



# CHESAPEAKE BAY FOUNDATION

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## Senate Bill 368

### Calvert and St. Mary's Counties - Living Shorelines and Nonstructural Shoreline Stabilization Measures

**Date:** February 10, 2026

**To:** Education, Energy and the Environment Committee

**Position:** UNFAVORABLE

**From:** Matt Stegman,  
MD Staff Attorney

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Chesapeake Bay Foundation (CBF) **OPPOSES Senate Bill 368**, which would exempt properties in Calvert and St. Mary's Counties from Maryland's successful landmark Living Shorelines Protection Act and move permitting authority for shoreline stabilization measures away from the Maryland Department of the Environment and invest the local Soil & Water Conservation Districts with the power to review and grant living shoreline waivers.

#### **State Law Requires Primary Consideration for Living Shorelines Where Appropriate:**

State law requires waterfront property owners to make improvements to their shorelines against erosion using living, or nonstructural, stabilization methods, such as marsh creation. Living shorelines incorporate vegetation and living materials, along with natural structures such as rock sills or oyster reefs. They provide habitat for fish, crabs, marine birds, and other marine wildlife. Grasses and other aquatic vegetation also filter runoff before it enters the Bay. Additionally, living shorelines often, depending on the wave energy environment of a specific site, cost significantly less for property owners to maintain than armored alternatives over their lifetime. With these benefits in mind, in 2008 the legislature passed the Living Shoreline Protection Act of 2008.<sup>1</sup> to make living shorelines the preferred method to control shoreline erosion.

However, living shorelines are not the right solutions in all circumstances and we have allowed the Maryland Department of the Environment (MDE) to provide waivers to property owners in two circumstances: (1) a property is located in an area MDE has mapped as being inappropriate for a living shoreline, or (2) where an individual property owner demonstrates to MDE that their property is not appropriate for a living shoreline. A property may not be appropriate for a living shoreline for any number of reasons, including – but not limited to – the depth of the water, slope of the shoreline, or wave energy.

#### **Local SCDs Are Less Equipped Than Statewide Regulators to Consistently Evaluate Waiver Requests:**

SB 368 shifts the responsibility of reviewing shoreline waiver requests to the local soil conservation districts (SCD) in Calvert and St. Mary's counties. Far from providing objectivity and certainty for contractors and property owners, this change is likely to create an inconsistent, and potentially arbitrary, process. While current staff at Calvert and St. Mary's counties SCDs may or may not have the expertise necessary to assess the feasibility of a living shoreline or a nonstructural shoreline at a given property in their county, there is no guarantee that future staff will as this responsibility is generally outside the charge of an SCD. SCD staff,

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<sup>1</sup> [2008 Md. Laws, Chap. 304](#)

funded by the Maryland Department of Agriculture, are meant to be knowledgeable on a wide variety of best management practices for farmers. On the other hand, Maryland Department of Natural Resources (DNR) and Maryland Department of the Environment (MDE) are the legislatively-mandated authorities to regulate shoreline stabilization throughout the state and maintain permanent staff to carry out those functions. It makes sense for waiver requests to continue to be submitted to MDE because they will, in perpetuity, be more likely to have shoreline experts on staff than the SCDs.

**SB 368 Directs SCDs to Make Decisions with Bay-Wide Impacts:**

SB 368 would allow SCDs to take several actions related to individual shoreline stabilization projects that are better considered in a broader context by experts within MDE and DNR. For example, the bill would permit an SCD to waive or reduce mitigation requirements for submerged aquatic vegetation (SAV). SAV play a vital role in the overall health of the Chesapeake Bay, and many SAV areas are still recovering from the fresh years of 2018 and 2019. The new iteration of the Chesapeake Bay Agreement sets a goal of 100,000 acres of SAV Bay-wide by 2040. With just over 83,000 acres of SAV Bay-wide in 2024 (the most recent numbers), the cumulative impacts of skipping mitigation across the Bay are too great. Again, the authority to waive or reduce mitigation best lies with the state's experts, who can take a holistic view of our progress towards SAV goals.

Additionally, the bill gives SCDs the authority to establish Time of year restrictions (TOYR), which are meant to be protective of fragile species, such as migratory fish, certain waterfowl, and other. Allowing SCDs the sole authority to impose TOYR on living shoreline projects is a) confusing for contractors who may have to operate by two sets of rules, depending on which county they are working in and b) potentially detrimental to the resources that the TOYR are meant to protect. Additionally, some TOYRs are set by Federal law or regulation, so it is unclear if an SCD *could* even make this determination.

**CBF is Working Constructively with Shoreline Contractors to Improve the Waiver Process:**

CBF has been before this Committee several times this term to advocate for legislation that adds clarity to the waiver process and provides financial assistance for landowners who – either by choice or because the law requires it – opt to pursue a living shoreline.<sup>2</sup> In the course of advocating for these bills, we became aware of frustrations experienced by some of the contractors and property owners doing shoreline stabilization work and navigating the living shoreline waiver process. During the Fall of 2025, CBF worked with partners at the Chesapeake Bay Trust and representatives from the contractor community to have a series of informal discussions to identify common areas of concern where we could advocate together for a fairer, clearer, more objective waiver process. Some of those discussions are reflected in this bill and ideas we could potentially support, but we had not yet reached a place of consensus. CBF is committed to continuing these conversations at the appropriate time.

For more information, please contact Matt Stegman, Maryland Staff Attorney, at [mstegman@cbf.org](mailto:mstegman@cbf.org).

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<sup>2</sup> See, eg, SB 546 (2024) and SB 417 (2023).