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To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Hannibal G. Williams II Kemerer
Chief Counsel, Legislative Affairs, Office of the Attorney General

Re: SB 783 – Constitutional Amendment – Environmental Rights – **Support**

The Office of Attorney General urges this Committee to favorably report SB 783. If passed and approved by the voters, the bill would establish that every person has the fundamental and inalienable right to a healthful and sustainable environment. Senate Bill 783 further requires the State of Maryland to serve as a trustee of the State's air, land, water, wildlife, and ecosystems' natural resources, and to conserve, protect, and enhance the State's natural resources to the benefit of all persons, including future generations.

Members of the General Assembly have introduced similar bills in 2018, 2019, 2020, and 2021. If the Bill is approved by three fifths of the House and the Senate, the proposed amendment would be submitted to Maryland's voters for approval by a majority vote in the November 2022 general election. Page 2, Lines 22-24. MD. CONST. art. XIV, § 1.

Article 48 would endow each person with a right to "a healthful and sustainable environment" and designate the State of Maryland as trustee of "State natural resources" for current and future generations. As a trustee, the State would assume certain duties and obligations to act in the public's best interest consistent with Article 48. The rights and obligations arising under Article 48 would govern State action (laws, regulations, actions, policies, and decisions by the State of Maryland and its instrumentalities), not private action (activities of companies, individuals, and other third parties who are not affiliated with the State). However, by governing State action, Article 48 would affect private parties whose actions are governed by the State. Article 48 may also give rise to new legal causes of action and new requirements for State authority. Fundamentally, Article 48 raises

questions about environmental rights, the public trust doctrine, and the State's obligations to the public.¹

Article 48 would establish significant and important rights for individuals and designate the State as a trustee of the State's natural resources. These are laudable goals, worthy of our support.

For the foregoing reasons, the Office of the Attorney General urges a favorable report of Senate Bill 783.

cc: Committee Members

¹ At least five (5) other States have enacted environmental amendments in their State Constitutions, including: Pennsylvania (PA. CONST. Art. I § 27.); Montana (MONT. CONST. Art. IX § 1.); Illinois (ILL. CONST. Art. XI, § 2.); Massachusetts (MASS. CONST., Part the First, Art. XCVII.); Hawaii (HAW. CONST. Art. XI § 9.).