



An Exelon Company

Position Statement

OPPOSE

Environment and Transportation
Committee
02/28/2020

House Bill 1128: Environment – Water Quality Certifications – Requests (Water Quality Certification Improvement Act)

Baltimore Gas and Electric Company (BGE) opposes *Environment – Water Quality Certifications – Requests (Water Quality Certification Improvement Act)* as it imposes requirements that would make it difficult or impossible for any new infrastructure project affecting water quality to obtain a federal permit. It impacts virtually any large infrastructure project in Maryland, including construction or upgrading of roads, bridges, ports, airports, railways, and renewable and other energy projects. If enacted, the bill could have very serious adverse impacts on many sectors of Maryland’s economy.

The Bill’s Standard for Approving Certification Is Unrealistically Stringent and Contrary to Federal Law: Section 9-354(C) provides that MDE “*shall deny a request if the Department is unable to affirm that the project will not adversely impact water quality.*” (emphasis added). Most infrastructure projects will have at least *some* adverse impact on water quality, at least temporarily. Section 401 of the federal Clean Water Act does not allow Maryland to require that a project have *no* adverse effect on water quality; rather, it permits the state to determine whether the project will *violate applicable water quality standards*. This provision of House Bill 1128 is contrary to federal law and would make it difficult or impossible for many (perhaps most) new infrastructure projects to get a federal permit – with potentially serious impacts on Maryland’s economy.

The Bill Should Recognize Maryland’s Authority to Voluntarily Waive Certification: The bill provides that MDE “shall issue a decision in accordance with the timeline for environmental review” in the federal Clean Water Act. (Section 9-354(C)). The bill should make clear that Maryland also has the authority under Section 401 to voluntarily waive its right to issue a water quality certification in appropriate circumstances. Issuing a decision on certification may be unnecessary and wasteful of state resources in many instances.

For the above reasons, BGE respectfully requests an unfavorable vote on House Bill 1128.