

March 3, 2026

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

RE: Letter of Opposition – SB 688 – Stream and Floodplain Restoration Projects – Requirements and Limitations

Dear Chair Feldman and Committee Members:

The Maryland Department of Transportation (MDOT) opposes Senate Bill 688 and offers the following information for the Committee’s consideration.

SB 688 restricts the Maryland Department of the Environment (MDE) from approving stream or floodplain restoration projects for compensatory mitigation purposes, imposes new stormwater management plan requirements that include stream-related projects, and limits local government approvals of such plans. These provisions would have significant consequences for the State Highway Administration (SHA) and are summarized below.

Wetland and Waterway Permitting

The US Environmental Protection Agency (EPA) indicates “A large amount of funding for stream restoration is related to compensatory mitigation required as part of Clean Water Act, Section 404 permits issued by the US Army Corps of Engineers. As part of a Section 404 permit authorizing impacts to streams in one location, the Section 404 permit may require the permittee to conduct stream restoration or enhancement activities in a nearby stream to compensate or offset the loss of stream functions at the permitted impact site.”

SB 668 would effectively prohibit SHA from obtaining wetland and waterway permits for projects requiring stream mitigation, as it would be impossible to simultaneously satisfy both State and federal compensatory mitigation requirements. Stream mitigation is a science-based solution for effectively reducing sediment loads to provide compensatory mitigation. Any SHA project triggering stream mitigation thresholds could not be constructed without reducing impacts below the stream mitigation threshold, resulting in the cancellation or delay of highway safety and critical infrastructure projects currently programmed in the Consolidated Transportation Program.

Municipal Separate Storm Sewer System (MS4) Permit Compliance

SHA’s current MS4 permit (No. 24-DP-3313 MD0068276) requires restoration of impervious surface acres across 15 Maryland counties, with 4,092 acres to be completed by August 21, 2030.¹ Stream restoration is a critical and approved strategy for meeting this obligation – particularly where project rights of way limit other options.

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Among other requirements, by excluding cost from the definition of “infeasible,” SB 688 would effectively eliminate SHA’s ability to earn MS4 credit for stream restoration projects, forcing a costly shift to alternative Best Management Practice types. SHA estimates this transition would increase Transportation Trust Fund expenditures by \$20 million if stream restoration is shifted to outfall stabilization, and upward of \$640 million if stream restoration is shifted to stormwater management over the current permit cycle. That’s up to \$160 million per year – not including right of way acquisition costs.

The MDOT’s capital program is already fully subscribed; therefore, to account for the increased costs associated with the limitations and requirements proposed by SB 688, SHA would have to redirect funding from other project commitments to these stormwater projects. This would significantly reduce the number of critical safety and infrastructure investments in SHA’s capital program.

The Maryland Department of Transportation respectfully requests the Committee consider this information during its deliberation of Senate Bill 688 and issue the bill an unfavorable report.

Respectfully submitted,

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ⁱ https://mde.maryland.gov/programs/water/StormwaterManagementProgram/pages/storm_gen_permit.aspx