A BILL ENTITLED

AN ACT concerning

Environment and Energy – Investment in Overburdened Communities

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

BY repealing and reenacting, with amendments,

Article – Environment
Section 1–701
Annotated Code of Maryland
(2013 Replacement Volume and 2021 Supplement)

BY adding to

Article – Environment
Section 1–703
Annotated Code of Maryland
(2013 Replacement Volume and 2021 Supplement)
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.
"Community listening session" means a public convening to gather information and input from community members.

"Environmental justice PRINCIPLES" means equal protection from environmental and public health hazards for all people regardless of race, income, culture, and social status PRINCIPLES THAT SUPPORT PROTECTION FROM ENVIRONMENTAL POLLUTION AND THE ABILITY TO LIVE IN AND ENJOY A CLEAN AND HEALTHY ENVIRONMENT, REGARDLESS OF RACE, COLOR, INCOME, CLASS, HANDICAP, GENDER IDENTITY, SEXUAL ORIENTATION, NATIONAL ORIGIN, ETHNICITY OR ANCESTRY, RELIGIOUS BELIEF, OR ENGLISH LANGUAGE PROFICIENCY, INCLUDING:

1. THE MEANINGFUL INVOLVEMENT OF ALL PEOPLE WITH RESPECT TO THE DEVELOPMENT, IMPLEMENTATION, AND ENFORCEMENT OF ENVIRONMENTAL LAWS, REGULATIONS, AND POLICIES, INCLUDING CLIMATE CHANGE POLICIES; AND

2. THE EQUITABLE DISTRIBUTION OF ENERGY AND ENVIRONMENTAL BENEFITS AND ENVIRONMENTAL BURDENS.

"Environmental organization" means a nonprofit entity engaged in advocacy or action related to conservation, stewardship of natural resources, or pollution reduction.

"Overburdened Community" means any census tract determined in accordance with the most recent census information in which:

1. THE MEDIAN HOUSEHOLD INCOME IS NOT MORE THAN 75% OF THE STATEWIDE MEDIAN HOUSEHOLD INCOME; AND

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

   (I) PM 2.5;

   (II) OZONE;

   (III) NATA DIESEL PM

   (IV) NATA CANCER RISK;
(V) NATA RESPIRATORY HAZARD INDEX

(VI) NATA NEUROLOGICAL RISK INDEX;

(VII) TRAFFIC PROXIMITY;

(VIII) LEAD PAINT INDICATOR;

(IX) SUPERFUND PROXIMITY;

(X) RISK MANAGEMENT PLAN FACILITIES PROXIMITY;

(XI) HAZARDOUS WASTE PROXIMITY;

(XII) PROXIMITY TO A TOXIC RELEASE INVENTORY (TRI) FACILITY;

(XIII) PROXIMITY TO A BROWNFIELD;

(XIV) PROXIMITY TO A CONCENTRATED ANIMAL FEEDING OPERATION (CAFO); AND

(XV) PERCENT WI–FI COVERAGE.

1–702.

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

[(c)] (B) (1) The Commission consists of the following members:

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

(ii) One member of the House of Delegates, appointed by the Speaker of the House;

(iii) The Secretary, or the Secretary’s designee;

(iv) The Secretary of Health, or the Secretary’s designee;

(v) The Secretary of Planning, or the Secretary’s designee;

(vi) The Secretary of Commerce, or the Secretary’s designee;
(vii) The Secretary of Housing and Community Development, or the Secretary’s designee;

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

(ix) The following members appointed by the Governor:

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

2. One representative of a business organization;

3. One representative of an environmental organization;

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

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

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

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

2. One representative of a business organization;

3. One representative of an environmental organization; and

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

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

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

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

(2) To the extent practicable, the membership of the Commission shall reflect the racial, gender, ethnic, and geographic diversity of the State, according to the most recent available census data.
The term of a member appointed by the Governor or the President of the Senate and the Speaker of the House is 3 years.

At the end of a term, a member continues to serve until a successor is appointed and qualifies.

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

A member may not be appointed to more than two consecutive terms.

The Department shall provide a new Commission member with an orientation that reviews:

(i) Environmental justice issues in the State; and

(ii) Previous work of the Commission.

The Commission shall elect a chair from among its members.

The Department shall provide staff for the Commission.

The Commission shall:

1. Meet at least six times per calendar year; and

2. Host at least four community listening sessions per calendar year in communities disproportionately impacted by environmental and public health hazards, with a majority of the members of the Commission present at each community listening session.

(iii) Of the meetings and community listening sessions required under subparagraph (i) of this paragraph, the Commission shall establish rotating meeting or community listening session locations in different geographic locations of the State, including:

1. At least one in a rural location of the State; and

2. At least one in an urban location of the State.

(iii) The meetings and community listening sessions required under subparagraph (i) of this paragraph shall be reasonably accessible to all attendees, including persons with:

1. Limited English proficiency; and
2. Disabilities.

(iv) The Department shall post notice of the time and location of a meeting or community listening session required under subparagraph (i) of this paragraph on its website at least 30 days before the meeting or community listening session.

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

(3) A member of the Commission:

(i) May not receive compensation as a member of the Commission; but

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

(4) A member of the Commission may not represent more than one entity or group.

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

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

(2) Use data sets and mapping tools to review and analyze the impact of current State and local laws, permits, actions, and policies on the issue of environmental justice and sustainable communities, including cumulative impacts, effects, and exposure;

(3) Assess the adequacy of State and local government laws to address the issue of environmental justice and sustainable communities, including assessing compliance with Title VI of the federal Civil Rights Act of 1964;

(4) Coordinate with the Children’s Environmental Health and Protection Advisory Council, the Maryland Office of Minority Health and Health Disparities, and the Commission on Climate Change on recommendations related to environmental justice and sustainable communities; and

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

[(i)] (H) On or before October 1 of each year, the Commission shall report its findings and recommendations to the Governor and, subject to § 2–1257 of the State Government Article, the General Assembly.
1 (1) **On or before December 1, 2022,** the Department shall develop policies and recommendations to require at least 40% of overall spending on the programs, projects, and investments listed under subsection (B) of this section to benefit overburdened communities.

2 (2) **On or before October 1, 2024, and every 2 years thereafter,** the Department:

3 (i) shall review its guidelines and recommendations, including the criteria and methods used to identify overburdened communities; and

4 (ii) may recommend modifications based on new data and other information.

5 (3) **On or before October 1 each year, beginning in 2024,** the Department shall submit a report of its activities and recommendations to the Governor and, subject to § 2–1257 of the State Government Article, the General Assembly.

6 (B) (1) **The policies and recommendations under subsection (A) of this section apply,** starting with fiscal year 2024, in each fiscal year to spending on programs, projects, and investments in the areas of:

7 (i) Green infrastructure;

8 (ii) Climate change;

9 (iii) Clean energy and energy efficiency;

10 (iv) Clean transportation;

11 (v) Affordable and sustainable housing;

12 (vi) Training and workforce development related to:

13 1. Climate;

14 2. Natural disasters;
3. THE ENVIRONMENT;
4. CLEAN ENERGY;
5. CLEAN TRANSPORTATION;
6. HOUSING;
7. WATER AND WASTEWATER INFRASTRUCTURE; AND
8. LEGAL POLLUTION REDUCTION;

(vii) Remediation and reduction of legacy pollution;

AND

(viii) Critical clean water and waste infrastructure.

(2) The spending on programs, projects, and investments listed under paragraph (1) of this subsection includes programs, projects, and investments that are wholly or partly funded under:

(i) § 5–1501 of the Economic Development Article;

(ii) § 11–708.1 of the Labor and Employment Article;

AND

(iii) Title 9, Subtitles 20A, 20B, and 20C of the State Government Article.

(c) (1) To achieve this investment in overburdened communities, the Department shall conduct public information–gathering sessions in different areas of the State to solicit input from overburdened communities and the public.

(2) After the public consultation under paragraph (1) of this subsection, the Department shall work with the Commission to develop specific recommendations to identify and provide assistance to overburdened communities, including legislative and regulatory changes to achieve the investment required under this section.

(d) State and local governmental units, in consultation with the Department, the Commission, the Public Service Commission, and the Maryland Energy Administration, shall, to the extent practicable,
INVEST OR DIRECT AVAILABLE AND RELEVANT PROGRAMMATIC RESOURCES IN A
MANNER DESIGNED TO ACHIEVE THE INVESTMENT TO BENEFIT OVERBURDENED
COMMUNITIES UNDER THIS SECTION.

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

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

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

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

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

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

5. THE DEPARTMENT OF TRANSPORTATION (J00);

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

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

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

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

10. THE MARYLAND DEPARTMENT OF HEALTH
(PROGRAMS M00F02.01, M00F02.07, M00F03.01, M00F03.04, AND M00F06.01); AND

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

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

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

(II) THE REPORT SHALL PROVIDE INFORMATION ON:

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

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

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