

BILL: Senate Bill 0460

COMMITTEE: Education, Health, and Environmental Affairs

DATE: February 19, 2020

POSITION: OPPOSE

Recovermat Mid-Atlantic, LLC respectfully requests an unfavorable report on Senate Bill 0460.

Recovermat Mid-Atlantic opposes this Bill for the following reasons:

1. **This Bill is not needed to provide public access to pollution information and enforcement**

- These resources already exist within the MDE, DNR and MDA.
- Each agency publicizes all of their enforcement actions on their respective websites.
- Each agency already provides avenues for the public to file complaints.

2. **“Suspected Environmental and Natural Resources Violations” should not be advertised publicly**

- What protections do falsely accused businesses have?
 - In the event that an accusation is found to be false, the accusation will remain on the public record creating negative publicity for businesses.
 - How long will it take for the Ombudsman to update the records to reflect that a suspected violation has been declared unfounded?
 - Businesses have the right to maintain innocence until they have been found guilty of violations.
- The general public does not have wide knowledge of the regulations under MDE & DNR.
 - There will be complaints from unknowledgeable citizens that have no basis; yet, these complaints will be on the public record.
- Violations found to be invalid & accusations will remain on the public record indefinitely.
- The general public will view any and all complaints as valid until they are shown to be invalid.
- Negative publicity generated from unfounded accusations of violations will hurt the accused businesses as their customers will shun them.

3. **Office of the Environmental & Natural Resources Ombudsman will not make up for the shortage of labor in the MDE, DNR, and MDA**

- Advocacy groups argue that this Office is absolutely necessary to make up for the dramatic reduction in positions since 2002 at these agencies stating that enforcement actions will increase as a result.
 - Publicizing suspected violations will not help MDE & DNR to increase their enforcement efforts.
 - The 2.5 positions created for the Office of the Ombudsman will not help MDE & DNR to increase their enforcement efforts; there will still be a shortage of staffing.
- Numerous suspected violations are to be expected with this Bill.
 - Publicizing all suspected violations while maintaining the same small workforce for enforcement will have two negative effects for the State:
 - Enforcement actions will remain constant while the amount violations will appear to have skyrocketed.
 - The State will appear to be inadequate and ineffective in its efforts to match enforcement efforts with number of perceived violations.
- Advocacy groups also argue that the agencies have been limited in their ability to adequately communicate enforcement actions or reporting to the public, or to process and respond to public complaints of environmental violations. This argument is misleading as:
 - MDE, DNR and MDA are required to respond to and investigate all complaints.
 - MDE, DNR and MDA publicize all enforcement actions on their websites.

4. **The responsibility of environmental enforcement should not be left to the general public**

- Advocacy groups argue that this Bill supports the legal right of public participation in environmental enforcement per The Clean Water Act.
 - This is misleading as The Clean Water Act was created to solve some of our nation's water pollution problems and set up guidelines for the quality of waters in the US.
 - The Clean Water Act's primary objective is to restore and maintain the integrity of the nation's waters. The objective translates into two fundamental national goals: to eliminate the discharge of pollutants into the nation's waters, and to achieve water quality levels that are fishable and swimmable.
 - It provides a comprehensive framework of standards, technical tools, and financial assistance to address the many causes of pollution and poor water quality, including municipal and industrial wastewater discharges, polluted runoff from urban and rural areas, and habitat destruction.
 - It provides funding to states and communities to help them meet their clean water infrastructure needs, and it protects valuable wetlands and other aquatic habitats through a permitting process that ensures development and other activities are conducted in an environmentally sound manner.
- This Bill will only create a setting that supports civil suits to be lodged by individuals against businesses.
 - Is the goal to help the State enforce the laws or is it to allow advocacy groups to inundate the courts with potentially frivolous lawsuits?
 - This Bill clearly implies that the State cannot do their job properly and that the public should be left to litigate as they see fit.
 - Advocacy groups have gone so far as to publicly state that "the need for public enforcement is greatest when the state proves unwilling or incapable of doing the job itself."

5. **This Bill will not reduce the administrative burden on Agencies**

- As stated in the Fiscal & Policy Note, Public Information Act (PIA) requests are expected to increase.
 - The MDE, DNR and MDA will still need to do all of the legwork to provide the Office of the Ombudsman with information required for PIA's.
- Each Agency will be responsible for forwarding all data regarding suspected violations to the Office of the Ombudsman.
 - This Bill increase the burden on them rather than reduce their workloads.

Thank you for the opportunity to submit testimony in **opposition of Senate Bill 0460.**

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