

<b>Description of the Provisions of HB 1125 - comparison with claims made by supporters</b>		
Item	Claims made by bill's supporters	What HB1125 actually does
Exemptions and Waivers	"Exemptions and waivers in this bill are needed to help developers, and won't hurt the efforts to reduce pollution loadings to the Bay."	Expands the grandfathering for an untold number of sites. Waivers for "pipeline" projects still under design, and for any new or redevelopment project, will result in harmful, avoidable runoff pollution to the Bay and other waters.
Grandfathering of "Pipeline Projects"	"Grandfathering of projects that are still under design is only an option which is up to the discretion of local governments, and it will help developers to avoid the expense of redesigning for Environmental Site Design elements."	Expands the grandfathering potential to all projects that received "Preliminary Project Approval" prior to May 4, 2010, rather than just for projects that got final approval as in 2009 MDE regulations. Though up to local discretion, HB1125 grandfathering language creates a legal loophole that developers can exploit, to sue or otherwise pressure local governments as an "entitlement" to grandfathering. Projects still under design can in many cases be affordably redesigned to incorporate ESD elements.
Impact on Stormwater Law and Regulations	"Neither HB1125, nor the emergency regulations, will affect or change the Stormwater Management Act of 2007 or the existing MDE regulations in any way."	Both HB1125 and the Emergency Regulations have the same content – the stormwater deal struck by Chair McIntosh in March 2010. This deal would significantly reduce the scope of projects covered by the Stormwater Management Act and would allow weaker stormwater volume standards for projects in PFAs and tidally-influenced waters (Critical Areas); because it creates new exemptions, highlights pre-existing waivers, and weakens stormwater standards for several project categories, the stormwater deal in any form violates the intent of the Stormwater Management Act to make ESD the new norm for stormwater management and runs counter to the Act's requirement for "a developer to demonstrate that ESD has been used to the maximum extent practicable and standard best management practices have been used only where absolutely necessary."
Projects in Priority Funding Areas and areas that are tidally influenced	Supporters claim that HB1125 leaves both the regulations, and the	This claim of no impact on the law, regulations, or pollution loadings to

<p>to be granted weaker stormwater volume standards (PFAs include all the land within the DC and Baltimore Beltways plus virtually all the land within the Anacostia Watershed)</p>	<p>Stormwater Management Act intact without any changes, and that they are merely clarifying abilities for exemptions and waivers already in the 2009 regulations.</p>	<p>the Bay is patently false. HB1125 allows and encourages local authorities to waive the stormwater volume control standard for existing imperviousness for projects in PFAs and tidally influenced waters, categories not in the 2009 regs.</p>
<p>Phased Projects</p>	<p>HB1125's supporters claim that they are not impacting the Stormwater Act or the regulations, yet they would allow exemptions from any objective, numeric ESD requirements in perpetuity to a potentially large number of phased projects that are able to get grandfathered this Spring under their proposed expansion of the grandfathering eligibility.</p>	<p>HB1125 also allows full waivers, in perpetuity, for phased projects that are grandfathered, as long as they demonstrate to the local authority that "all reasonable efforts were made to incorporate ESD" into the project. With this vague language lacking in objective, numeric requirements for ESD implementation, this provision will be difficult to enforce.</p>
<p>Redevelopment</p>	<p>Supporters make self-contradictory claims about the Stormwater Act's requirements for redevelopment projects. They claim on the one hand that regulatory relief in the form of weakening of standards for redevelopment projects is needed; on the other hand they claim that their proposal leaves the law and regs intact. If it leaves these intact, then how are they accomplishing their own stated goal of regulatory relief? The answer: they are meddling with a great law and decent regulations. HB 1125 would subvert the intent, scope, and effectiveness of this law and would weaken its regulations.</p>	<p>The HB1125 redevelopment provisions would change – would weaken – both the Stormwater Management Act and its 2009 regulations. HB1125 is aimed at providing "flexibility" if control of "50% of a site's impervious area cannot be accomplished." The flexibility includes creation of additional categories of projects – not already in MDE's stormwater regulations -- that would be eligible for full or partial waivers from on-site ESD requirements. HB1125 creates the expectation on the part of developers that they are entitled to these ESD exemptions.</p>
<p>Redevelopment: eligibility for waivers from on-site ESD requirements</p>	<p>Supporters of HB1125 and the Emergency Regulations claim that their proposal changes nothing in the stormwater law and regulations; they say they are only seeking to "clarify" redevelopment and other provisions that were already established.</p>	<p>The claims that HB1125 leaves stormwater law and regulations intact with no weakening changes are patently false. In fact, the redevelopment provision of HB1125 adds 5 new categories of projects whose eligibility for ESD waivers is highlighted: Location in a PFA; TOD; or BRAC zone; Whether the project is "necessary to accommodate growth consistent with comp plans; whether bonding or financing was secured for a project.</p>
<p>For more information: Diane Cameron <a href="mailto:dcameron@audubonnaturalist.org">dcameron@audubonnaturalist.org</a> (301) 655-6049</p>		