

SB178.SUPPORT.ShoreRivers .pdf

Uploaded by: Annie Richards

Position: FAV



Testimony in SUPPORT of Senate Bill 178 - Chesapeake and Atlantic Coastal Bays Critical Area Protection Program - Standards and Procedures

1/23/26

Chair Feldman and Members of the Committee,

ShoreRivers respectfully submits this testimony in support of Senate Bill 178, which clarifies the standards and procedures governing Maryland's Chesapeake and Atlantic Coastal Bays Critical Area Protection Program. **This is a thoughtful, straightforward bill that modernizes the statute to better reflect the regulations, practices, and responsibilities currently being undertaken by the Critical Area Commission, while reinforcing the program's core mission of protecting Maryland's most sensitive shoreline lands and waters.**

The Critical Area is one of Maryland's most important environmental protections. The lands within 1,000 feet of tidal waters play an outsized role in safeguarding water quality, buffering communities from flooding and erosion, filtering pollutants, providing habitat for fish and wildlife, and sustaining the natural character and economic vitality of local communities. SB178 strengthens the administration of the Critical Area program in several important and practical ways. SB178:

- Updates the commission's authority to adopt regulations, extends the comprehensive review cycle for local critical area programs from six to 10 years to better align with real-world planning timelines, and clarifies procedures for approving program amendments and refinements.
- Refines local standards for growth allocation by requiring that new intensely developed and limited development areas be contiguous and adjoining to existing development.
- Clarifies the process for correcting historic critical area mapping mistakes, ensuring that mapping changes are grounded in objective criteria, consistent methodology, and the goals of the Critical Area law, and
- Modernizes enforcement tools related to illegal tree clearing by allowing a broader range of licensed or otherwise qualified professionals to prepare and oversee replanting plans, and by directing damages to local jurisdictions.

Waterkeepers, through routine monitoring of the waterways we work to protect and restore, are often on the frontlines to witness Critical Area violations. We strive to work collaboratively with our local jurisdictions and the Critical Area Commission to resolve the violations and ensure continued stewardship of these sensitive shoreline resources. Through these interactions, ShoreRivers has experienced firsthand the Critical Area Commission's commitment to working collaboratively with local counties to implement and improve the program. This bill reflects that cooperative approach. It does not represent a major policy shift; rather, it aligns Maryland law more closely with how the program is already being responsibly administered on the ground. **For these reasons, ShoreRivers urges a favorable report on Senate Bill 178.**

Sincerely,

Annie Richards, Chester Riverkeeper on behalf of:

ShoreRivers

Scott Budden, Executive Director

Annie Richards, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper

Ben Ford, Miles Wye Riverkeeper | Zack Kelleher, Sassafras Riverkeeper

SB 178 Bill Report - 1 27 26.pdf

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Position: FAV

Wes Moore
Governor

Aruna Miller
Lt. Governor



Erik Fisher
Chair
Nick Kelly
Executive Director

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

January 27, 2026

BILL NUMBER: SENATE BILL 178 – First Reader

**SHORT TITLE: Chesapeake and Atlantic Coastal Bays Critical Area Protection Program
– Standards and Procedures**

COMMISSION’S POSITION: FAVORABLE

EXPLANATION OF COMMISSION’S POSITION

The Commission supports SB 178 and requests a favorable report from the Committee. We requested SB 178 to correct minor conflicts within the Critical Area law that have arisen due to recent updates to our law and other statutes. The bill also clarifies several ambiguous provisions, based on established practice, to improve the predictability and efficiency of the development review process.

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.¹

Accommodating sustainable, resilient, and equitable housing and land development is a primary goal of the Critical Area law. Most new housing and development in the Critical Area occurs in pre-designated locations that have been mapped to accommodate this growth. When more land is needed, Critical Area law directs that jurisdictions use growth allocation (the Critical Area equivalent to an “upzoning”) to accommodate additional housing and land development. The law requires growth allocations to be located adjacent to these pre-designated areas, but also provides a method for approving growth allocations that are not adjacent. Many jurisdictions have adopted non-adjacency standards in their Critical Area programs.

BILL EXPLANATION

SB 178 would:

- Clarify that an affirmative vote of the Critical Area Commission is required to promulgate regulations.
- Eliminate an outdated reference to a 6-year review of local Critical Area programs, as the requirement was changed to 10 years under legislation that was passed in 2024.
- Replaces the term “adjacent” to eliminate ambiguity associated with the locational standard for growth allocations. The new terms, which are based on current practice, will clarify which pathway a development project is required to pursue.
- Affirm that enforcement fines are paid to the local jurisdiction, not the Department of Natural Resources.
- Reflect the correct establishment date of the Atlantic Coastal Bays Critical Area program to ensure accurate processing of mapping mistake requests.
- Offer local jurisdictions the ability to request an extension for processing program refinements, in addition to the existing allowance for project amendments.
- Match the existing 130-day maximum timeframe for the processing of amendments if the Chair’s processing determination is overridden by the Commission.
- Align the Critical Area law with the more permissive provision in the Forest Conservation Act establishing who can prepare a planting plan for the cutting or clearing of trees.

Contact: Lisa Hoerger at (410) 271-6522 or by email at lisa.hoerger@maryland.gov

¹ NR §8-1801(b)(2)

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Uploaded by: Erik Fisher

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¹ NR §8-1801(b)(2)

SB178 - CBF - FAV.pdf

Uploaded by: Matt Stegman

Position: FAV



CHESAPEAKE BAY FOUNDATION

Senate Bill 178

Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Standards and Procedures

Date: January 27, 2026

Position: Favorable

To: Education, Energy, and the Environment Committee

From: Alan Girard, Director of Advocacy

The Chesapeake Bay Foundation (CBF) **SUPPORTS** SB 178 which alters and updates the standards and procedures governing the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program (the Critical Area Program).

Since 1984, the Critical Area Program has minimized the discharge of pollutants from human activities within 1,000 feet of tidal waters to conserve vital fish, wildlife, and plant habitats. By fostering sensitive land-use policies, it has accommodated future population growth while reducing the long-term environmental impacts of human movement and development on these fragile ecosystems.

In recent years, concerns have grown about the program's efficiency, relative to adequately protecting water quality and wildlife habitat without excessive regulatory burden. SB 178 responds to these concerns by clarifying existing processes and terms that have caused delays in administering critical area applications. These include addressing ambiguity around what it means to locate one development area "adjacent" to another, the uncertainty around which has been the source of lengthy administrative and judicial proceedings that cost the State, residents, and businesses precious time and resources to resolve.

The bill also clarifies that in the Coastal Bays, the land uses and natural features in place as of 2002 when this region was first included in the program are among the criteria with which a critical area designation may be changed, as opposed to those in place since 1985 when the criteria for changes for the rest of the state were first established.

These and other modest modifications increase program efficiency, reduce impacts to government, citizens, and companies, and do not substantially alter any public or private rights or responsibilities.

CBF urges the Committee's FAVORABLE report on SB 178. For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403

The Chesapeake Bay Foundation (CBF) is a non-profit environmental education and advocacy organization dedicated to the restoration and protection of the Chesapeake Bay. With over 200,000 members and e-subscribers, including 71,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.

Support

Uploaded by: Stacey Volodin

Position: FAV



Formerly called the Humane
Society of the United States and
Humane Society International

January 27, 2026

To: The Senate Education, Energy, and the Environment Committee
Re: SB 178, Chesapeake and Atlantic Coastal Bays Critical Area Protection Program
- Standards and Procedures
Position: Support

Chair Feldman, Vice Chair Kagan, and Members of the Education, Energy, and the Environment Committee:

On behalf of our Maryland members and supporters, Humane World for Animals offers its support for SB 178 to update standards and procedures governing the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program.

Maryland's Chesapeake Bay and Atlantic Coastal Bays provide vital resources for their human inhabitants, as well as essential habitat for a magnificent array of wildlife.

Habitat loss and fragmentation pose an immediate and long-term threat to countless wildlife species. The U.S. human population is expected to grow to nearly 400 million by 2050, meaning more development, more deforestation and habitat degradation. A new long-term study finds that 3 billion birds, even common birds, have vanished in the U.S. and Canada.¹

In response, wildlife management professionals and scientists across the U.S. stress the importance of conserving and enhancing crucial habitats to ensure the continued health and wellbeing of wildlife.

Because of this, Humane World for Animals reiterates support for SB 178 to support the important work of the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program. Thank you.

Sincerely,

Stacey Volodin
Maryland State Director
svolodin@humanesociety.org

¹ Rosenberg KV, Dokter AM, Blancher PJ, Sauer JR, Smith AC, Smith PA, Stanton JC, Panjabi A, Helft L, Parr M, Marra PP. Decline of the North American avifauna. *Science*. 2019 Oct 4;366(6461):120-124. doi: 10.1126/science.aaw1313. Epub 2019 Sep 19. PMID: 31604313.

SB0178-EEE_MACo_OPP.pdf

Uploaded by: Dominic Butchko

Position: UNF



Senate Bill 178

Chesapeake and Atlantic Coastal Bays Critical Area Protection Program - Standards and Procedures

MACo Position: **OPPOSE**

To: Education, Energy, and the Environment
Committee

Date: January 27, 2026

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **OPPOSES** SB 178. This bill makes two significant changes to the Critical Area program: (1) it replaces the current, more flexible “adjacent” standard with a stricter “contiguous and adjoining” standard for certain growth allocations; and (2) in certain circumstances, it extends the time in which the Critical Area Commission may review an application. Taken together, these changes would reduce county flexibility and add uncertainty—further straining counties’ ability to support and deliver affordable housing.

Maryland is facing a historic housing shortage. In 2024 and 2025, the General Assembly enacted a substantial slate of housing legislation, and in 2026 both the Governor and presiding officers have signaled affordability as a top priority. SB 178 runs counter to this multi-year policy direction and, if enacted, would impose constraints on counties’ ability to accommodate growth.

“Adjacent” vs. “Contiguous and Adjoining”

Under current law, certain growth allocations are evaluated using an “adjacent” standard which gives counties flexibility to site growth responsibly. In practice, parcels can be functionally connected to existing development even when separated by real-world constraints—such as geographic features. Replacing that workable standard with a rigid “contiguous and adjoining” requirement would unnecessarily disqualify otherwise appropriate areas and constrain counties’ ability to advance the State’s housing and affordability goals.

Lengthier Reviews

Additionally, SB 178 would, in certain circumstances, increase the Commission review period from 90 days to 130 days. Even when applied narrowly, extending review timelines increases project uncertainty and carrying costs—factors that can derail financing and ultimately kill housing projects. Moving in the direction of longer review periods is a step backward at a time when Maryland’s housing challenges demand greater predictability and efficiency.

Counties are engaging with the Commission to identify potential middle ground that could address these concerns. As drafted, however, SB 178 would weaken counties’ ability to deliver needed housing and affordability. Accordingly, MACo urges the Committee to issue an **UNFAVORABLE** report for **SB 178**.

MBIA Letter of Opposition SB 178.pdf

Uploaded by: Lori Graf

Position: UNF

January 23rd, 2026

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

RE: MBIA Letter of Opposition SB 178 Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Standards and Procedures

The Maryland Building Industry Association, representing 100,000 employees of the building industry across the State of Maryland, appreciates the opportunity to participate in the discussion surrounding **SB 178 Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Standards and Procedures**.

This bill updates the standards and procedures governing the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program such as the approval of regulations, local program comprehensive reviews, locational standards for growth allocation, correcting mapping mistakes, and tree replanting. MBIA opposes these updates, as it will constrain housing development, increase costs and create uncertainty.

Our industry is concerned that replacing the existing adjacent standard with a requirement that new intensely developed areas be contiguous and adjoining will severely limit where development projects take place. Jurisdictions within Maryland’s Critical Area Map already do not have a lot of developable land, and this provision will limit the opportunities for our industry to produce workforce and middle-income housing in those areas. With our State in a housing crisis, we need to maximize the land we left to address the 100,000-unit shortage.

The bill also extends the Commission’s deadline for making a final decision from 90 days to 130 days when the Commission overturns the Chair’s decision that a proposed change is a program refinement. When a local program change is reclassified as a full amendment, builders must wait for that amendment to be finalized before projects secure financing or move forward with permitting. While 40 days might not seem like a lot of time, the creates uncertainty and delay at an important part of the development process. The additional six-week delay increases costs such as loan interest, property taxes, and insurance, which are ultimately passed on to homebuyers.

For these reasons, MBIA respectfully requests the Committee give this measure an unfavorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the Senate Education, Energy, and the Environment Committee