

SENATE BILL 529

M3, C5

9lr2345

By: **Senator Harrington**

Introduced and read first time: February 5, 2009

Assigned to: Education, Health, and Environmental Affairs and Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Environmental Justice Review – Public Service Companies**

3 FOR the purpose of requiring the Department of the Environment, in consultation
4 with the Commission on Environmental Justice and Sustainable Communities
5 and the Department of Planning, to develop certain criteria and maps on or
6 before a certain date; requiring certain public service companies to submit an
7 Environmental Justice Review under certain circumstances; requiring the
8 Department of the Environment to make certain determinations; requiring
9 certain public service companies to submit certain information to the
10 Department of the Environment under certain circumstances; altering a certain
11 reporting requirement; defining certain terms; and generally relating to
12 environmental justice in the State.

13 BY renumbering

14 Article – Environment
15 Section 1–701
16 to be Section 1–703
17 Annotated Code of Maryland
18 (2007 Replacement Volume and 2008 Supplement)

19 BY adding to

20 Article – Environment
21 Section 1–701 and 1–702
22 Annotated Code of Maryland
23 (2007 Replacement Volume and 2008 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article – Environment
26 Section 1–703
27 Annotated Code of Maryland
28 (2007 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (As enacted by Section 1 of this Act)

2 BY adding to

3 Article – Public Utility Companies

4 Section 11–101.1

5 Annotated Code of Maryland

6 (2008 Replacement Volume and 2008 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That Section(s) 1–701 of Article – Environment of the Annotated Code of
9 Maryland be renumbered to be Section(s) 1–703.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
11 read as follows:

12 **Article – Environment**

13 **1–701.**

14 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

16 (B) “COMMISSION” MEANS THE COMMISSION ON ENVIRONMENTAL
17 JUSTICE AND SUSTAINABLE COMMUNITIES.

18 (C) “ENVIRONMENTAL JUSTICE” MEANS THE FAIR TREATMENT AND
19 MEANINGFUL INVOLVEMENT OF ALL PEOPLE REGARDLESS OF RACE, COLOR, OR
20 INCOME WITH RESPECT TO THE DEVELOPMENT, IMPLEMENTATION, AND
21 ENFORCEMENT OF ENVIRONMENTAL LAWS, REGULATIONS, AND POLICIES.

22 (D) “ENVIRONMENTAL JUSTICE REVIEW” MEANS A WRITTEN REPORT
23 SUBMITTED TO THE DEPARTMENT THAT INCLUDES:

24 (1) A DESCRIPTION OF THE PROPOSED ACTION;

25 (2) A DESCRIPTION OF THE HISTORIC USES OF THE SITE WHERE
26 THE ACTION IS PROPOSED TO OCCUR;

27 (3) A DEMOGRAPHIC PROFILE OF THOSE INDIVIDUALS LIVING IN
28 PROXIMITY TO THE PROPOSED ACTION, INCLUDING THOSE INDIVIDUALS USING,
29 WORKING, OR LIVING ON OR WITHIN A 1-MILE RADIUS OF THE SITE ON WHICH
30 THE PROPOSED ACTION WILL OCCUR;

1 (4) A DESCRIPTION OF POTENTIAL ADVERSE ENVIRONMENTAL
2 IMPACTS TO LAND, AIR, AND WATER RESOURCES WITHIN A 1-MILE RADIUS OF
3 THE SITE ON WHICH THE PROPOSED ACTION WILL OCCUR;

4 (5) A DESCRIPTION OF POTENTIAL ADVERSE HUMAN HEALTH
5 IMPACTS TO THOSE INDIVIDUALS USING, WORKING, OR LIVING ON OR WITHIN A
6 1-MILE RADIUS OF THE SITE ON WHICH THE PROPOSED ACTION WILL OCCUR;

7 (6) A DESCRIPTION OF POTENTIAL ECONOMIC IMPACTS TO
8 THOSE INDIVIDUALS USING, WORKING, OR LIVING ON OR WITHIN A 1-MILE
9 RADIUS OF THE SITE ON WHICH THE PROPOSED ACTION WILL OCCUR;

10 (7) A DESCRIPTION OF ANY POTENTIAL ADVERSE IMPACTS TO
11 ENVIRONMENTALLY STRESSED COMMUNITIES CAUSED BY THE PROPOSED
12 ACTION; AND

13 (8) ANY PUBLIC EDUCATION OR COMMUNITY OUTREACH
14 EFFORTS THAT THE APPLICANT IS PLANNING TO CONDUCT BEFORE, DURING,
15 OR ON COMPLETION OF THE PROPOSED ACTION.

16 (E) “ENVIRONMENTALLY STRESSED COMMUNITY” MEANS A MINORITY
17 OR LOW-INCOME COMMUNITY THAT BEARS A DISPROPORTIONATE SHARE OF
18 THE NEGATIVE ENVIRONMENTAL CONSEQUENCES RESULTING FROM
19 INDUSTRIAL, MUNICIPAL, OR COMMERCIAL OPERATIONS OR THE EXECUTION OF
20 FEDERAL, STATE, OR LOCAL PROGRAMS AND POLICIES, AS DETERMINED BY THE
21 DEPARTMENT IN CONSULTATION WITH THE COMMISSION.

22 **1-702.**

23 ON OR BEFORE OCTOBER 1, 2010, THE DEPARTMENT, IN CONSULTATION
24 WITH THE COMMISSION AND THE DEPARTMENT OF PLANNING, SHALL DEVELOP
25 CRITERIA AND MAPS THAT IDENTIFY ENVIRONMENTALLY STRESSED
26 COMMUNITIES IN THE STATE.

27 **1-703.**

28 (a) [In this section, “environmental justice” means equal protection from
29 environmental and public health hazards for all people regardless of race, income,
30 culture, and social status.

31 (b)] There is a Commission on Environmental Justice and Sustainable
32 Communities.

33 [(c)] (B) The Commission consists of the following 15 members:

1 (1) One member of the Senate of Maryland, appointed by the
2 President of the Senate;

3 (2) One member of the House of Delegates, appointed by the Speaker
4 of the House;

5 (3) The Secretary, or the Secretary's designee;

6 (4) The Secretary of Health and Mental Hygiene, or the Secretary's
7 designee;

8 (5) The Secretary of Planning, or the Secretary's designee; and

9 (6) Ten members appointed by the Governor who represent the
10 following interests:

11 (i) Affected communities concerned with environmental justice;

12 (ii) Business organizations;

13 (iii) Environmental organizations;

14 (iv) Health experts on environmental justice;

15 (v) Local government; and

16 (vi) The general public with interest or expertise in
17 environmental justice.

18 [(d)] (C) (1) The term of a member appointed by the Governor is 3 years.

19 (2) At the end of a term, a member continues to serve until a successor
20 is appointed and qualifies.

21 (3) A member who is appointed after a term has begun serves only for
22 the rest of the term and until a successor is appointed and qualifies.

23 (4) A member may not be appointed to more than two consecutive
24 terms.

25 [(e)] (D) The Governor shall designate the chairman of the Commission.

26 [(f)] (E) The Department shall provide staff for the Commission.

27 [(g)] (F) (1) The Commission shall meet at the times and places that the
28 chairman determines.

1 (2) A majority of members of the Commission shall constitute a
2 quorum for the transaction of business.

3 (3) A member of the Commission:

4 (i) May not receive compensation; but

5 (ii) Is entitled to reimbursement for expenses under the
6 Standard State Travel Regulations, as provided in the State budget.

7 [(h)] (G) The Commission shall:

8 (1) Advise State government agencies on environmental justice and
9 related community issues;

10 (2) Review and analyze the impact of current State laws and policies
11 on the issue of environmental justice and sustainable communities;

12 (3) Assess the adequacy of State and local government laws to address
13 the issue of environmental justice and sustainable communities;

14 (4) Coordinate with the Children's Environmental Health and
15 Protection Advisory Council on recommendations related to environmental justice and
16 sustainable communities;

17 (5) Develop criteria to assess whether communities in the State may
18 be experiencing environmental justice issues; and

19 (6) Recommend options to the Governor for addressing issues,
20 concerns, or problems related to environmental justice that surface after reviewing
21 State laws and policies, including prioritizing areas of the State that need immediate
22 attention.

23 [(i)] (H) On or before October 1 of each year, the Commission shall report
24 its findings and recommendations to the Governor and, subject to § 2-1246 of the
25 State Government Article, the General Assembly.

26 **Article – Public Utility Companies**

27 **11-101.1.**

28 (A) **IN THIS SECTION, “PLANT” MEANS:**

29 (1) **AN ELECTRIC PLANT;**

30 (2) **A GAS PLANT;**

1 **(3) A LIQUEFIED NATURAL GAS FACILITY; AND**

2 **(4) A WATER PLANT.**

3 **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
4 **SUBSECTION, BEFORE THE CONSTRUCTION OR EXPANSION OF A PLANT, THE**
5 **PUBLIC SERVICE COMPANY THAT PROPOSES TO CONSTRUCT OR EXPAND THE**
6 **PLANT SHALL CONDUCT AN ENVIRONMENTAL JUSTICE REVIEW IN**
7 **ACCORDANCE WITH § 1-701(D) OF THE ENVIRONMENT ARTICLE.**

8 **(2) IF THE DEPARTMENT OF THE ENVIRONMENT DETERMINES**
9 **THAT, BASED ON THE MAPS DEVELOPED UNDER § 1-702 OF THE ENVIRONMENT**
10 **ARTICLE, THE PROPOSED CONSTRUCTION OR EXPANSION OF A PLANT IS NOT**
11 **WITHIN A 1-MILE RADIUS OF AN ENVIRONMENTALLY STRESSED COMMUNITY, A**
12 **PUBLIC SERVICE COMPANY IS NOT REQUIRED TO CONDUCT AN**
13 **ENVIRONMENTAL JUSTICE REVIEW.**

14 **(C) THE DEPARTMENT OF THE ENVIRONMENT SHALL DETERMINE,**
15 **BASED ON THE FINDINGS IN THE ENVIRONMENTAL JUSTICE REVIEW, WHETHER**
16 **THE CONSTRUCTION OR EXPANSION OF A PLANT WILL DISPROPORTIONATELY**
17 **AFFECT AN ENVIRONMENTALLY STRESSED COMMUNITY.**

18 **(D) IF THE DEPARTMENT OF THE ENVIRONMENT DETERMINES THAT**
19 **CONSTRUCTION OR EXPANSION OF A PLANT WILL DISPROPORTIONATELY**
20 **AFFECT AN ENVIRONMENTALLY STRESSED COMMUNITY, THE PUBLIC SERVICE**
21 **COMPANY THAT PROPOSES TO CONSTRUCT OR EXPAND THE PLANT SHALL**
22 **SUBMIT THE FOLLOWING TO THE DEPARTMENT OF THE ENVIRONMENT BEFORE**
23 **COMMENCING CONSTRUCTION OR EXPANSION:**

24 **(1) A LIST OF MULTIPLE ALTERNATIVE LOCATIONS ON WHICH**
25 **THE CONSTRUCTION OR EXPANSION COULD OCCUR;**

26 **(2) A LIST OF MITIGATING ACTIONS TO OFFSET THE PROPOSED**
27 **IMPACTS OF THE CONSTRUCTION OR EXPANSION; AND**

28 **(3) A LIST OF STRATEGIES AND ACTIONS TO EDUCATE AND**
29 **INFORM MEMBERS OF THE ENVIRONMENTALLY STRESSED COMMUNITY OF THE**
30 **CONSTRUCTION OR EXPANSION.**

31 **SECTION 3. AND BE IT FURTHER ENACTED,** That the Commission on
32 **Environmental Justice and Sustainable Communities shall include in its annual**
33 **report an update on the implementation of this Act, including any policy or legislative**
34 **recommendations for the General Assembly's consideration.**

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2009.