



Wes Moore, Governor
Aruna Miller, Lt. Governor
Josh Kurtz, Secretary
David Goshorn, Deputy Secretary

February 10, 2026

BILL NUMBER: SENATE BILL 368

SHORT TITLE: CALVERT AND ST. MARY'S COUNTIES - LIVING SHORELINES AND NONSTRUCTURAL SHORELINE STABILIZATION MEASURES

DEPARTMENT'S POSITION: OPPOSE

EXPLANATION OF DEPARTMENT'S POSITION

SB 368 would amend the Living Shoreline Act to create a special exemption for Calvert and St. Mary's Counties regarding the living shoreline permitting process. Within these counties, the local Soil Conservation Districts (SCD) would have permitting authority and oversight over the living shoreline waiver process, and would remove requirements to consult the Department of Natural Resources on certain restrictions.

Under current law, DNR subject matter experts provide review and recommendations on shoreline erosion control projects to the Maryland Department of the Environment (MDE) during the permit review process. The bill does not require the SCDs to consult with DNR, allowing them to make decisions, such as waiving mitigation requirements and Time of Year restrictions, without input from the Department's subject matter experts on how the project will impact the natural resources the Department is charged with protecting. The department has the following concerns with this proposed policy shift:

(1) Conflict with Time of Year Waivers on Submerged Aquatic Vegetation (SAV) and Waterfowl Concentration Areas:

This bill allows SCDs to waive or alter Time of Year restrictions that are intended to protect natural resources, which are vitally important to the restoration and ecology of the Chesapeake Bay, including SAV and Waterfowl Concentration Areas. The purpose of Time of Year restrictions is to protect these resources when they are most vulnerable and to allow projects to take place during a time of year when the chance of ecological damage is most reduced. Allowing SCDs to waive or alter established Time of Year restrictions in Calvert and St. Mary's Counties removes an important regulatory tool from the department and leads to unnecessary confusion and inconsistency of practices in other Maryland counties.

(2) Conflict with Shellfish Provisions that may undermine Aquaculture markets:

The proposed definition for living shoreline adds shellfish, in contrast to current law. This definition creates inconsistencies with how DNR regulates shellfish, particularly given the Department would not be included in the review or permitting a living shoreline. The Department closely regulates shells and

Contact: Lydia McPherson, Director, Legislative and Constituent Services
lydia.mcpherson1@maryland.gov ♦ 410-260-8113 (office) ♦ 443-875-7785 (cell)

shellfish in order to prevent accidental introduction of disease. Without Department input in the living shoreline process, there could be unintended negative impacts on oyster restoration efforts.

(3) Conflict with Incidental Taking of Rare, Threatened and Endangered (RTE) Species:

This bill as written allows Soil Conservation Districts to bypass the Department and/or to make decisions on Time of Year restrictions and habitat modifications. This appears to be in direct conflict DNR's role in permitting incidental taking of specific species.

(4) Conflict with State laws and regulations requiring mitigation:

This legislation provides SCDs with the authority to waive or reduce mitigation requirements. Mitigation, currently, is imposed by the Board of Public Works and cannot be waived. This legislation could result in more tidal wetland losses throughout the Chesapeake Bay and tidal tributaries. It is also not clear how broadly an SCD could apply this waiver and if it could waive mitigation requirements in other state laws, such as incidental taking of the Puritan tiger beetle or Critical Area mitigation requirements.

BACKGROUND INFORMATION

SB 368 proposes to amend certain portions of the 2008 Living Shoreline Act, codified at § 16-201(c) of the Environment Article, which governs the process for riparian landowners to protect their shorelines from erosion by constructing improvements along the shoreline. Current law requires a homeowner to construct a nonstructural shoreline erosion control measure – i.e., a living shoreline, unless a waiver is granted.

BILL EXPLANATION

SB 368 creates a special exemption regarding permits for living shorelines and nonstructural shoreline stabilization measures in two counties: Calvert and St. Mary's. The exemption shifts the authority from the State to the local soil conservation districts (SCDs) to: (1) determine when a living shoreline or nonstructural shoreline stabilization measure is required; (2) waive or reduce mitigation requirements for a living shorelines or nonstructural shoreline stabilization measure; and (3) imposing time of year restrictions for the construction of a living shoreline or nonstructural shoreline stabilization measure. This bill eliminates the Department's role in reviewing applications for shoreline erosion control projects for the counties covered under this exemption.