
January 21, 2025

The Honorable Brian Feldman
Chair, Education, Energy, and the Environment Committee
Hearing Room 2, West Miller Senate Miller Office Building
Annapolis, MD 21401

RE: Letter of Information – SB 42 – Environment – Interjurisdictional Watersheds – Flood Management

Dear Chair Feldman and Committee Members:

The Maryland Department of Transportation (MDOT) offers the following Letter of Information for the Committee’s consideration of Senate Bill 42.

SB 42 requires the Maryland Department of the Environment (MDE) to designate the watersheds of Carroll Creek in Frederick City and Frederick County, Gwynns Falls and Jones Falls in Baltimore City and Baltimore County, and Herring Run, including the Herring Run Stream in Baltimore City and Baltimore County and all of their headwaters and tributaries as interjurisdictional flood hazard watersheds.

Per MD Environment Code § 5-503 (c)(1), in interjurisdictional waterways, any impoundment proposal is subject to review and approval by the MDE for standards relating to safety and flood control. This means that any impoundment of water adjacent to a state highway, such as a stormwater management facility, would be subject to the review of the Maryland Department of the Environment Dam Safety Division. The Federal Highway Administration (FHWA) has indicated, and recently reaffirmed, that if a State Highway Administration (SHA) project is seeking approval from the MDE Dam Safety Division, elements of the project subject to MDE’s review will not be eligible for reimbursement of federal funding. This, in turn, would require the State to backfill these projects exclusively with state dollars, reducing overall funds for capital projects statewide and the department’s ability to further leverage federal funds. SB 42 would increase the number of interjurisdictional waterways that may be adjacent to state highways, which would further restrict SHA’s ability to recover federal funds for certain parts of a roadway improvement project. This comes at a time when state dollars for transportation are limited.

Senate Bill 42 would also impact existing permit processes and storm water management (SWM) requirements. It is not clear from the bill language if projects previously approved under the National Environmental Policy Act (NEPA) or previously approved permits would be exempt from the provisions of the proposed bill language. If these existing approvals were compromised, SHA would incur costs and project delays to update the planning documents and permits to the new requirements.

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The Maryland Department of Transportation respectfully requests the Committee consider this information during its deliberation of Senate Bill 42.

Respectfully submitted,

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