



FREDERICK COUNTY GOVERNMENT
OFFICE OF THE COUNTY EXECUTIVE

Jessica Fitzwater
County Executive

SB 526 - Natural Resources – Forest Preservation and Retention

DATE: March 2, 2023
COMMITTEE: Senate Education, Energy, and the Environment Committee
POSITION: Favorable
FROM: The Office of Frederick County Executive Jessica Fitzwater

As the County Executive of Frederick County, I respectfully request a favorable report on SB 526- Natural Resources – Forest Preservation and Retention with the inclusion of our attached amendments.

Improving state forest conservation programs including the Forest Conservation Act and the Forest Conservation Fund is a priority of Frederick County Government. In my previous role as a councilperson, I worked hard with stakeholders across the county to enact a strong and balanced local forest conservation ordinance. Balancing economic growth with sustainability and conservation has been a core ethos of mine and will be a cornerstone of my administration. I am proud of the strong conservation policies Frederick County has enacted and commend the State's effort to study and improve statewide conservation practices.

Based on robust conversations with my staff in multiple divisions including the Division of Planning and Permitting and the Division of Energy and Environment, as well as the bill sponsor, I believe this bill will be a strong step forward for statewide forest conservation efforts. To help ensure that statewide forest conservation policies are feasible for county and local governments, I believe there are a few minor amendments (see attached) that should be made to SB 526.


First, we believe changes should be made to the exemptions to “qualified conservation,” listed on pages 3 and 4. It is understandable that the bill sponsor and the advocates do not want land that is not at risk for development to be included in the forest banking program, with the current bill language, the protection of priority retention areas would be prohibited. Our amendments would identify specific target areas that are included in the forest banking program as a way to prioritize conservation in high-need habitats while not unduly limiting what projects qualify. This is a policy Frederick County has adopted and has been a successful tool in maximizing the impact of our conservation efforts.

Second, based on feedback from leaders in several municipalities in Frederick County, the deadlines for use of monies in the Forest Conservation Fund should be adjusted to provide sufficient time to effectively use these funds for reforestation or afforestation projects. While we understand the need to provide a timeframe for these funds to ensure they are used properly and efficiently, the current 2-year timeline has been problematic for smaller municipalities that want to invest in conservation projects but need more time to accrue the necessary funds and plan and execute qualifying projects. Frederick County Government supports legislation (HB 530) to extend the timeframe that local jurisdictions have to use forest conservation funds from two

years (or three growing periods) to five years (or six growing periods). We ask that those changes be made in SB 526 as well.

You will see other technical amendments included in the testimony of Michael Wilkins, Director of the Frederick County Department of Development Review and Planning, within the Division of Planning and Permitting. These amendments include stronger definitions of “forest land” and minor exemptions to accommodate businesses that rely on tree removal for the ecological health of their crop or core purpose of their business. Please consider the inclusion of the amendments described in this testimony, as well as the amendments enumerated in Director Wilkins’ testimony.

Thank you for your consideration of SB 526. I urge the committee to give this bill with a favorable report.



Jessica Fitzwater, County Executive
Frederick County, MD

Requested Amendments

AMENDMENT 1:

Page 3 – 4 section 5-1601. (gg)

(2) Replace IS NOT LOCATED ON LAND FOR WHICH and subsections (I) through (IV) with:

(2) WILL PROVIDE BUFFERS FOR STREAMS, CREEKS, FLOODPLAINS, WETLANDS OR OTHER HYDROLOGICALLY SENSITIVE AREAS, HABITATS FOR RARE, THREATENED, OR ENDANGERED SPECIES, HABITATS FOR INTERIOR DWELLING BIRD SPECIES, AND OTHER AREAS DETERMINED BY THE DEPARTMENT THAT FURTHER THE JURISDICTIONS FOREST CONSERVATION AND ECOLOGICAL ENHANCEMENT GOALS.

AMENDMENT 2:

5-1610.

(b) There is a Forest Conservation Fund in the Department.

(e) (1) The Department shall accomplish the reforestation or afforestation for which the money is deposited within [2] **5** years or [3] **6** growing seasons, as appropriate, after receipt of the money.

(2) Money deposited in the Fund under subsection (c) of this section shall remain in the Fund for a period of [2] **5** years or [3] **6** growing seasons, and at the end of that time period, any portion that has not been used **OR ENCUMBERED** to meet the afforestation or reforestation requirements shall be returned to the person who provided the money to be used for documented tree planting in the same county or watershed beyond that required by this subtitle or other applicable statutes.

AMENDMENT 3:

Page 3

(e) (1) “Forest land” means [a biological community dominated by trees and other woody plants that are capable of producing timber or other wood products with a stocking of at least 100 trees per acre with at least 50% of those trees having a 2-inch or greater diameter at 4.5 feet above the ground] **A CONTIGUOUS PATCH OF NATIVE (or predominantly native) TREES THAT IS AT LEAST 10,000 SQUARE FEET IN SIZE EXHIBITING AT LEAST ONE TRANSECT OF AT LEAST 35 FEET IN WIDTH**

AMENDMENT 4:

Page 3

(M) "TREE CANOPY" MEANS THE CROWNS OF DECIDUOUS AND EVERGREEN WOODY VEGETATION THAT IS:

(1) THE PRODUCT OF NATURAL GROWTH OR HUMAN PLANTING; AND

(2) GREATER THAN 3 FEET IN HEIGHT.

(3) IS NOT A COMMERCIAL CHRISTMAS TREE FARM

(4) IS NOT A COMMERCIAL ORCHARD