION’S POSITION

The Commission supports HB 233. This bill will modernize Maryland’s Critical Area Program by contributing to State efforts to build climate resilience and produce more equitable outcomes when land is developed near the shoreline.

BACKGROUND INFORMATION

The Critical Area law was last comprehensively updated by the General Assembly in 2008. Since that time, the State has seen an increase in the effects of flooding and erosion along its shorelines due to climate change. The impacts of climate change, including coastal flooding and sea level rise, are acutely felt in the Critical Area. Additionally, these impacts can be disproportionately experienced by underserved and underrepresented communities. This bill is intended to provide the tools necessary for the Critical Area Commission and the 64 local jurisdictions with Critical Area Programs to proactively create and implement solutions.

BILL EXPLANATION

HB 233 will enable the Critical Area Commission to provide both a framework and technical assistance to Critical Area jurisdictions to: (1) incorporate consideration of climate change and sea level rise in Maryland’s Critical Area; (2) incorporate consideration of environmental justice in State and local decision-making; and (3) modify administrative procedures to ensure consistent application of the law while easing some administrative burdens in local Critical Area Programs.

Most importantly, the bill will do the following:

- Update the goals, policies, and regulatory directives of the Critical Area law, thus providing the tools needed for the Commission and local jurisdictions to equitably manage the impacts of climate change in the Critical Area;

- Direct local jurisdictions to incorporate strategies and measures that enhance the resiliency as a part of their local Critical Area programs;
- Require the Commission to consider environmental justice as a factor when approving requests to intensify land development, including an assessment of environmental impacts and proposed mitigation on underserved or overburdened communities; and
- Direct local jurisdictions to develop provisions that ensure public access for underserved and overburdened communities.

The bill also includes technical changes to make program implementation more efficient, track and leverage fee-in-lieu revenues, clarify the Commission's mapping directives and standards for reclassification, provide better alignment with local planning, and ensure timely programmatic updates.

HB 233 Chesapeake and Atlantic Coastal Bays Critic

Uploaded by: Humna Sharif

Position: FAV

Wednesday, January 31, 2024

TO: Marc Korman, Chair of the House Environment and Transportation Committee, and Committee Members
FROM: Humna Sharif, The Nature Conservancy, Climate Adaptation Manager; Cait Kerr, The Nature Conservancy, State Policy Manager
POSITION: Support HB 233 Chesapeake and Atlantic Coastal Bays Critical Area Protection Program - Climate, Equity, and Administrative Provisions Act of 2024

The Nature Conservancy (TNC) supports HB 233 offered by the Critical Area Commission. HB 233 integrates climate change adaptation, enhances critical area resilience, and supports environmental justice in coastal Maryland. Incorporating climate change planning and environmental justice factors in local government critical area planning is crucial for creating an equitable resilience vision for the state.

The Critical Area Program is an important partnership between the state and local governments to continue stewarding Maryland's fragile and vulnerable tidal wetlands. In its four decades of operation, the Maryland Critical Area Program has successfully minimized adverse growth and development impacts on tidal wetlands. It has also created a pathway for local governments to approve growth plans in a manner consistent with ecological health metrics. This bill is an important step forward to update the Critical Area Program with climate change considerations and environmental justice priorities.

HB 233 simplifies administrative processes for local governments by aligning timelines for comprehensive plan updates with critical area planning requirements, thus reducing administrative burdens. Maryland's critical areas need to be assessed with climate change impacts in mind, including sea level rise, wetland migration, storm surge, increased precipitation, coastal flooding and other extreme weather events. HB 233 builds in requirements that ensure the program's benefits flow to historically under-served and over-burdened communities by establishing a grant program for local governments to undertake climate-conscious critical area planning activities.

HB 233 also updates critical area mapping requirements to provide Maryland with accurate and high-resolution information regarding the state's changing coastline – this information is especially relevant for local governments as sea level rises and tidal wetlands migrate landwards. Through this bill, mapping shoreline areas that are suitable for creating recreational spaces with consideration given to increasing waterfront and recreational access for under-served communities will be prioritized.

This bill is consistent with Maryland's 2030 commitments on building the state's adaptive capacity and resilience to climate change impacts. Adaptive measures in the state must prioritize restorative justice and address historical inequities that have created disparate climate impacts, balancing the needs of the state's natural, human, social and economic systems – HB 233 is a step in the right direction.

TNC commends the Critical Area Commission for putting forward this bill, which prioritizes Maryland's critical areas' long-term ecological health, and continues to strengthen collaborative planning processes between local governments and the Critical Area Commission.

Therefore, we urge a favorable report on HB 233.

Maryland Catholic Conference_FAV_HB233.pdf

Uploaded by: Jenny Kraska

Position: FAV



MARYLAND
CATHOLIC
CONFERENCE

February 7, 2024

HB 233

Chesapeake and Atlantic Coastal Bays Critical Area Protection Program - Climate, Equity, and Administrative Provisions

House Environment & Transportation Committee

Position: Favorable

The Maryland Catholic Conference is the public policy representative of the three (arch)dioceses serving Maryland, which together encompass over one million Marylanders. Statewide, their parishes, schools, hospitals, and numerous charities combine to form our state's second largest social service provider network, behind only our state government.

House Bill 233 would modify the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program to incorporate climate resilience, environmental justice, and equity measures. The bill also extends the requirement that Critical Area maps be updated on a regular interval and makes various technical, conforming, and administrative changes. Under this legislation, regulations adopted by CAC must establish comprehensive standards and procedures to 1.) assess and adapt the Critical Area to climate-related changes including sea level rise, wetland migration, storm surge, precipitation-induced flooding, and other extreme weather events, 2.) enhance the resilience of the Critical Area by protecting, creating, and restoring natural and nature-based features; and 3.) promote environmental justice and equity initiatives that address disparate impacts of development and ensure the benefits of development, restoration, mitigation, and conservation are shared equitably.

As Pope Francis has written, climate change *“represents one of the principal challenges facing humanity in our day”* (*Laudato Si'*, no. 25), threatening the wellbeing of peoples and the environment. Catholic social teaching envisions a sustainable and authentic human development, where technological solutions respect the principle of integral ecology and consider social, economic, and ecological considerations. In his encyclical, *On Care for Our Common Home (Laudato Si')*, Pope Francis tells us, *“Efforts to promote a sustainable use of natural resources are not a waste of money, but rather an investment capable of providing other economic benefits in the medium term”*.

House Bill 233 represents an investment in climate and environmental equity in Maryland. The Conference appreciates your consideration and respectfully urges a **favorable** report for House Bill 233.

HB 233 AudubonMidAtlantic_CriticalArea_Climateand

Uploaded by: Jim Brown

Position: FAV



Maryland Office
2901 E. Baltimore St
Baltimore, MD 21214

February 5, 2024

To: Chairman Korman and members of the Maryland House Committee on Environment and Transportation

From: Jim Brown, Policy Director, Audubon Mid-Atlantic

Subject: Favorable Testimony for Maryland HB 233 Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Climate, Equity, and Administrative Provisions

Audubon Mid-Atlantic submits this testimony in support of House Bill 233. Audubon Mid-Atlantic is the regional office of National Audubon Society, representing over 35,000 Marylanders who advocate for the protection of birds, bird habitat, and policies aiming to protect both birds and human communities in the face of increasing environmental challenges, habitat loss, pollution, and climate change. Empowering the Critical Area Commission and local partners to use the lenses of climate change preparedness and environmental justice will strengthen efforts to plan for growth while protecting tidal zones of wetland marshes and shorelines. This provides critical habitat to threatened bird species and protects vulnerable towns and communities from coastal flooding and saltwater intrusion events, which are increasing due to climate change.

Audubon supports HB 233 because this bill lays the framework for both protecting birds and increases the resources for Maryland’s coastal communities and the treasured landscapes which they depend on. HB 233 gives the Critical Area Commission the tools necessary to collaborate with local jurisdictions on planning for growth, habitat conservation needs, and climate resiliency and preparedness. Importantly it will improve information sharing capabilities between state and local governments through adjusting planning timetables and sharing access to the most up-to-date mapping tools available.

By specifically addressing climate and habitat, the bill will give all parties the ability to make planning and mapping decisions which concurrently support growth and important conservation needs. Audubon works in the Critical Area with local communities, state and federal agencies, and partners to plan and implement marsh & island restoration and conservation projects to protect threatened bird species and the places they need to survive. These projects on the lower Eastern Shore are dependent on strong relationships at all levels of government and robust partnerships with local landowners, local economies, and residents. HB 233 gives Maryland the ability significantly bolster this collaboration.

Audubon believes the provisions within the bill will address Environmental Justice concerns in the Critical Area in the following ways:

- Providing increased financial and technical assistance for local jurisdictions to conduct comprehensive planning in the Critical Area will lead to more equitable planning outcomes for all residents.

- An increase in the ability for the Commission and local governments to plan for using green infrastructure such as marsh, wetland, and forest to protect vulnerable historic communities from rising tides.
- There is the potential for more publicly accessible land and water access in Maryland's Chesapeake and Atlantic zones when land not appropriate for development is set aside to become conservation or resiliency areas.

In addition to the above-mentioned reasons, science tells us birds are in decline due to habitat loss and climate change. 1/3 of all Maryland bird species experienced significant population declines in the past 50 years. HB 233 will enable Maryland to slow this climate change induced habitat loss.

HB 233 will lay the framework for creating a more climate-resilient environment for our residents and visitors. It will also continue to hold Maryland up as a leader in climate action, ecosystem preservation, and the protection of birds now and in the future.

Audubon Mid-Atlantic respectfully urges a favorable review of this legislation.

Thank You,

Jim Brown

Policy Director
Audubon Mid-Atlantic
410-207-2445
Jim.brown@audubon.org

hb233, critical areas update, E&T 2-7-2024.pdf

Uploaded by: Lee Hudson

Position: FAV



Delaware-Maryland Synod
Evangelical Lutheran Church in America
God's work. Our hands.

Testimony prepared for the
Environment and Transportation Committee
on
House Bill 233
February 7, 2024
Position: **Favorable**

Mr. Chairman and members of the Committee, thank you for this opportunity to urge a public commitment that addresses climate disaster and its companion, environmental (in)justice. I am Lee Hudson, assistant to the bishop for public policy in the Delaware-Maryland Synod, Evangelical Lutheran Church in America. We are a faith community in three ELCA synods in every part of our State.

The ELCA identified greenhouse gases as environmental threats to earth's climate in 1993 ("Caring for Creation," ELCA 1993 assembly). We have now added justice, investment, and urgency to our call for public policy action on the "Climate Crisis", becoming "climate catastrophe" as revealed by recent episodes of fire and flood in the United States and North America ("Earth's Climate Crisis", ELCA social message, April 2023).

House Bill 233 updates Maryland's landmark Critical Area goals to include resilience, justice, and equity considerations when regulating human activity in the State's critical areas. Critical areas, by geographic demarcation, are places currently being regularly inundated and at risk for calamitous flooding.

The bill also requires critical area mapping to be updated more frequently because emerging crises are more numerous and catastrophic than current planning cycles can capture. We urge a favorable report on this modest adjustment to current law.

Lee Hudson

HB233- MDLCV (support - written) - Chesapeake and

Uploaded by: Marisa Olszewski

Position: FAV



February 5, 2024

Kim Coble
Executive Director

2024 Board of
Directors

Lynn Heller, Chair
The Hon. Nancy Kopp,
Treasurer
Kimberly Armstrong
Mike Davis
Candace Dodson-Reed
Verna Harrison
Melanie Hartwig-Davis
Charles Hernick
The Hon. Steve Lafferty
Patrick Miller
Bonnie L. Norman
Katherine (Kitty)
Thomas

SUPPORT: HB 233 - Chesapeake and Atlantic Coastal Bays Critical Area Protection Program - Climate, Equity, and Administrative Provisions

Mr. Chairman and Members of the Committee:

Maryland LCV **supports HB 233 - Chesapeake and Atlantic Coastal Bays Critical Area Protection Program - Climate, Equity, and Administrative Provisions**, and we thank the Critical Areas Commission for their leadership on this issue.

The Critical Area Protection Program, acting as a partnership between the state and the 61 local jurisdictions to which the program applies, has been successfully functioning to provide more appropriate land use regulation to the lands along the tidal bays in Maryland since its establishment 40 years ago. The law itself was unprecedented and groundbreaking at its outset, borne out of a response to the deteriorating health of the bay ecosystem and a shared regard for the need to act in response. Now, with HB 233, the Critical Area Commission is requesting the Maryland General Assembly support the legacy of stewardship to the tidal bays by offering

critical updates.

In 1984, when the Maryland General Assembly established the Critical Area Protection Program, protecting the health of the Chesapeake Bay was the sole motivation, ensuring stewardship of the buffer of land along the estuary. Today, as we face an unprecedented changing climate, we recognize that the boundary lands along these estuaries also provide mitigation and added resiliency against rising tides. The inclusion of climate change in the Critical Area Protection Program's standards provides a timely amendment to allow the program to respond to the environmental changes our tidal waters and their adjoining lands are already experiencing.

Maryland League of Conservation Voters supports HB 233, which will resolve inefficiencies in administrative procedures and, more importantly, offers important changes in response to climate change - including recognition of the coastal inundation due to sea level rise and land subsidence we are already experiencing and know will continue to occur throughout the next century.

Another important component of this bill, HB 233 looks to install equity as a factor in procedures and decision making related to the critical area. Developing standards by which no one population is unduly burdened by the choices made by another should be an essential tenet of our state laws. Maryland LCV supports the effort to establish this provision along with more inclusive public participation processes to deliver both greater equity and accountability in their application of this program.

Maryland LCV urges a **favorable** report on this important bill.

HB0233-ET-FAV.pdf

Uploaded by: Nina Themelis

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

HB0233

February 7, 2024

TO: Members of the House Environment and Transportation Committee

FROM: Nina Themelis, Director of Mayor's Office of Government Relations

RE: House Bill 233 -Chesapeake and Atlantic Coastal Bays Critical Area Protection Program-Climate, Equity, and Administrative Provisions

POSITION: Support

Chair Korman, Vice Chair Boyce and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** House Bill (HB) 233.

HB0233 is sponsored by the Maryland Critical Area Commission with an intention to weave equity, climate resilience into local critical areas program and allows local jurisdictions to corresponding update their local Critical Area legislation to with specific actions and/or recommendations. The passage of this bill will require Baltimore City and other jurisdictions in Maryland to adopt updates to our local codes and for Baltimore City's Critical Area manual to comply with the measures included in the bill, while allowing for flexibility with the timeline.

Baltimore City's 2019 Sustainability Plan is anchored to racial, economic and environmental equity goals as detailed in the plan's Equity Implementation Guidelines. The city's updated Disaster Preparedness and Climate Action Plan also leverages this same equity lens that guides climate change mitigation and adaptation strategies across the city. The addition of resilience and climate change concepts into Critical Area regulations allows the city to update the local current Critical Area program to incorporate elements that would support actions/recommendations from Baltimore City's 2019 Sustainability Plan, 2020 Nuisance Flood Plan 2023 Disaster Preparedness Plan (DP3) and 2024 Climate Action Plan (CAP) and those of our Office of Equity and Civil Rights.

Climate-related standards established at the state level will help support the types of increased development standards recommended in the city's FEMA-regulated hazard mitigation plan (DP3) without impacting the relative stringency of Baltimore's Critical Area regulations when compared to other jurisdictions. HB0233/SB-306 also potentiates funding from the state to support local program updates and implementation. Section 8-1808(a)(2) & (3) – Local Program Assistance – could provide funding from the state to support local program updates and implementation. Local program assistance for critical area programs has been provided in past years, but these funds have declined over time. Reinvestment into local critical areas programs is critical for future costal resilience planning.

For these reasons, the BCA respectfully request a **favorable** report on SB0306/HB0233.

*Annapolis – phone: 410.269.0207 • fax: 410.269.6785
Baltimore – phone: 410.396.3497 • fax: 410.396.5136
<https://mogr.baltimorecity.gov/>*

HB233_IndivisibleHoCoMD_FAV_VirginiaSmith.pdf

Uploaded by: Virginia Smith

Position: FAV



HB233 – Chesapeake and Atlantic Coastal Bays Critical Area Protection Program - Climate, Equity, and Administrative Provisions

Testimony before

House Environment and Transportation Committee

February 7, 2024

Position: Favorable

Chair Korman, Vice Chair Boyce and members of the committee, my name is Virginia Smith, and I represent the 750+ members of Indivisible Howard County. We are providing written testimony today in support of SB306, which would authorize the Critical Area Commission to adopt regulations that take into account climate change and environmental justice and equity. Indivisible Howard County is an active member of the Maryland Legislative Coalition (with 30,000+ members). We appreciate the leadership of Chair Korman in sponsoring this important legislation by request of the Critical Area Commission.

Over the past decades, it has become clear that the Chesapeake watershed was being negatively impacted by land use and population growth. Previously the Maryland General Assembly enacted the Chesapeake Bay Critical Area Protection Program to oversee future development. The Chesapeake Bay Critical Area Commission was created to manage this program.

While this Commission has worked to limit the impacts to water quality and the natural environments, they themselves recognize that that should no longer be their sole interests, and instead more focus is needed to address climate change and that the policies are created and implemented in an equitable way. This bill will attempt to remedy that.

First, it will state that there are “critical and substantial state interests” in both establishing ways to prepare and adapt to climate change and that the benefits and burdens of these methods are equitably distributed. The bill will also require that each fiscal year, the Governor shall include money for grants to assist local jurisdictions to incorporate climate resiliency and equitable planning. There are also terms within the bill for local jurisdictions to follow. The consideration of climate change and equity crucial and should be considered in all bills, but especially ones focused on land areas at the most risk of sea level rise, storm surge and flooding.

For these reasons, we support HB233.

Thank you for your consideration of this important legislation.

We respectfully urge a favorable report.

Virginia Smith
Columbia, MD 21044

HB0233-ET_MACo_SWA.pdf

Uploaded by: Dominic Butchko

Position: FWA



House Bill 233

Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Climate, Equity, and Administrative Provisions

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Environment and Transportation
Committee

Date: February 7, 2024

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS** HB 233 **WITH AMENDMENTS**. This bill modernizes several aspects of the Critical Area Commission (CAC), bringing it in line with current understandings of best practices, science, climate change, and sea level rise.

Counties remain supportive stakeholders in the broad goal of ensuring that the Chesapeake Bay, a central source of Maryland's economic vitality, remains a healthy and adaptable ecosystem. Since its creation in 1984, the CAC has sought to improve the Bay by providing significant oversight over development of land within 1000 feet of its tidal influence. Development within this 1000-foot area has long been understood to have a sizeable impact on the overall health and welfare of the Bay.

Counties would like to recognize the leadership of the CAC for their strong efforts in coordinating with local jurisdictions to answer questions about this legislation and to find common ground where there may be concerns. MACo offers the following amendments, which seek to add clarity and preserve local flexibility:

- 8-1808 (3)
 - Insert (III) THE COMMISSION MAY OFFER AN EXTENSION ON THE MAY 1 DEADLINE AT THE DISCRETION OF THE CHAIR.
- 8-1809
 - Strike (H) and replace with, "ON REQUEST OF A LOCAL JURISDICTION, THE COMMISSION SHALL EXTEND THE DEADLINE UNDER SUBSECTION (G) OF THIS SECTION FOR THAT LOCAL JURISDICTION BY 12 MONTHS."
 - Strike (I)
- 8-1810
 - In (1), strike 1 YEAR and replace with 2 YEARS;
 - In (2), strike all and replace with, AFTER THE EXTENSION GRANTED IN (1) COMMISSION MAY UPDATE A LOCAL PROGRAM.
 - Add "(2)(A) THE COMMISSION SHALL MAKE A GOOD FAITH EFFORT TO NOTIFY A COUNTY THAT ITS LOCAL PROGRAM NEEDS TO BE

UPDATED. THE COMMISSION SHALL NOT TAKE ACTION TO UPDATE A LOCAL PROGRAM UNLESS THEY HAVE AT LEAST 4 DOCUMENTED ATTEMPTS AT NOTIFICATION OVER A PERIOD OF 3 YEARS.”

Counties support the intent of HB 233 and ask for the above amendments, which seek to provide clarity and preserve flexibility. MACo urges the Committee to give HB 233 a report of **FAVORABLE WITH AMENDMENTS**.

MBIA Letter of Support HB 233.pdf

Uploaded by: Lori Graf

Position: FWA

February 5, 2024

The Honorable Marc Korman
Environment and Transportation Committee
Room 251 House Office Building
Annapolis, MD, 21401

RE: HB233 Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Climate, Equity and Administrative Provisions

Dear Chairman Korman:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **HB233 Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Climate, Equity and Administrative Provisions**. MBIA **Supports** the Act in its current version with amendments.

Climate resilience and mitigation are integral to the operations and future investments of our member companies in locations near the Chesapeake Bay or Coastal Bay Critical Areas. Adapting construction in flood-prone areas to changing conditions is crucial for safeguarding public and private assets. Regulations such as Critical Area requirements, local flood elevations, FEMA regulations, stormwater management, and building codes play a significant role in this adaptation process.

HB 233 requires that local governments integrate provisions for climate adaptation and social equity into Critical Area programs. We support the bill's assessment of these new initiatives within existing frameworks. Coordination between Critical Areas, floodplain, building codes and other complimentary programs is essential to provide regulated entities with consistent standards, policy objectives that are in alignment and appropriate levels of administrative support.

One concern that our members have is with the evaluating tools for forecasting climate conditions and assessing social and environmental justice factors. We believe that caution is needed regarding the use of environmental mapping tools, as they are used for regulatory decisions on a small scale when they were originally developed for larger planning purposes.

Another specific concern we have is the proposal to remove "wherever possible" from the requirement for a 100-foot buffer. While we understand this buffer is a priority of the program, it may not always be possible, especially in Intensely Developed Areas. We request that "wherever possible" be retained. Our members also have a general concern of the bill and what its impact will be.

For these reasons, MBIA respectfully requests the Committee adopt the proposed amendment and give this measure an favorable report with our amendments. 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, Energy, and the Environment Committee

BaltimoreCounty_FWA_HB0233.pdf

Uploaded by: Robert McCullough

Position: FWA



JOHN A. OLSZEWSKI, JR.
County Executive

JENNIFER AIOSA
Director of Government Affairs

AMANDA KONTZ CARR
Legislative Officer

WILLIAM J. THORNE
Legislative Associate

BILL NO.: **HB 233**

TITLE: Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Climate, Equity, and Administrative Provisions

SPONSOR: Chairman Korman, By Request of the Critical Area Commission

COMMITTEE: Environment and Transportation

POSITION: **SUPPORT WITH AMENDMENTS**

DATE: February 7, 2024

Baltimore County **SUPPORTS WITH AMENDMENTS** House Bill 233 – Chesapeake and Atlantic Coastal Bays Critical Protection Program – Climate, Equity, and Administrative Provisions. This legislation modernizes the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program and requires the integration of climate change considerations, shoreline resilience, and environmental equity into local plans and decision-making.

The impacts of climate change, including sea level rise and higher rates of precipitation, are already being experienced by many communities in Maryland. This is especially true for communities closest to tidal waters, and historically underserved communities which often suffer from disproportionate flooding, storm surge, and inadequate infrastructure. The Critical Areas has long focused on protecting waterway health and water quality from inappropriate development. SB306 will add to the Critical Areas Program goals to build resiliency and equity at the same time. Baltimore County supports amendments proposed by the Maryland Association of Counties (MACo) that add clarity and flexibility for Counties to update their local programs.

Accordingly, Baltimore County urges a **FAVORABLE WITH AMENDMENTS** report on HB 233. For more information, please contact Jenn Aiosa, Director of Government Affairs at jaiosa@baltimorecountymd.gov.

HB0233 - Critical Area Protection Program - - NAIO

Uploaded by: Tom Ballentine

Position: FWA



February 7, 2024

The Honorable Marc Korman, Chair
House Environment and Transportation Committee
House Office Building, Room 251
6 Bladen St., Annapolis, MD 21401

Favorable w/ Amendment: HB 233 - Environment – Critical Area Protection – Climate, Equity and Administrative Provisions

Dear, Chair Korman and Committee Members:

The NAIOP Maryland Chapters, representing 700 companies involved in all aspects of commercial, industrial, and mixed-use real estate recommend the committee’s favorable w/ amendments report on HB 233.

A significant amount of existing commercial, industrial, and multifamily property in Canton, Fells Point, Harbor East, Ocean City, and port dependent facilities the City of Baltimore, and Baltimore County is in or adjacent to the Chesapeake or the Coastal Bay Critical Areas.

In these locations climate resiliency and mitigation are built into the everyday operation and future investment decisions of commercial real estate companies. Ensuring that construction and reconstruction in flood hazard areas adapts to changing conditions is a critical component of protecting public and private assets for the long-term. Critical Area requirements, higher flood elevations established by local governments, FEMA floodplain regulations, stormwater management, building code provisions for flood hazard areas, as well as insurance requirements are influential to adapting buildings to changing conditions.

HB 233 requires that local governments incorporate new provisions related to climate adaptation and social equity into Critical Area programs. These are inarguably laudable and important objectives that will address important needs. It is encouraging and appropriate that HB 233 directs that the nature of these new initiatives be evaluated and implemented at the local level within the existing programmatic framework. Coordination between Critical Areas, floodplain, building codes and other complimentary programs is essential to provide regulated entities with consistent standards, policy objectives that are in alignment and appropriate levels of administrative support.

Implementing the bill’s broad objectives should include evaluation of the tools available to forecast future climate conditions and assess current social and environmental justice conditions. We have previously written to the committee expressing concerns about the use of environmental mapping tools that were originally developed for higher level planning purposes, as the basis for regulatory decisions on a small scale.

One concern we have discussed with the Critical Areas Commission Chair is the proposal to strike, “wherever possible” on page 6, line 12. Removing this language from the General Assembly’s findings

and declarations implies that as a policy matter, the 100-foot buffer must be maintained in every instance. While this is properly a high priority of the program, it is not always possible, particularly in the Intensely Developed Area and the language does not differentiate between buffer and modified buffer areas. We request that “wherever possible” be retained.

NAIOP respectfully recommends your favorable w/ amendment report on HB 233.

Sincerely,



Tom Ballentine, Vice President for Policy
NAIOP Maryland Chapters -*The Association for Commercial Real Estate*

cc: House Environment and Transportation Committee Members
Nick Manis – Manis, Canning Assoc.