

**MD Catholic Conference\_FAV\_SB0026.pdf**

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ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

**February 10, 2021**

**SB 26**

**State Highway Administration - State Highways and Interstate Highways - Litter  
Collection and Mowing**

**Finance**

**Position: Support**

The Maryland Catholic Conference (“Conference”) represents the public policy interests of the three Roman Catholic (arch) dioceses serving Maryland: the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington.

Senate Bill 26 this bill requires the State Highway Administration (SHA), on a consistent and regular basis, to collect litter and mow the grass along State highways and interstate highways that it is responsible for maintaining. The bill establishes minimum frequency requirements for litter collection and mowing, depending on the season. SHA must contract with a Maryland-based company to collect litter and provide mowing services, as specified. Litter collection and mowing services provided under the bill must be considered a supplemental environmental project (SEP) for purposes of the U.S. Environmental Protection Agency’s (EPA) SEP policy.

The Conference supports environmental legislation that recognizes the integral ecosystem in which we live. In his encyclical, *On Care for Our Common Home (Laudato Si’)*, Pope Francis states that “There is a growing sensitivity to the environment and the need to protect nature, along with a growing concern, both genuine and distressing, for what is happening to our planet... Our goal is not to amass information or to satisfy curiosity, but rather to become painfully aware, to dare to turn what is happening to the world into our own personal suffering and thus to discover what each of us can do about it”. Making sure that our state highways and interstates are clean is just one way we can make sure our common home is cared for.

The Conference appreciates your consideration and, for these reasons, respectfully requests a favorable report on Senate Bill 26.

**SB0026\_LOI\_MDE.pdf**

Uploaded by: abbott, tyler

Position: INFO



February 10, 2021

The Honorable Delores G. Kelley, Chair  
Senate Finance Committee  
3 East, Miller Senate Office Building  
Annapolis, Maryland 21401

**Re: Senate Bill 26 - State Highway Administration - State Highways and Interstate Highways - Litter Collection and Mowing**

Dear Chair Kelley and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed Senate Bill 26 entitled *State Highway Administration - State Highways and Interstate Highways - Litter Collection and Mowing* and would like to provide information regarding this bill.

The bill would require the Maryland Department of Transportation, State Highway Administration (SHA) to collect litter and mow grass on state and interstate highways for which SHA is responsible on a consistent and regular basis as set forth in the bill. The bill also establishes minimum frequency requirements for litter collection and mowing, depending on the season. SHA would be required to contract with Maryland-based companies for litter collection and mowing services, and when awarding a contract to give preference to: (1) companies within the county where litter collection and mowing services will occur; and (2) companies that hire individuals that were previously incarcerated. The bill also mandates that the litter collection and mowing services performed by SHA's contractor must be considered a supplemental environmental project (SEP) under the U.S. Environmental Protection Agency's (EPA) SEP Policy.

A SEP is a voluntary agreement between a government agency and an alleged violator of an environmental law that may be included in a formal settlement agreement. As part of a settlement, an alleged violator may propose to undertake a SEP to provide tangible environmental or public health benefits to the affected community or environment. A SEP is one factor considered in determining an appropriate settlement penalty and may be the basis for a reduction in the final penalty. MDE supports the inclusion of SEPs in appropriate settlements.

While Senate Bill 26 would not fiscally or operationally impact the Department, there may be legal issues with the bill language requiring the litter collection and mowing services to be considered a SEP for the purposes of EPA's SEP Policy. When EPA exercises enforcement or prosecutorial discretion to include a SEP as part of a settlement, for example, EPA looks at the nexus between the violation and the SEP, and whether the project advances the goals of the environmental law from which the violation stemmed. MDE lacks the authority to declare that a

The Honorable Delores G. Kelley

Page 2

litter collection or mowing service performed under this bill qualifies as a SEP on behalf of EPA, and such a position would interfere with EPA's prosecutorial discretion. Additionally, EPA's SEP Policy requires that a project go beyond an activity or service an alleged violator is already obligated or required to perform under a federal, state, or local law. Under EPA's SEP Policy, a litter collection or mowing service performed under this bill likely would not qualify as a SEP in a case where SHA was a defendant entering a settlement agreement with EPA.

Thank you for your consideration. We will continue to monitor Senate Bill 26 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at [tyler.abbott@maryland.gov](mailto:tyler.abbott@maryland.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", with a long horizontal line extending to the left.

Tyler Abbott

cc: The Honorable Arthur Ellis  
Ms. Kaley Laleker, Director, Land and Materials Administration

**SB0026 - SHA - Litter Collection and Mowing - LOI\_**

Uploaded by: Westervelt, Patricia

Position: INFO

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February 10, 2021

The Honorable Delores Kelley  
Chair, Senate Finance Committee  
3 East Miller Senate Office Building  
Annapolis MD 21401

***Re: Letter of Information – Senate Bill 26 – State Highways and Interstate Highways –  
Litter Collection and Mowing***

Dear Chair Kelley and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on Senate Bill 26 but offers the following information for the Committee's consideration.

Currently, MDOT State Highway Administration (MDOT SHA) spends approximately 16 percent of its \$120 million annual Routine Maintenance Operating Budget on litter removal and mowing, \$7.7 million and \$11.7 million, respectively. This allows for an average of four to six cycles of litter removal and mowing on approximately 13,000 MDOT SHA-owned roadside miles.

MDOT SHA recognizes that litter is both an environmental and aesthetic issue and continues to perform daily litter removal throughout the year. During the growing season, litter removal is scheduled immediately prior to mowing operations. Litter removal is traditionally performed by inmates, contract litter-removal crews, Sponsor-A-Highway and Adopt-A-Highway participants, as well as State crews. Due to the pandemic, inmate litter-removal crews have not been available.

MDOT SHA is actively engaged in a mowing-reduction program that returns selected areas of grassed roadsides to meadows and forests. Through this process, MDOT SHA has steadily decreased the number of acres being mowed and the number of mowing cycles in a season. In addition to saving millions of dollars, our revised mowing program has created areas that benefit wildlife and improve water quality by capturing and containing runoff after storms.

Senate Bill 26 will require additional litter pick-up and mowing cycles which cannot be accomplished with existing resources. To meet the requirements of Senate Bill 26, the additional cost to MDOT SHA will be approximately \$10 million.

The Honorable Delores Kelley  
Page Two

Additionally, we have requirements for Small Business Reserves (SBR) and Minority Business Enterprise (MBE) goals on litter pick-up and mowing contracts, and the preferential vendors contained in Senate Bill 26 may not meet that criteria. In fact, the vast majority of MDOT SHA mowing and litter contracts are advertised as SBR contracts and the preferences spelled out in this bill may conflict with those. The procurement preferences in the bill are not ordered or prioritized, which may make compliance difficult, or impossible in some cases. Finally, while mowing and litter pick-up activities may seem relatively easy to perform, often these contracts require ownership of specialized equipment and skills that the vendors targeted in the bill may not have.

The Maryland Department of Transportation respectfully requests the Committee consider this information when deliberating Senate Bill 26.

Respectfully Submitted,

Mitch Baldwin  
State Legislative Manager  
Maryland State Highway Administration  
410-545-0342

Melissa Einhorn  
State Legislative Officer  
Maryland Department of Transportation  
410-865-1102