

Testimony in Support of House Bill 1078 (Delegate Terrasa)

Attorney General - Climate Change Actions - Authorization

Health and Government Operations Committee

March 10, 2021

Dear Chairwoman Pendergrass,

On behalf of our members and supporters, we write to express our support for *HB1078*. *HB1078* explicitly demonstrates the legislature's desire to see any businesses whose unlawful conduct has furthered the climate crisis be held to account. To that end, the bill encourages the Attorney General to investigate and file any appropriate action against businesses whose tortious conduct may have contributed to climate change, while ensuring that the Attorney General has available the resources he needs to do this work—at no additional cost to the state.

Climate change presents an existential threat to the people of Maryland. Sea-level rise, increasingly severe storms, massive flooding events, and hotter temperatures threaten the public health and safety of our state's citizens and environment, and adaptation and resilient infrastructure is expensive. A [recent study](#) has shown that Maryland taxpayers can expect to spend \$27.5 billion by 2040 on coastal defenses alone to guard our frontline communities against rising seas. This is just one of the many costly, needed expenditures facing the state, as it defends against a wide range of climate-driven impacts.

However, this crisis was not a foregone conclusion. As evidenced by [internal industry documents](#), fossil fuel companies predicted as far back as the 1960s that their products would cause “catastrophic” climate impacts. Despite this knowledge, the industry spent millions of dollars on campaigns to conceal, obscure and deny the truth for decades to come. Fossil fuel companies went on to produce, market, and sell fossil fuels with full knowledge that their products would contribute to irreversible global warming, without protecting or warning consumers, policymakers and others about the dangers. Maryland taxpayers should not be stuck with 100 percent of the bill for a crisis these companies knowingly caused and perpetuated.

HB1078 comes as 25 communities from across the nation — including the cities of Annapolis and Baltimore — have filed lawsuits to hold oil and gas companies accountable for their decades-long campaign of fraud and deception, and to make sure that the costs of climate-related adaptation, resilience, and recovery projects are not borne solely by taxpayers. Since 2018, six Attorneys General — including Karl Racine of Washington D.C. and Kathy Jennings of Delaware — have taken statewide action in order to hold these companies accountable and seek justice for all residents. But these cases are complex. Holding bad actors to account is time and resource intensive. Unfortunately, not all communities have the resources to pursue litigation on their own, most need the help of outside counsel.

The State of Maryland has a long history of hiring outside counsel to assist in complex litigation involving fraud, deception and public health crises, such as in tobacco and opioid litigation. In

fact, many complex lawsuits brought by the Maryland Attorney General can only be filed and successfully litigated with the assistance of outside counsel. However, Maryland state law, specifically Md. Code Ann. § 6-105(b), requires that the Attorney General secure the Governor's approval when hiring outside counsel to assist on a case. Thus, in practice, when it comes to significant fraud and accountability cases, it is the Governor, not the Attorney General, who decides whether a lawsuit will be filed.

Holding bad actors accountable for the damage they cause should not be mired in or conditioned upon politics. Instead, accountability must transcend politics. We, the undersigned organizations, support the authorization of the Attorney General to engage outside counsel on a contingency fee basis in order to hold accountable the companies whose unlawful actions have contributed to climate change and its associated harms.

On behalf of our members and supporters, and towards the pursuit of justice for all Maryland residents, we hope the Committee will vote in favor of HB1078.

Signed,



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