



**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

February 10, 2026

BILL NUMBER: SENATE BILL 368 – First Reader

SHORT TITLE: Calvert and St. Mary's Counties - Living Shorelines and Nonstructural Shoreline Stabilization Measures

COMMISSION'S POSITION: OPPOSE

EXPLANATION OF COMMISSION'S POSITION

The Commission opposes SB 368 and requests an unfavorable report from the Committee. The bill removes Commission staff and local Critical Area planners from the living shoreline review process, with the following effects:

- The bill would negatively affect the ability for consistent application of the State's oversight of the portion of the Critical Area located below mean high water, where shoreline protection activities are generally located;
- The bill would negatively affect the ability of the Critical Area Commission and local governments to provide consistent oversight of impacts above mean high water to the Critical Area buffer that occur due to certain shoreline protection applications; and
- The bill would create inconsistent application of required mitigation measures across the 64 Critical Area jurisdictions.

Consistent application is essential since many shoreline protection measures affect both the land above mean high water, including the 100-foot Critical Area buffer, and the area below mean high water. This land and water interface is a key transition zone that supports many habitats and provides water quality benefits. Shore erosion control projects have the potential to cause forest clearing, habitat loss, compaction, and other impacts to the buffer due to construction and maintenance of the shoreline.

Projects that affect the 100-foot buffer require close collaboration between the noted agencies to ensure the appropriate shore erosion control method is used, that mitigation and impacts are minimized, and that the project will result in the best application for the site. Commission staff and local Critical Area planners have extensive expertise in identifying, managing, and minimizing these impacts, which includes collaboration with the Department of the Environment (MDE), the Department of Natural Resources (DNR), local governments, property owners, and shore erosion control contractors.

BACKGROUND INFORMATION

The Critical Area Law was enacted in 1984 to establish a Resource Protection Program for the Chesapeake Bay and its tributaries by fostering more sensitive development activity for certain shoreline areas to minimize damage to water quality and natural habitats. The General Assembly established the Critical Area program to be implemented on a cooperative basis between state and local governments, with local governments implementing their programs in a “consistent, uniform, and equitable manner” subject to state criteria and oversight.ⁱ The law also established special protections and oversight for the 100-foot Critical Area buffer, the shoreline area immediately upland of mean high water.

Additionally, in 2008 the General Assembly passed HB 973, Chapter 304 of the 2008 Laws of Maryland, namely the Living Shoreline Protection Act of 2008. This bill established the basis for encouraging the application of living shorelines where appropriate and permitted through the Maryland Department of the Environment with input from the Department of Natural Resources and the Critical Area Commission. In addition, local governments, who also permit shoreline protection measures, could be assured of an ability to review impacts within the Critical Area’s Buffer prior to MDE’s authorization so that their comments and concerns could be incorporated into the design.

The Critical Area Commission worked with MDE, DNR, local governments, and shore erosion contractors to develop simplified forms to assess Buffer impacts and calculate mitigation. These forms are actively used across the Critical Area and provide flexibility in mitigation assessments based on the type of shore erosion control practice proposed and on clearing impacts.

BILL EXPLANATION

Under §8-1808.11 of the Natural Resources Article, Commission staff review living shoreline and nonstructural shoreline stabilization measures on a regular basis with MDE and DNR. This arrangement also includes local Critical Area plan reviewers and ensures consistent application of the State’s regulatory and Statutory requirements. SB 368 would remove this provision from the Critical Area statute. This change does not provide clarity on how collaboration would occur or if coordination would be permitted at all. The bill would also grant unilateral authority to the local Soil Conservation District to modify or waive Critical Area requirements.

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ⁱ NR §8-1801(b)(2)