

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE

Third Reader - Revised

House Bill 258

(Chair, Environment and Transportation Committee, *et al.*) (By Request - Departmental - Critical Area Commission)

Environment and Transportation

Education, Energy, and the Environment

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

This departmental bill makes clarifying and corrective changes, described below, to provisions governing the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program. The bill also requires that damages assessed by a circuit court for illegal cutting or clearing of trees in the Critical Area be paid to the applicable local jurisdiction rather than to the Department of Natural Resources (DNR).

Fiscal Summary

State Effect: The bill is not expected to directly affect State finances. DNR indicates that the bill's changes reflect current practice, including the change in the disposition of damages for illegal cutting or clearing of trees. DNR indicates that local jurisdictions currently receive any such funding, not the department.

Local Effect: The bill is not expected to directly affect local government finances.

Small Business Effect: DNR has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill makes various – mostly clarifying and corrective – changes to provisions governing the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program by:

- clarifying that the Critical Area Commission’s adoption and amendment of regulations must be accomplished by affirmative vote of the commission;
- correcting a reference to a 6-year comprehensive review of a local critical area program to instead refer to a 10-year comprehensive review, consistent with a change made under Chapter 424 of 2024 that requires a local program to review its program at least every 10 years instead of every 6 years;
- defining “adjacent” to mean, with respect to areas with different land classifications, (1) sharing a common boundary line or (2) separated by a public or private street, road, right-of-way, or utility or access easement;
- clarifying that a change to a critical area designation in the Atlantic Coastal Bays Critical Area, due to a mistake in the original designation, must be based on land uses or natural features in existence on June 1, 2002, when the critical area program was expanded to the Atlantic Coastal Bays by Chapter 433 of 2002;
- making changes to provisions governing the timing of the Critical Area Commission’s approval of local critical area program refinements (defined under current law as changes determined to be consistent with the current program or determined to not have a significant effect) and program amendments (defined under current law as a change that is not determined to be a program refinement) – one change that is clarifying and one change that makes two separate provisions establishing a timeframe for the commission to act on a program amendment consistent;
- clarifying references to professionals who may prepare, oversee, and approve plans to replant trees to remedy illegal cutting or clearing; and
- requiring that damages assessed by a circuit court for illegal cutting or clearing of trees in the Critical Area be paid to the applicable local jurisdiction rather than DNR.

Current Law/Background: Chapter 794 of 1984 established the Chesapeake Bay Critical Area Protection Program (now the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program) to minimize damage to water quality and wildlife habitat by fostering more sensitive development activity along the shoreline areas of the Chesapeake Bay and its tributaries. The goals of the program now are applicable to both the Chesapeake Bay and the Atlantic Coastal Bays (after enactment of Chapter 433) and include (1) protection of water quality; (2) conservation of habitat; (3) accommodation of future growth and development without adverse environmental impacts; (4) improvement of climate resiliency; and (5) equitable distribution of the burdens and benefits of development,

mitigation, restoration, conservation, and climate change adaptation within the Critical Area.

Chapter 794 identified the Critical Area as all land within 1,000 feet of the mean high water line of tidal waters or the landward edge of tidal wetlands and all waters of and lands under the Chesapeake Bay and its tributaries to the head of tide. In 2002, the Critical Area was expanded to include the State's coastal bays, and, in 2024, the program was modified to incorporate climate resilience, environmental justice, and equity measures. The 1984 legislation also created the Critical Area Commission within DNR, which oversees the development and implementation of local land use programs dealing with the Critical Area. Each local jurisdiction is charged with the primary responsibility for development and implementation of its own local program; that local authority, however, is subject to commission review and approval and must be consistent with the commission's regulations.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 178 (Chair, Education, Energy, and the Environment Committee)(By Request - Departmental - Critical Area Commission) - Education, Energy, and the Environment.

Information Source(s): Department of Natural Resources; Office of the Attorney General; Judiciary (Administrative Office of the Courts); cities of Havre de Grace and Salisbury; Anne Arundel, Calvert, Charles, Dorchester, Harford, Kent, Prince George's, Queen Anne's, St. Mary's, Wicomico, and Worcester counties; Department of Legislative Services

Fiscal Note History: First Reader - January 26, 2026
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Chesapeake and Atlantic Coastal Bays Critical Area Protection Program - Standards and Procedures

BILL NUMBER: HB 258

PREPARED BY: Nick Kelly, Executive Director, Critical Area Commission for the Chesapeake and Atlantic Coastal Bays

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

There will be no economic impact on Maryland small businesses. The legislation is desired to enact clarifications to the statute that reflect current practice, so there will be no increase or decrease in the costs of development associated with these statutory changes.