



February 27, 2024

Kim Coble
Executive Director

2024 Board of
Directors

Lynn Heller, Chair
The Hon. Nancy Kopp,
Treasurer
Kimberly Armstrong
Candace Dodson-Reed
Verna Harrison
Melanie Hartwig-Davis
Charles Hernick
The Hon. Steve Lafferty
Patrick Miller
Bonnie L. Norman
Katherine (Kitty)
Thomas

FAVORABLE WITH AMENDMENTS: SB 1086 - Environment - Environmental Justice Districts - Designation and Requirements

Mr. Chair Members of the Committee:

Maryland LCV supports SB 1086 - Environment - Environmental Justice Districts - Designation and Requirements - with amendments and we thank Senator Washington for introducing this legislation. After speaking with the Senator, we have a clearer understanding that the intent of this legislation is to create targeted districts to prioritize investments that mitigate pollution impacts and improve environmental conditions. With amendments to strike provisions in the bill regarding permitting, the bill language will match its intent.

There are two main reasons to strike or significantly amend the language regarding permits in this legislation. The first is that to define environmental justice (EJ) districts and direct investments, no additional permitting or permit screening is necessary. And the second is that the category of permits covered in the bill is limited to §1-601(a) permits, which include surface water discharges; air quality control permits to construct; permits to own, operate, establish or maintain a low-level nuclear waste facility; permits to own, operate, establish or maintain a hazardous material facility, and several other types of environmental permits. It is an expansive list of permits, but does not include pollution sources that most impact communities with EJ concerns, namely air pollution permits to operate (Title V, or section 70, permits). Air pollution is a frequent concern among community members living in highly impacted areas. §1-601(a) permits to construct would include an emissions rate for the facility under construction, but the permits to construct do not renew. Therefore, the only way to address the ongoing emissions from a facility and to align the bill with community concerns about air pollution is to include Title V, or Section 70, permits to operate in the scope of this bill IF the bill is going to include permitting.

The second significant step this bill makes is a proposed change to the state definition of environmental justice, which is currently “equal protection from environmental and public health hazards for all people regardless of race, income, culture, and social status.” The federal definition of environmental justice is “the **fair treatment and meaningful involvement** of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” While the state definition currently codifies the “fair treatment” element of EJ, it does not include an aspect of meaningful involvement. As introduced, this bill would change the state definition to:

“Environmental justice” means

1. equal protection from environmental and public health hazards for all people regardless of race, income, culture, and social status; OR
2. substantial participation in the development, enforcement, implementation, and permitting of all state and federal environmental laws and regulations.

We support the intent of this language to adjust the state definition of environmental justice to expand on the federal definition's component of meaningful involvement. We have spoken with Senator Washington about some changes to this specific language, including:

- Changing "or" to "and" to the clauses of the proposed definition change
- Adjusting the scope of permitting included in the second clause
- Further defining "substantial participation" to help with clear implementation and enforcement

Finally, in the metrics to define EJ districts, SB 1086 includes several metrics beyond "overburdened" and "underserved." These two terms were community-driven in their crafting, have been extensively vetted, are [defined in Maryland statute](#), and now serve as the basis for the Maryland Department of the Environment's [EJ Screening Tool](#). SB 1086 also adds for consideration in defining an EJ district one or more contiguous census tracts:

- That have a history of environmental degradation;
- In which the residents have an average life expectancy at or below the age of 64 years;
- In which the residents suffer from high rates of asthma or heart disease; or
- Are in close proximity to traffic.

These factors each have documented health and equity considerations and may be important for the designation of EJ districts, but some are duplicative of metrics already covered in "overburdened" and some need further clarification in law to effectively and expeditiously implement and direct funds where appropriate (e.g. define 'close proximity'). It would also be important to engage in a robust community engagement process in defining and finalizing the criteria for environmental justice districts.

Maryland LCV urges a favorable report with amendments outlined above on SB 1086.