

HOUSE BILL 1033

M5, C8, M3
HB 1310/21 – APP & ECM

2lr0496

By: **Delegates Rosenberg and Stein**

Introduced and read first time: February 10, 2022

Assigned to: Appropriations and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment and Energy – Investment in Overburdened Communities**

3 FOR the purpose of requiring the Department of the Environment, on or before a certain
4 date, to develop certain policies and recommendations to require a certain
5 percentage of overall spending on certain programs, projects, and investments to
6 benefit certain overburdened communities, starting with a certain fiscal year;
7 requiring the Department to review certain guidelines and recommendations on or
8 before a certain date and every certain number of years thereafter; requiring the
9 Department to conduct public information–gathering sessions to solicit input from
10 overburdened communities and the public to achieve a certain investment
11 requirement; requiring the Department to work with the Commission on
12 Environmental Justice and Sustainable Communities to develop recommendations
13 to identify and provide assistance to overburdened communities; requiring certain
14 State and local governmental units to invest or direct certain resources in a certain
15 manner in consultation with certain agencies; requiring certain federal funding
16 appropriated in certain manners to be prioritized in a certain manner with a certain
17 exception; and generally relating to investment in programs related to the
18 environment and energy in overburdened communities.

19 BY repealing and reenacting, with amendments,
20 Article – Environment
21 Section 1–701
22 Annotated Code of Maryland
23 (2013 Replacement Volume and 2021 Supplement)

24 BY adding to
25 Article – Environment
26 Section 1–703
27 Annotated Code of Maryland
28 (2013 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Preamble

WHEREAS, The State of Maryland has been a leader in addressing issues of environmental justice from the cumulative effects of disparate impacts on historically burdened and disadvantaged communities, which are often low-income, overburdened communities, and in developing sustainable communities, through the establishment of a Commission on Environmental Justice and Sustainable Communities and other legislation; and

WHEREAS, The State of Maryland has also been a leader in addressing issues of the environmental and economic impacts of climate change, through legislation requiring the State to participate in the Regional Greenhouse Gas Initiative, establishing a Commission on Climate Change, and the concomitant establishment of greenhouse gas emissions reductions for the State; and

WHEREAS, The effects of climate change loom large over our State as a whole, potentially impairing our ability to develop and maintain sustainable communities, but may also have a disproportionately large impact on historically burdened and disadvantaged communities, particularly low-income, overburdened communities; and

WHEREAS, The Clean Water Commerce Act of 2021 specifies that a percentage of the Clean Water Commerce Account must be used to procure environmental outcomes from projects established in communities disproportionately burdened by environmental harms and risks, as specified; and

WHEREAS, It would be beneficial to the State to follow the example of New York State, which is pioneering the Climate Leadership and Community Protection Act in response to increasing and cumulative climate impacts that have had a heightened impact on disadvantaged and low-income, overburdened communities in that state, particularly from acid rain and increased tropical storm impacts; now, therefore,

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

Article – Environment

1–701.

(a) [(1)] In this [section] SUBTITLE the following words have the meanings indicated.

[(2)] (B) “Business organization” means a corporation, business trust, partnership, or any other for-profit entity.

[(3)] (C) “Commission” means the Commission on Environmental Justice and Sustainable Communities.

1 **[(4)] (D)** “Community listening session” means a public convening to
2 gather information and input from community members.

3 **[(5)] (E)** “Environmental justice **PRINCIPLES**” means [equal protection
4 from environmental and public health hazards for all people regardless of race, income,
5 culture, and social status] **PRINCIPLES THAT SUPPORT PROTECTION FROM**
6 **ENVIRONMENTAL POLLUTION AND THE ABILITY TO LIVE IN AND ENJOY A CLEAN AND**
7 **HEALTHY ENVIRONMENT, REGARDLESS OF RACE, COLOR, INCOME, CLASS,**
8 **HANDICAP, GENDER IDENTITY, SEXUAL ORIENTATION, NATIONAL ORIGIN,**
9 **ETHNICITY OR ANCESTRY, RELIGIOUS BELIEF, OR ENGLISH LANGUAGE**
10 **PROFICIENCY, INCLUDING:**

11 **(1) THE MEANINGFUL INVOLVEMENT OF ALL PEOPLE WITH RESPECT**
12 **TO THE DEVELOPMENT, IMPLEMENTATION, AND ENFORCEMENT OF**
13 **ENVIRONMENTAL LAWS, REGULATIONS, AND POLICIES, INCLUDING CLIMATE**
14 **CHANGE POLICIES; AND**

15 **(2) THE EQUITABLE DISTRIBUTION OF ENERGY AND**
16 **ENVIRONMENTAL BENEFITS AND ENVIRONMENTAL BURDENS.**

17 **[(6)] (F)** “Environmental organization” means a nonprofit entity engaged
18 in advocacy or action related to conservation, stewardship of natural resources, or pollution
19 reduction.

20 **(G) “OVERBURDENED COMMUNITY” MEANS ANY CENSUS TRACT**
21 **DETERMINED IN ACCORDANCE WITH THE MOST RECENT CENSUS INFORMATION IN**
22 **WHICH:**

23 **(1) THE MEDIAN HOUSEHOLD INCOME IS NOT MORE THAN 75% OF**
24 **THE STATEWIDE MEDIAN HOUSEHOLD INCOME; AND**

25 **(2) ACCORDING TO DATA OBTAINED FROM THE DEPARTMENT, U.S.**
26 **ENVIRONMENTAL PROTECTION AGENCY, DEPARTMENT OF AGRICULTURE,**
27 **DEPARTMENT OF NATURAL RESOURCES, OR OTHER STATE AGENCY, THREE OR**
28 **MORE OF THE FOLLOWING ENVIRONMENTAL INDICATORS ARE ABOVE THE 75TH**
29 **PERCENTILE STATEWIDE:**

30 **(I) PM 2.5;**

31 **(II) OZONE;**

32 **(III) NATA DIESEL PM**

33 **(IV) NATA CANCER RISK;**

- 1 (V) NATA RESPIRATORY HAZARD INDEX
- 2 (VI) NATA NEUROLOGICAL RISK INDEX;
- 3 (VII) TRAFFIC PROXIMITY;
- 4 (VIII) LEAD PAINT INDICATOR;
- 5 (IX) SUPERFUND PROXIMITY;
- 6 (X) RISK MANAGEMENT PLAN FACILITIES PROXIMITY;
- 7 (XI) HAZARDOUS WASTE PROXIMITY;
- 8 (XII) PROXIMITY TO A TOXIC RELEASE INVENTORY (TRI)
- 9 FACILITY;
- 10 (XIII) PROXIMITY TO A BROWNFIELD;
- 11 (XIV) PROXIMITY TO A CONCENTRATED ANIMAL FEEDING
- 12 OPERATION (CAFO); AND
- 13 (XV) PERCENT WI-FI COVERAGE.

14 **1-702.**

15 [(b)] (A) There is a Commission on Environmental Justice and Sustainable

16 Communities.

- 17 [(c)] (B) (1) The Commission consists of the following members:
- 18 (i) One member of the Senate of Maryland, appointed by the
- 19 President of the Senate;
- 20 (ii) One member of the House of Delegates, appointed by the Speaker
- 21 of the House;
- 22 (iii) The Secretary, or the Secretary's designee;
- 23 (iv) The Secretary of Health, or the Secretary's designee;
- 24 (v) The Secretary of Planning, or the Secretary's designee;
- 25 (vi) The Secretary of Commerce, or the Secretary's designee;

1 (vii) The Secretary of Housing and Community Development, or the
2 Secretary's designee;

3 (viii) The Secretary of Transportation, or the Secretary's designee;

4 (ix) The following members appointed by the Governor:

5 1. At least one representative from a community
6 disproportionately impacted by environmental and public health hazards;

7 2. One representative of a business organization;

8 3. One representative of an environmental organization;

9 4. One representative who is a health expert on
10 environmental justice issues; and

11 5. One representative of an academic institution with an
12 environmental justice institute or similar program;

13 (x) The following members appointed jointly by the President of the
14 Senate and the Speaker of the House:

15 1. At least three representatives from communities
16 disproportionately impacted by environmental and public health hazards that represent
17 the geographic diversity of the State;

18 2. One representative of a business organization;

19 3. One representative of an environmental organization; and

20 4. One representative who is a health expert on
21 environmental justice issues;

22 (xi) One representative of local government, designated by the
23 Maryland Association of Counties;

24 (xii) One representative of local government, designated by the
25 Maryland Municipal League; and

26 (xiii) Two representatives of a labor union, designated by the
27 Maryland State and D.C. AFL-CIO.

28 (2) To the extent practicable, the membership of the Commission shall
29 reflect the racial, gender, ethnic, and geographic diversity of the State, according to the
30 most recent available census data.

1 **1-703.**

2 (A) (1) ON OR BEFORE DECEMBER 1, 2022, THE DEPARTMENT SHALL
3 DEVELOP POLICIES AND RECOMMENDATIONS TO REQUIRE AT LEAST 40% OF
4 OVERALL SPENDING ON THE PROGRAMS, PROJECTS, AND INVESTMENTS LISTED
5 UNDER SUBSECTION (B) OF THIS SECTION TO BENEFIT OVERBURDENED
6 COMMUNITIES.

7 (2) ON OR BEFORE OCTOBER 1, 2024, AND EVERY 2 YEARS
8 THEREAFTER, THE DEPARTMENT:

9 (I) SHALL REVIEW ITS GUIDELINES AND RECOMMENDATIONS,
10 INCLUDING THE CRITERIA AND METHODS USED TO IDENTIFY OVERBURDENED
11 COMMUNITIES; AND

12 (II) MAY RECOMMEND MODIFICATIONS BASED ON NEW DATA
13 AND OTHER INFORMATION.

14 (3) ON OR BEFORE OCTOBER 1 EACH YEAR, BEGINNING IN 2024, THE
15 DEPARTMENT SHALL SUBMIT A REPORT OF ITS ACTIVITIES AND
16 RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2-1257 OF THE STATE
17 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

18 (B) (1) THE POLICIES AND RECOMMENDATIONS UNDER SUBSECTION (A)
19 OF THIS SECTION APPLY, STARTING WITH FISCAL YEAR 2024, IN EACH FISCAL YEAR
20 TO SPENDING ON PROGRAMS, PROJECTS, AND INVESTMENTS IN THE AREAS OF:

21 (I) GREEN INFRASTRUCTURE;

22 (II) CLIMATE CHANGE;

23 (III) CLEAN ENERGY AND ENERGY EFFICIENCY;

24 (IV) CLEAN TRANSPORTATION;

25 (V) AFFORDABLE AND SUSTAINABLE HOUSING;

26 (VI) TRAINING AND WORKFORCE DEVELOPMENT RELATED TO:

27 1. CLIMATE;

28 2. NATURAL DISASTERS;

1 3. **THE ENVIRONMENT;**

2 4. **CLEAN ENERGY;**

3 5. **CLEAN TRANSPORTATION;**

4 6. **HOUSING;**

5 7. **WATER AND WASTEWATER INFRASTRUCTURE; AND**

6 8. **LEGAL POLLUTION REDUCTION;**

7 **(VII) REMEDIATION AND REDUCTION OF LEGACY POLLUTION;**

8 **AND**

9 **(VIII) CRITICAL CLEAN WATER AND WASTE INFRASTRUCTURE.**

10 **(2) THE SPENDING ON PROGRAMS, PROJECTS, AND INVESTMENTS**
11 **LISTED UNDER PARAGRAPH (1) OF THIS SUBSECTION INCLUDES PROGRAMS,**
12 **PROJECTS, AND INVESTMENTS THAT ARE WHOLLY OR PARTLY FUNDED UNDER:**

13 **(I) § 5-1501 OF THE ECONOMIC DEVELOPMENT ARTICLE;**

14 **(II) § 11-708.1 OF THE LABOR AND EMPLOYMENT ARTICLE;**

15 **AND**

16 **(III) TITLE 9, SUBTITLES 20A, 20B, AND 20C OF THE STATE**
17 **GOVERNMENT ARTICLE.**

18 **(C) (1) TO ACHIEVE THIS INVESTMENT IN OVERBURDENED**
19 **COMMUNITIES, THE DEPARTMENT SHALL CONDUCT PUBLIC**
20 **INFORMATION-GATHERING SESSIONS IN DIFFERENT AREAS OF THE STATE TO**
21 **SOLICIT INPUT FROM OVERBURDENED COMMUNITIES AND THE PUBLIC.**

22 **(2) AFTER THE PUBLIC CONSULTATION UNDER PARAGRAPH (1) OF**
23 **THIS SUBSECTION, THE DEPARTMENT SHALL WORK WITH THE COMMISSION TO**
24 **DEVELOP SPECIFIC RECOMMENDATIONS TO IDENTIFY AND PROVIDE ASSISTANCE TO**
25 **OVERBURDENED COMMUNITIES, INCLUDING LEGISLATIVE AND REGULATORY**
26 **CHANGES TO ACHIEVE THE INVESTMENT REQUIRED UNDER THIS SECTION.**

27 **(D) STATE AND LOCAL GOVERNMENTAL UNITS, IN CONSULTATION WITH**
28 **THE DEPARTMENT, THE COMMISSION, THE PUBLIC SERVICE COMMISSION, AND**
29 **THE MARYLAND ENERGY ADMINISTRATION, SHALL, TO THE EXTENT PRACTICABLE,**

1 INVEST OR DIRECT AVAILABLE AND RELEVANT PROGRAMMATIC RESOURCES IN A
2 MANNER DESIGNED TO ACHIEVE THE INVESTMENT TO BENEFIT OVERBURDENED
3 COMMUNITIES UNDER THIS SECTION.

4 (E) (1) (I) FEDERAL FUNDS APPROPRIATED EITHER IN THE BUDGET
5 BILL OR BY BUDGET AMENDMENT TO AGENCIES AND PROGRAMS RECEIVING FUNDS
6 FOR PROGRAMS, PROJECTS, AND INVESTMENTS LISTED UNDER SUBSECTION (B) OF
7 THIS SECTION SHALL BE GIVEN PRIORITY IN A MANNER THAT PROVIDES FUNDING
8 TO OVERBURDENED COMMUNITIES UNDER THIS SECTION.

9 (II) FUNDS SUBJECT TO THIS SUBSECTION INCLUDE THOSE
10 FUNDS APPROPRIATED TO:

11 1. THE MARYLAND ENERGY ADMINISTRATION
12 (PROGRAMS D13A13.02, D13A13.06, D13A13.07, AND D13A13.08);

13 2. THE DEPARTMENT (PROGRAMS U00A01.03,
14 U00A01.04, U00A01.05, U00A01.11, U00A01.12, U00A04.01, U00A06.01, AND
15 U00A07.01);

16 3. THE MARYLAND DEPARTMENT OF LABOR (PROGRAM
17 P00G01.07);

18 4. THE DEPARTMENT OF HUMAN SERVICES (PROGRAM
19 N00I00.06);

20 5. THE DEPARTMENT OF TRANSPORTATION (J00);

21 6. THE DEPARTMENT OF COMMERCE (PROGRAMS
22 T00F00.03, T00F00.09, T00F00.11, AND T00F00.15);

23 7. THE DEPARTMENT OF THE MILITARY (PROGRAM
24 D50H01.06);

25 8. THE DEPARTMENT OF NATURAL RESOURCES
26 (PROGRAMS K00A02.09, K00A03.01, K00A04.01, K00A05.10, K00A10.01,
27 K00A12.05, AND K00A12.06);

28 9. THE DEPARTMENT OF AGRICULTURE (PROGRAMS
29 L00A14.03, L00A14.04, L00A14.05, L00A14.06, L00A15.03, L00A15.04,
30 L00A15.06, AND L00A15.07);

31 10. THE MARYLAND DEPARTMENT OF HEALTH

1 (PROGRAMS M00F02.01, M00F02.07, M00F03.01, M00F03.04, AND M00F06.01);
2 AND

3 11. ANY OTHER AGENCIES AND PROGRAMS RECEIVING
4 FUNDS FOR PURPOSES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

5 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A
6 PROGRAM OR AN ACTIVITY TO THE EXTENT THAT THE REQUIREMENT CONFLICTS
7 WITH FEDERAL LAW OR REGULATIONS FOR THAT PROGRAM OR ACTIVITY.

8 (3) (I) ON OR BEFORE DECEMBER 31, 2022, AND EACH DECEMBER
9 31 THEREAFTER, THE DEPARTMENT OF BUDGET AND MANAGEMENT, IN
10 COORDINATION WITH THE APPROPRIATE STATE UNITS, SHALL SUBMIT AN ANNUAL
11 REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE
12 APPROPRIATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1257 OF THE STATE
13 GOVERNMENT ARTICLE.

14 (II) THE REPORT SHALL PROVIDE INFORMATION ON:

15 1. THE AMOUNT OF FEDERAL FUNDS APPROPRIATED
16 FOR THE PROGRAMS, PROJECTS, AND INVESTMENTS LISTED UNDER SUBSECTION (B)
17 OF THIS SECTION; AND

18 2. THE SHARE OF FUNDS DIRECTED TO OVERBURDENED
19 COMMUNITIES UNDER THIS SECTION.

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