A BILL ENTITLED

AN ACT concerning

Environment – Impact of Actions on Climate, Labor, and Environmental Justice

FOR the purpose of prohibiting a certain governmental unit from taking an action unless the governmental unit has conducted certain evaluations and assessments of the impact of the action on the climate, labor and employment, environmental justice, and any overburdened community; authorizing a governmental unit to deny, condition, approve, or amend an action based on certain findings; requiring governmental units to coordinate and seek federal funding to meet the requirements of this Act; and generally relating to the impact of actions on climate, labor, and environmental justice.

BY adding to

Article – Environment

Section 1–901 through 1–905 to be under the new subtitle “Subtitle 9. Impact of Actions on Climate, Labor, and Environmental Justice” Annotated Code of Maryland (2013 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Environment

SUBTITLE 9. IMPACT OF ACTIONS ON CLIMATE, LABOR, AND ENVIRONMENTAL JUSTICE.

1–901.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.
(B) “ACTION” INCLUDES THE WHOLE OR A PART OF A RULE, AN ORDER, A LICENSE, AN APPROVAL, A DENIAL SANCTION, OR RELIEF ISSUED BY A GOVERNMENTAL UNIT.

(C) “ENVIRONMENTAL JUSTICE” HAS THE MEANING STATED IN § 1–701(A) OF THIS TITLE.

(D) “LOW–INCOME” MEANS AN INDIVIDUAL WHO RESIDES IN A HOUSEHOLD THAT HAS AN ANNUAL HOUSEHOLD INCOME THAT IS AT OR BELOW 200% OF THE FEDERAL POVERTY GUIDELINES.

(E) (1) “OVERBURDENED COMMUNITY” MEANS:

   (I) A LOW–INCOME OR MODERATE–INCOME COMMUNITY; OR

   (II) A COMMUNITY OF COLOR IN WHICH THE RESIDENTS EITHER PRESENTLY OR HISTORICALLY HAVE BEEN BURDENED BY DISPROPORTIONATELY HIGH NUMBERS OF ENVIRONMENTAL AND PUBLIC HEALTH STRESSORS, INCLUDING POLLUTION, ADVERSE HEALTH EFFECTS DUE TO POLLUTION, REDUCED WELL–BEING, AND DIMINISHED ECONOMIC SUCCESS.

   (2) “OVERBURDENED COMMUNITY” INCLUDES:

   (I) ANY CENSUS TRACT IN WHICH, ACCORDING TO THE MOST RECENT U.S. CENSUS BUREAU SURVEY:

       1. AT LEAST 25% OF THE RESIDENTS QUALIFY AS LOW–INCOME;

       2. AT LEAST 50% OF THE RESIDENTS IDENTIFY AS NONWHITE; OR

       3. AT LEAST 25% OF THE RESIDENTS HAVE LIMITED ENGLISH PROFICIENCY; OR

   (II) AN AREA OR A NEIGHBORHOOD DESIGNATED BY THE SECRETARY AS AN OVERBURDENED COMMUNITY IN ACCORDANCE WITH § 1–902 OF THIS SUBTITLE.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION AND ON PETITION OF AT
LEAST 10 RESIDENTS OF AN AREA OR A NEIGHBORHOOD LOCATED WITHIN A CENSUS TRACT THAT DOES NOT MEET THE CRITERIA SPECIFIED IN § 1–901(e)(2)(I) OF THIS SUBTITLE, THE SECRETARY MAY DESIGNATE THE AREA OR NEIGHBORHOOD AS AN OVERBURDENED COMMUNITY IF THE SECRETARY DETERMINES THAT THE AREA OR NEIGHBORHOOD OTHERWISE QUALIFIES AS AN OVERBURDENED COMMUNITY.

(B) THE SECRETARY MAY DENY A PETITION SUBMITTED UNDER SUBSECTION (A) OF THIS SECTION IF THE SECRETARY DETERMINES THAT THE AREA OR NEIGHBORHOOD THAT IS THE SUBJECT OF THE PETITION:

(1) HAS AN ANNUAL MEDIAN HOUSEHOLD INCOME THAT EXCEEDS 125% OF THE STATEWIDE MEDIAN HOUSEHOLD INCOME;

(2) HAS A MAJORITY OF INDIVIDUALS AT LEAST 25 YEARS OLD THAT HAVE A COLLEGE EDUCATION;

(3) DOES NOT BEAR AN UNFAIR BURDEN OF ENVIRONMENTAL POLLUTION; AND

(4) HAS MORE THAN LIMITED ACCESS TO NATURAL RESOURCES, INCLUDING OPEN SPACES, WATER RESOURCES, AND PLAYGROUNDS AND OTHER CONSTRUCTED OUTDOOR RECREATIONAL FACILITIES AND VENUES.

A GOVERNMENTAL UNIT MAY NOT TAKE AN ACTION UNLESS THE GOVERNMENTAL UNIT HAS CONDUCTED THE EVALUATIONS, ASSESSMENTS, AND RELATED ACTIVITIES REQUIRED UNDER § 1–904 OF THIS SUBTITLE.

(A) BEFORE TAKING AN ACTION, A GOVERNMENTAL UNIT SHALL EVALUATE AND MAKE A DETERMINATION ON WHETHER AND TO WHAT EXTENT THE ACTION MAY NEGATIVELY AFFECT THE CLIMATE, LABOR AND EMPLOYMENT, ENVIRONMENTAL JUSTICE, AND ANY OVERBURDENED COMMUNITY.

(B) AN EVALUATION CONDUCTED UNDER THIS SECTION SHALL INCLUDE CONSIDERATION AND ANALYSIS OF:

(1) THE IMPACT OF THE ACTION ON THE ENVIRONMENT, INCLUDING:

   (I) THE GREENHOUSE GAS EMISSIONS AND CLIMATE EFFECTS OF THE ACTION BASED ON THE BEST AVAILABLE SCIENTIFIC INFORMATION
RECOGNIZED BY THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE;

(II) WHETHER THE GREENHOUSE GAS EMISSIONS AND CLIMATE EFFECTS OF THE ACTION ARE CONSISTENT WITH THE STATE’S CLIMATE COMMITMENTS FOR REDUCING STATEWIDE GREENHOUSE GAS EMISSIONS, INCLUDING THOSE SPECIFIED IN TITLE 2, SUBTITLE 12 OF THIS ARTICLE;

(III) THE EFFECT OF CLIMATE CHANGE ON THE ACTION BASED ON THE BEST AVAILABLE SCIENTIFIC INFORMATION RECOGNIZED BY THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE; AND

(IV) THE POTENTIAL GREENHOUSE GAS EMISSIONS SAVINGS ASSOCIATED WITH USING A CARBON–FREE ENERGY SOURCE AS AN ALTERNATIVE TO A PROPOSED ENERGY SOURCE.

(2) THE IMPACT OF THE ACTION ON LABOR AND EMPLOYMENT, INCLUDING WHETHER THE EMPLOYERS, CONTRACTORS, AND SUBCONTRACTORS ASSOCIATED WITH ANY PROJECT RESULTING FROM THE ACTION:

(I) PAY THE AREA PREVAILING WAGE FOR EACH TRADE, INCLUDING WAGES AND FRINGE BENEFITS;

(II) OFFER HEALTH CARE AND RETIREMENT BENEFITS TO THE EMPLOYEES WORKING ON THE PROJECT OR AN ITEM ASSOCIATED WITH THE PROJECT;

(III) PARTICIPATE IN AN APPRENTICESHIP PROGRAM REGISTERED WITH THE STATE FOR EACH TRADE EMPLOYED ON A PROJECT OR OTHER ITEM ASSOCIATED WITH THE PROJECT;

(IV) ESTABLISH AND EXECUTE A PLAN FOR OUTREACH, RECRUITMENT, AND RETENTION OF STATE RESIDENTS TO PERFORM WORK ON A PROJECT OR OTHER ITEM ASSOCIATED WITH THE PROJECT, WITH AN ASPIRATIONAL GOAL OF 25% OF TOTAL WORK HOURS PERFORMED BY STATE RESIDENTS, INCLUDING RESIDENTS WHO ARE:

1. RETURNING CITIZENS;

2. WOMEN;

3. MINORITY INDIVIDUALS; OR

4. VETERANS;
(V) Have been in compliance with federal and State wage and hour laws for the immediately preceding 3 years;

(VI) Are in good standing with all State reporting and compliance requirements; and

(VII) Maintain all appropriate licenses in good standing; and

(3) The impact of the action on environmental justice and any overburdened community, including the potential for:

(I) The deterioration of public health;

(II) An increase in pollution, including the associated burden to public health and the environment; and

(III) A negative impact on the economic well-being of residents of the State.

(C) (1) Based on the evaluations conducted under subsection (B) of this subsection, a governmental unit shall issue a written general impact report that indicates whether and to what extent a proposed action may negatively affect the climate, labor and employment, environmental justice, or any overburdened community.

(2) A governmental unit that issues a general impact report under this subsection shall make the report publicly available.

(D) If a governmental unit determines that an action may negatively affect an overburdened community, the governmental unit shall:

(1) Conduct further assessment supported by data, studies, or other appropriate sources, including:

(I) An analysis of the negative impacts on the overburdened community; and

(II) An analysis of the measures necessary to substantially decrease or eliminate the negative impacts on the overburdened community;
(2) Assess opportunities to direct proceeds, benefits, or investments which may result from the action in a manner that will benefit the overburdened community;

(3) Engage in meaningful communication with the public regarding the negative impacts and possible mitigation strategies; and

(4) Revise the general impact report required under subsection (c) of this section to reflect the findings under this subsection.

(E) A governmental unit may deny, condition, approve, or amend an action based on its findings under subsection (d) of this section.

1–905.

Governmental units shall coordinate and seek federal funding, including funding available under the Federal Infrastructure Investment and Jobs Act, to meet the requirements of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.