



CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

House Bill 82

Constitutional Amendment - Environmental Rights

Date: January 18, 2020

To: House Environment and Transportation Committee

Position: Support

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Chesapeake Bay Foundation **SUPPORTS** HB 82 which proposes a constitutional right to the environment that would establish the State as the trustee of Maryland's natural resources. The establishment of a constitutional right to the environment in Maryland could support the works of residents, community groups, and environmental organizations seeking to save the Chesapeake Bay.

The State of Maryland is the trustee of its natural resources

HB 82 states,

The State is the trustee of the air, land, water, living, and historic resources of the State, which shall be protected, preserved, and enhanced for the benefit of all of the people of this State, including future generations. (Page 2, lines 8-11)

The State of Maryland is the trustee of its natural resources, including the Chesapeake Bay – and the actions of each branch of State government are critical to its fate. For this reason, the Chesapeake Bay Foundation works closely with the Departments of Agriculture, natural Resources, and Environment on topics ranging from farming practices, to fisheries management, to urban runoff controls and through litigation in the Maryland Judiciary and advocacy in the General Assembly to protect the national treasure in Maryland's backyard.

State Constitutional rights help protect environmental resources and environmental protection funds

Article I Section 27 of the Pennsylvania constitution states,ⁱ

Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.”

The Pennsylvania Supreme court applied this element of the Amendment to protect funds intended for conservation and maintenance of public natural resources from being diverted by the State into the General Fund and used for other purposes.ⁱⁱ As a trustee, the Court found, the State's role was to protect the funding for its intended purpose.

Reasonableness standards will allow courts to appropriately construe this Amendment

The Constitutional Amendment proposed in HB 82 would prohibit the State or political subdivision to “cause unreasonable diminution of or degradation to the State's Natural resources by action or inaction.” The legal construction of reasonable, applied often to common law and statutory law, will allow courts tailor the application of this Amendment as appropriate to balance the multiple responsibilities of State and local government.

CBF urges the Committee's FAVORABLE report on HB 82.

ⁱ Pa. Const. art. I, § 27.

ⁱⁱ *Robinson Township v. Commonwealth*, 83 A.3d 901 (Pa. 2013); *PEDF v. Commonwealth*, 108 A.3d 140 (Pa. Cmwlth 2015)

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