

February 17, 2025

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

RE: MBIA Letter of Opposition to HB 878 – Department of the Environment – Water Resources – Protection of Vernal Pools (Vernal Pool Wetlands Protection Act of 2025)

Dear Chairman Korman,

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding HB 878, *Department of the Environment – Water Resources – Protection of Vernal Pools (Vernal Pool Wetlands Protection Act of 2025)*. MBIA opposes this Act in its current version due to its lack of definitional clarity, redundancy with existing environmental protections, and implementation challenges.

We continue to have significant concerns with the Vernal Pool Wetlands Protection Act's effort to define "Vernal Pools." As with the previous version of this legislation (HB 729), this bill defines a vernal pool using broad language and seasonal dependence.

One of the fundamental issues with HB 878 is that the defining characteristics of a vernal pool such as temporary surface water presence, water level fluctuations, and habitat for obligate or facultative species can only be verified at specific times of the year. Because these pools are inherently seasonal, their defining features are transient and influenced by annual variations in rainfall, temperature, and other environmental factors. This variability makes it difficult to establish a consistent and sound approach to identifying and mapping vernal pools.

Without a year-round, reliable method for verification, regulatory enforcement will become unpredictable, leading to potential disputes over which features should receive protection and which defining characteristic takes precedence over another. Because of this, inconsistent identification could result in misclassification, either leaving critical ecosystems unprotected or imposing unnecessary restrictions on areas that do not function as vernal pools in a given year.

The lack of clarity on what protections will take effect on October 1, 2025, creates uncertainty for landowners, developers, and local governments, making compliance planning difficult and potentially costly. Without a defined framework of protections, regulations risk being either overly restrictive, or too vague to provide meaningful environmental benefits. Clear guidelines are essential to ensure that proposed protections are thoroughly vetted, scientifically supported, and clearly understood by all stakeholders before implementation, allowing for effective conservation while ensuring responsible land use planning.

HB 878 introduces the request for adoption of additional protections that may be unnecessary given Maryland's existing environmental regulations. The State's Nontidal Wetlands Protection Act currently provides comprehensive safeguards for isolated nontidal wetlands, which encompass vernal pools. Under existing law, Maryland has the authority to expand wetland buffers from 25 feet to 100 feet due to the distinct ecological and geomorphological characteristics of the existing landscape, including adjacent areas containing steep slopes or highly erodible soils, and Outstanding National Resource Waters (ONRW), ensuring adequate protection in ecologically sensitive areas. As before, this bill is not supported by peer-reviewed, ecological scientific evidence that expanding Maryland's existing vernal pool 25-foot wetland buffer offers any greater ecological benefit to vernal pool wetland ecosystems.

For these reasons, MBIA respectfully urges the Committee to give this measure an unfavorable report. 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 House Environment & Transportation Committee