

Committee: Senate Education, Energy and the Environment
Legislation: SB 688
Position: OPPOSE
Date: March 3, 2026

Dear Chair Feldman, Vice Chair Kagan, and Members of the Committee:

Thank you for the opportunity to testify in opposition to SB688. Notwithstanding the well-intentioned attempt to encourage ecologically optimal restoration projects of the bill, the Severn River Association believes that reasonable safeguards currently exist to for stream project regulatory review, and that this bill:

- Is vague and would lead to misinterpretations and inconsistent enforcement;
- Would unreasonably curtail beneficial restoration practices; and
- Would make compliance with federal permitting mandates difficult if not impossible.

For these reasons, we request an unfavorable report.

1. Stream Restoration projects are already subject to many of the bill's review requirements

Many of the well intentioned and reasonable regulatory reviews called for in the bill are already in place. As noted in Appendix H of MDE's Accounting for Stormwater Wasteload Allocations and Impervious Acres Treated¹:

- a. Stream restoration projects that are primarily designed to protect public infrastructure by bank armoring or rip rap do not qualify for MS4 credit;
- b. Stream reaches proposed for restoration must be greater than 100 feet in length and be actively enlarging or degrading in response to upstream development or adjustment to previous disturbances in the watershed;
- c. A qualifying project must meet certain presumptive criteria to ensure that high functioning portions of the urban stream corridor are not used for in-stream stormwater treatment, including one or more of:
 - i. Geomorphic evidence of active stream degradation,
 - ii. An IBI (i.e., index of biological integrity) of fair or worse
 - iii. Hydrologic evidence of floodplain disconnection
 - iv. Evidence of significant depth of legacy sediment in the project reach;
- d. Before credits are granted, stream restoration projects will need to meet post-construction monitoring requirements; and
- e. A qualifying project must demonstrate that it will maintain or expand existing riparian vegetation in the stream corridor, and compensate for any project related riparian losses in project work areas.

These provisions are designed to locate stream restoration projects in places that are actively eroding and already degraded, as well as establishing procedures to demonstrate efficacy and prevent

¹ [MS4 Accounting Guidance FINAL 11 05 2021.pdf](#)

generation of permit credits for non-restorative work, and that any ecological losses resulting from the project are mitigated.

2. The bill suffers from critically vague drafting

SB688 intends to prohibit the use of “heavy equipment” in stream projects, but does not define this term, which could lead to absurd interpretations and arbitrary and inconsistent bureaucratic review processes. Exactly what type of equipment is too heavy? Would working within the stream channel be acceptable if an ATV were used to carry shovels to the work site? What about a Jeep? A mini-excavator? Does it follow from this prohibition that ten thousand laborers with hand tools trampling through the stream channel and disrupting the stream for ten times as long would be permissible?

3. Stream restoration is a critical part of Chesapeake Bay restoration efforts

Stream restoration projects are a critical piece of the overall Chesapeake Bay restoration effort. As the watershed is developed, more roads and buildings introduce greater and greater amounts of impervious surfaces to the watersheds of our creeks and streams. Consequently, the accelerated stormwater running off of these impervious surfaces carves streambeds deeper and deeper into their floodplains. This phenomenon of stream incision makes the streams not just vectors of pollution from upstream, but *sources* of pollution because heavy rain scours the streambanks away, eroding the stream deeper into the floodplain and delivering sediments and nutrients downstream. This phenomenon is especially pronounced in more heavily developed watersheds.

Stream restoration arrests this stream incision and erosion, and reconnects streams to their floodplains, allowing stormwater to spread out, slow down, and soak into the ground. In the process, restoration projects replenish wetland vegetation, create habitat for aquatic life, recharge the groundwater table, and deliver cooler, cleaner water to our rivers and the Bay. Additional co-benefits often include the eradication or reduction of invasive plant species, extensive planting of native species of plants, and creation or rehabilitation of walking trails to enhance public access and enjoyment of the restored streams.

4. The bill would hamstring effective restoration work

The bill would prevent permitting of stream restoration projects to meet requirements imposed by the Chesapeake Bay Total Maximum Daily Load (TMDL) or Municipal Separate Storm Sewer System (MS4) permits. Both the TMDL and MS4 programs are critical strategic pieces of the federal Clean Water Act and jurisdictions throughout the State rely on stream restoration practices (along with a suite of other restoration practices) to meet their permit requirements. The Severn River Association recognizes and appreciates that upland stormwater best management practices (BMPs) are another vital tool to be pursued to help improve the health of downstream waterways. However, as noted above, upland practices cannot fix streams that have been seriously degraded by decades or centuries of land uses that have rendered them sources of pollution in addition to vectors of pollution from these upland areas.

Moreover, the bill prohibits considerations of costs or property ownership when assessing the feasibility of implementing these hoped-for upland BMPs. This arbitrary proscription indicates a complete lack of experience with taking any type of restoration project from a mere idea to an actual investment in clean water. State agencies, local jurisdictions, and nonprofit partners that implement restoration practices of all types understand that one cannot build a restoration BMP without landowner permission. We understand that cost-efficiency matters when strategizing about how to restore a natural resource. Pretending that cost-efficiency and the legal right to perform work are irrelevant considerations will do nothing to help improve the health of the Chesapeake Bay or its rivers and streams and would instead stymie the efforts of countless environmental professionals who make restoring this resource their life's work.

Conclusion

We understand the intent behind this bill is to eliminate the type of net negative projects repeatedly pointed to by advocates against stream restoration, and we appreciate the benefits of upland BMPs for delivering clean water. However, SB688 is an overly blunt instrument to accomplish what is a technically nuanced objective better managed by the many expert panels convened by the Chesapeake Bay Program, the local civil servants who have implemented restoration projects within their jurisdictions for decades, and the State's environmental regulatory agencies, all of whom recognize that the vast majority of stream restoration projects deliver a net environmental benefit and are a critical part of the overall Chesapeake Bay restoration strategy. SB688 would rob practitioners of proven techniques for improving water quality, cripple the ability of local governments to meet federal permit requirements, and ensure that massive amounts of pollution from degraded streams continues to flush into the Bay and its rivers.

For these reasons, we respectfully urge the Committee to issue an unfavorable report on SB688.

Respectfully submitted,



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