

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## BILL 18-25: FOREST CONSERVATION – TREES

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 18-25 will have a minimal impact on racial equity and social justice (RESJ) in the County. Bill 18-25 primarily reinforces and codifies the County's existing strategies for achieving no net loss of forest. To the extent this Bill helps further minimize forest loss in the County, OLO anticipates it would proportionately benefit all community members by race and ethnicity.

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### PURPOSE OF RESJ IMPACT STATEMENTS

RESJ impact statements (RESJIS) evaluate the anticipated impact of legislation on racial equity and social justice in the County. RESJ is a **process** that focuses on centering the needs, leadership, and power of Black, Indigenous, and other People of Color (BIPOC) and communities with low incomes. RESJ is also a **goal** of eliminating racial and social inequities. Applying a RESJ lens is important to achieve RESJ.<sup>1</sup> This involves seeing, thinking, and working differently to address the racial and social inequities that cause racial and social disparities.<sup>2</sup>

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### PURPOSE OF BILL 18-25

The Forest Conservation Act is a state law that was enacted in 1991. The law aims “to conserve forest cover on development sites by establishing rules that minimize the loss of existing forests and, in some cases, replenish forest that has been lost to development activities in the past.”<sup>3</sup> Between 1993 and 2012, the Forest Conservation Act led to the retention of 189,803 acres of forest and the planting of 33,075 acres of forest across local jurisdictions in Maryland.<sup>4</sup>

In 2024, major changes went into effect for the statewide Forest Conservation Law.<sup>5</sup> Generally, these changes created more stringent forest conservation standards. They also required local governments to comply with state forest conservation requirements or demonstrate that local regulations have resulted in no net loss of forest over a four-year period. Some of the changes include:<sup>6</sup>

- Setting a statewide goal to increase the acreage of forested land and tree canopies;
- Increasing replanting ratio requirements for developers to replant each acre of forest cleared for development (in most cases); and
- Requiring regular reviews of local forest conservation plans by Maryland's Department of Natural Resources to ensure local plans align with state goals.

The purpose of Bill 18-25 is to update the County's Forest Conservation Law and Regulations to align with changes to the statewide Forest Conservation Law. If enacted, Bill 18-25 would:<sup>7</sup>

- Define what a solar photovoltaic facility is;
- Remove the afforestation requirements for solar photovoltaic facilities as required by state law;
- Add four new categories to the priorities of forest retention as required by state law to include urban forest retention, water quality, and forests suitable for “forest interior-dwelling species”; and

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- Remove significant trees from Tree Save Plan requirements, which includes trees that are part of a historic site or associated with a historic structure and trees of a certain height and diameter as outlined in County regulations.

Bill 18-25 would also reinstate forest mitigation retention banks or existing forest banks. These were previously eliminated by a state law passed in 2021.<sup>8</sup> Retention banks allow developers to purchase credits that protect existing forests instead of replanting trees after clearing a forested area. Two acres of retention bank credit equals one acre of planted forest.<sup>9</sup> However, in accordance with state law, Bill 18-25 would allow only 50 percent of the replanting requirement to be met via retention bank credits. The other 50 percent would need to be fulfilled by replanting trees according to the County's Forest Conservation Law.<sup>10</sup>

The Council introduced Bill 18-25 at the request of the Planning Board on June 17, 2025.

This RESJIS builds on the one for Bill 25-22, Forest Conservation – Trees, which OLO published in October 2022.<sup>11</sup> Please refer to this RESJIS for background on the climate gap, tree cover, and racial equity.

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### ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 18-25 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who would primarily benefit or be burdened by this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

OLO identified the following groups who would be impacted by Bill 18-25:

- **Community members at large** could benefit from increased forest conservation. The changes proposed in the Bill would apply broadly to help minimize forest loss from development throughout the County. OLO anticipates all community members in the County would proportionately benefit from minimized forest loss by race and ethnicity.

Of note, in 2023, the Council enacted Bill 25-22, which made amendments to the County's Forest Conservation Law. These changes aimed to help the County achieve no net loss of forest from development.<sup>12</sup> According to Planning staff, the changes proposed in Bill 18-25 primarily reinforce and codify the County's existing strategies for achieving no net loss of forest.

- **Developers** could be burdened by increased costs from forest conservation requirements. This could impact housing development, and more specifically, affordable housing development in the County. However, the NAIOP Commercial Real Estate and Development Association noted that Montgomery County was among local jurisdictions that have existing forest conservation laws "similar to or more protective than the state bill" that prompted Bill 18-25.<sup>13</sup> This suggests the changes from this Bill are not likely to cause new impacts to development.

OLO anticipates Bill 18-25 will have a minimal impact on RESJ in the County. Bill 18-25 primarily reinforces and codifies the County's existing strategies for achieving no net loss of forest. To the extent this Bill helps further minimize forest loss in the County, OLO anticipates it would proportionately benefit all community members by race and ethnicity.

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### RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.<sup>14</sup> OLO anticipates Bill 18-25 will have a minimal impact on RESJ in the County. As such, OLO does not offer recommended amendments.

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### CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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<sup>1</sup> Definition of racial equity and social justice adopted from [Marlysa Gamblin et al., "Applying Racial Equity to U.S. Federal Nutrition Programs," Bread for the World](#) and [Racial Equity Tools](#).

<sup>2</sup> Ibid.

<sup>3</sup> ["A Citizen's Guide to the Forest Conservation Act in Maryland," Chesapeake Bay Foundation, June 2004, pg. 5.](#)

<sup>4</sup> ["Maryland's Forest Conservation Act: 25-Year Review," Maryland Forest Service and Maryland Department of Natural Resources, pgs. 4-5.](#)

<sup>5</sup> [SB0526, 2023 Regular Session, Maryland General Assembly.](#)

<sup>6</sup> Ibid.

<sup>7</sup> [Introduction Staff Report for Bill 18-25, Montgomery County Council, Introduced June 17, 2025.](#)

<sup>8</sup> There are two types of forest mitigation banks in Maryland: those that protect existing forest (retention banks) and those where new trees are planted (planted banks). In 2021, the Maryland General Assembly passed a law that halted the creation of new retention banks and allowed existing ones to sell credits only until June 30, 2024. From [Aditi Dubey, "Replace or protect? A core issue in forest mitigation banking," Bay Journal, December 13, 2023.](#)

<sup>9</sup> [Purchasing Credits from a Forest Mitigation Bank, Montgomery Planning.](#)

<sup>10</sup> Introduction Staff Report for Bill 18-25.

<sup>11</sup> [RESJIS for Bill 25-22, Office of Legislative Oversight, October 4, 2022.](#)

<sup>12</sup> [Action Staff Report for Bill 25-22, Montgomery County Council, Action March 21, 2023.](#)

<sup>13</sup> ["Assembly approves major changes to Forest Conservation Act," NAIOP Commercial Real Estate Development Association, May 17, 2023.](#)

<sup>14</sup> [Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council.](#)