

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 523

(Senator M. Washington)

Education, Energy, and the Environment

Environment and Transportation

Department of Natural Resources - Water Resources - Identification of Vernal Pools

This bill requires the Department of Natural Resources (DNR), in coordination with the Maryland Department of the Environment (MDE), to create and maintain a list of “vernal pools” in the State; the bill establishes related requirements for DNR. The bill also requires MDE to designate staff to receive training in vernal pool identification and requires DNR to provide training to those staff. If, in carrying out its existing responsibilities under State law to protect and regulate the State’s nontidal wetlands, the MDE staff trained by DNR under the bill identify a location that may qualify as a vernal pool, MDE must notify DNR of the location for possible inclusion on the vernal pool list. The bill may not be construed to limit MDE’s authority to regulate vernal pools that meet the definition of nontidal wetlands under State law.

Fiscal Summary

State Effect: The bill’s requirements can be handled using existing budgeted resources. Revenues are not affected.

Local Effect: The bill is not anticipated to affect local government finances or operations.

Small Business Effect: Minimal or none.

Analysis

Bill Summary: DNR must also (1) establish criteria and procedures for identifying and including vernal pools on the list, as specified; (2) authorize the use of mapping or other scientific information to identify additional vernal pools for inclusion on the list;

(3) authorize consulting with any stakeholder group as appropriate, including MDE and the University of Maryland, to identify vernal pools for inclusion on the list; and (4) provide for publication of the list of vernal pools on its website.

“Vernal pool” means a confined depression that (1) has surface water for at least two consecutive months between November and May in a typical year; (2) experiences a decrease in water level to six inches or less between June and September in a typical year; (3) provides a persistent or breeding habitat for various animal species, including certain native amphibians and invertebrates; (4) contains less than 30% aerial cover of emergent vegetation when full; (5) is predominantly or partially shaded by woody vegetation; (6) is less than five acres in size; and (7) may have intermittent, temporary connections to other bodies of water.

Current Law: Although State law does not include provisions that specifically address vernal pools, MDE regulations define a “vernal pool” as a nontidal wetland in a confined depression that has surface water for at least two consecutive months during the growing season and (1) is free of adult fish populations; (2) provides habitat for amphibians; and (3) lacks abundant herbaceous vegetation.

State Regulation of Nontidal Wetlands

In General: A person must obtain a permit from MDE before conducting a regulated activity in nontidal wetlands or within a nontidal wetland buffer or expanded buffer. During the permit application review process, MDE works with an applicant to prevent wetland loss by requiring an evaluation of project designs that will avoid wetland impacts. Based on this evaluation of alternatives, if MDE finds that impacts are unavoidable, the applicant must utilize the project design that will minimize the impacts and provide appropriate mitigation for those impacts.

Mitigation means that an applicant must replace lost wetland acreage and function. Mitigation can be accomplished by creating new wetlands, restoring relic wetlands, enhancing degraded wetlands, purchasing credits from a mitigation bank, or by completing a combination of these options. MDE may also accept monetary compensation if it is determined that other mitigation options for nontidal wetland losses are not feasible. Any monetary compensation is paid into the Nontidal Wetland Compensation Fund.

Specified agricultural and forestry activities are exempt from nontidal wetlands approval and mitigation requirements. Further, activities in isolated nontidal wetlands that are less than one acre and have no significant plant or wildlife value are exempt from the nontidal wetlands permit requirements.

Buffer Requirements: The standard buffer for nontidal wetlands is a regulated area, 25 feet in width, surrounding a nontidal wetland, measured from the outer edge of the nontidal wetland. MDE is required to designate by regulation nontidal wetlands for which the buffer is to be expanded beyond 25 feet (but not more than 100 feet) to assure adequate protections for the nontidal wetland and associated aquatic ecosystem.

Key Definitions: A “regulated activity” means any of the following activities in a nontidal wetland or within a 25-foot buffer of the nontidal wetland: (1) the removal, excavation, or dredging of soil, sand, gravel, minerals, organic matter, or materials of any kind; (2) the changing of existing drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics; (3) the disturbance of the water level or water table by drainage, impoundment, or other means; (4) the dumping, discharging of material, or filling with material, including the driving of piles and placing of obstructions; (5) the grading or removal of material that would alter existing topography; and (6) the destruction or removal of plant life that would alter the character of a nontidal wetland. Agricultural and forestry activities are excluded from the term.

“Agricultural activity” means aquaculture and farming activities and includes (1) plowing, tillage, cropping, seeding, cultivating, and harvesting for the production of food and fiber products, and (2) the grazing of livestock. “Forestry activity” means planting, cultivating, thinning, harvesting, or any other activity undertaken to use forest resources or to improve their quality or productivity.

Additional Information

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

Designated Cross File: HB 701 (Delegate Hill, *et al.*) - Environment and Transportation.

Information Source(s): Harford, Montgomery, and Wicomico counties; City of Frostburg; Baltimore City Community College; University System of Maryland; Morgan State University; Interagency Commission on School Construction; Maryland Department of the Environment; Department of General Services; Department of Natural Resources; Board of Public Works; Maryland Department of Transportation; Maryland Stadium Authority; Department of Legislative Services

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