

Professor Barry E. Hill

Maryland Campaign For Environmental Human Rights

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SB 151: Constitutional Amendment-Environmental Rights

Testimony: Favorable

TESTIMONY OF PROFESSOR BARRY E. HILL
BEFORE THE
SENATE EDUCATION, HEALTH AND ENVIRONMENTAL AFFAIRS COMMITTEE
(January 26, 2021)

GOOD AFTERNOON CHAIRMAN PINSKY, VICE CHAIR KAGAN AND MEMBERS OF THE COMMITTEE.

MY NAME IS BARRY HILL AND I HAVE BEEN A LONG-TIME RESIDENT OF PRINCE GEORGE'S COUNTY AND OF MONTGOMERY COUNTY. CURRENTLY, I AM AN ADJUNCT PROFESSOR OF LAW AT VERMONT LAW SCHOOL WHERE I HAVE TAUGHT AN ENVIRONMENTAL JUSTICE COURSE FOR 25 YEARS. I HAVE WRITTEN EXTENSIVELY ON THE TOPIC, AND I WAS THE DIRECTOR OF U.S. EPA'S OFFICE OF ENVIRONMENTAL JUSTICE FROM 1998-2007.

THE MESSAGE THAT I WOULD LIKE TO LEAVE WITH THE COMMITTEE TODAY IS THAT SB 151 CAN BE A POWERFUL TOOL FOR THE STATE AS WELL AS COUNTIES AND MUNICIPALITIES TO MORE EFFECTIVELY PROTECT THE NATURAL RESOURCES, AND THE ENVIRONMENT AND HEALTH OF ALL MARYLANDERS.

I APPEAR BEFORE THIS COMMITTEE TO SUPPORT SB 151, THE "CONSTITUTIONAL AMENDMENT-ENVIRONMENTAL RIGHTS." SB 151 DECLARES THAT "EACH PERSON HAS THE FUNDAMENTAL AND INALIENABLE RIGHT TO A HEALTHFUL ENVIRONMENT," WHICH INCLUDES THE RIGHT TO CLEAN AIR, CLEAN WATER AND CLEAN LAND, AND A STABLE CLIMATE. THIS IS EXACTLY WHAT ENVIRONMENTAL JUSTICE COMMUNITY-BASED ORGANIZATIONS THROUGHOUT THIS COUNTRY HAVE BEEN SEEKING FOR

DECADES SINCE NUMEROUS INDEPENDENT RESEARCH STUDIES HAVE DEMONSTRATED CONCLUSIVELY THAT BLACK AND BROWN COMMUNITIES, AND POOR COMMUNITIES HAVE BEEN DISPROPORTIONATELY EXPOSED TO ENVIRONMENTAL HARMS AND RISKS AS COMPARED TO OTHER COMMUNITIES. NO ONE CAN ARGUE WITH THAT UNDENIABLE FACT.

THE POLITICAL LEADERSHIP IN MARYLAND HAS RECOGNIZED FOR DECADES THAT ENVIRONMENTAL INJUSTICE WAS A PROBLEM IN THE STATE. THAT WAS THE REASON WHY THEN-GOVERNOR PARRIS GLENDENING CREATED, ON JANUARY 1, 2001, THE COMMISSION ON ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES BY EXECUTIVE ORDER. SUBSEQUENTLY, THAT WAS THE REASON WHY THE GENERAL ASSEMBLY CODIFIED THE COMMISSION BY STATUTE, EFFECTIVE OCTOBER 1, 2003. IN SPITE OF THE GOOD EFFORTS OF THE COMMISSION OVER THE YEARS, ENVIRONMENTAL INJUSTICE STILL CONTINUES TO EXIST IN MARYLAND.

THAT IS WHY THIS COMMITTEE'S LEADERSHIP IN MOVING SB 151 FORWARD IS ABSOLUTELY ESSENTIAL AT THIS TIME SINCE THE COMMISSION, AS AN ADVISORY BODY, COULD BE MORE EFFECTIVE IN CARRYING OUT ITS LEGISLATIVE RESPONSIBILITIES AS SET FORTH IN THE 2003 STATUTE.

IN LIGHT OF THE FACT THAT ENVIRONMENTAL INJUSTICE CONTINUES TO EXIST IN THE STATE, A RHETORICAL QUESTION MAY BE POSED: "WHO CAN BE AGAINST ENVIRONMENTAL JUSTICE, AND THE NOTION THAT EVERY MARYLANDER HAS A RIGHT TO CLEAN AIR, CLEAN WATER, AND CLEAN LAND, AS WELL AS A STABLE CLIMATE? PUT ANOTHER WAY: "WHO CAN BE FOR ENVIRONMENTAL INJUSTICE, AND THE CURRENT SITUATION OF POLLUTED AIR, CONTAMINATED WATER, AND DIRTY LAND, AND AN UNSTABLE CLIMATE TO CONTINUE UNABATED IN SOME COMMUNITIES IN THIS GREAT STATE?

YOU WILL NOTE THAT THE LANGUAGE REGARDING EACH PERSON HAVING A FUNDAMENTAL AND INALIENABLE RIGHT TO A HEALTHFUL ENVIRONMENT IS NOT AT ALL NEW. IN FACT, IT WAS LIFTED

VERBATIM FROM SECTION 1-302(D) OF THE MARYLAND ENVIRONMENTAL POLICY ACT (MEPA) WHICH WAS ENACTED INTO LAW ON MAY 24, 1973. WE, THE MARYLAND CAMPAIGN FOR ENVIRONMENTAL HUMAN RIGHTS, SIMPLY ADDED THE LANGUAGE REGARDING "CLEAN AIR, WATER AND LAND [AND] A STABLE ENVIRONMENT" TO EXPLAIN WHAT A "HEALTHFUL ENVIRONMENT" MEANS IN ACTUALITY IN 2021.

IN ADDITION TO PROVIDING THE COMMISSION WITH MORE "TOOLS IN THE TOOLBOX" TO ADVISE STATE AGENCIES ON ENVIRONMENTAL JUSTICE, SB 151 ALSO PROVIDES "TOOLS IN THE TOOLBOX" FOR THE STATE, COUNTIES, AND MUNICIPALITIES TO BETTER PROTECT THE NATURAL RESOURCES, AND THE ENVIRONMENT AND PUBLIC HEALTH OF ALL MARYLANDERS

SPECIFICALLY, SB 151 PROVIDES THAT: "THE STATE IS THE TRUSTEE OF THE AIR, LAND, WATER, LIVING, AND HISTORIC RESOURCES OF THE STATE" AND THAT THOSE RESOURCES "SHALL BE PROTECTED, PRESERVED, AND ENHANCED FOR THE BENEFIT OF ALL THE PEOPLE OF THIS STATE, INCLUDING FUTURE GENERATIONS." AGAIN, THIS LANGUAGE WAS LIFTED ALMOST VERBATIM FROM SECTION 1-302 (C) OF MEPA.

JUST IN CASE ONE MIGHT ARGUE THAT WE DON'T NEED SB 151 IF THIS LOFTY LANGUAGE OF RIGHTS AND TRUSTEESHIP ARE ALREADY IN MEPA. THAT WOULD BE WRONG. UNFORTUNATELY, MEPA HAS SAT MORIBUND SINCE 1973. NO IMPLEMENTING REGULATIONS HAVE BEEN ISSUED BY THE DEPARTMENT OF THE ENVIRONMENT. MEPA HAS BEEN A NEGLECTED STATUTE: A FORGOTTEN STATUTE.

BUT, MORE IMPORTANTLY, MEPA IS NOT EVEN CLOSE TO BEING AS POWERFUL AS THE PROPOSED CONSTITUTIONAL AMENDMENT.

FOR EXAMPLE, IN THE MUCH TALKED ABOUT PENNSYLVANIA CASE, **ROBINSON TOWNSHIP V. COMMONWEALTH OF PENNSYLVANIA**, IT WAS 9 MUNICIPALITIES THAT SUED THE STATE SINCE THE NEW STATE FRACKING LAW INFRINGED ON THEIR ABILITY TO PROTECT THE ENVIRONMENT AND ABIDE BY THE

ENVIRONMENTAL RIGHTS AMENDMENT IN THE STATE CONSTITUTION. MOREOVER, IN *RHODE ISLAND V. CHEVRON*, THE STATE IS USING ITS ENVIRONMENTAL RIGHTS AMENDMENT IN CLIMATE LIABILITY LITIGATION AGAINST 21 OIL AND GAS COMPANIES. THIS IS WHAT I DISCUSSED IN MY LETTER OF SUPPORT THAT WAS SENT TO ALL MEMBERS OF THIS COMMITTEE. IN SHORT, SB 151 COULD BE A POWERFUL LITIGATION TOOL FOR MARYLAND AND ITS POLITICAL SUBDIVISIONS.

IN CONCLUSION, SINCE NOVEMBER 11, 1776, THE MARYLAND CONSTITUTION IN THE DECLARATION OF RIGHTS SECTION HAS PROVIDED: "THAT EVERY MAN HATH A RIGHT TO PETITION THE LEGISLATURE, FOR THE REDRESS OF GRIEVANCES, IN A PEACEFUL AND ORDERLY MANNER." TODAY, ON BEHALF OF THE MARYLAND CAMPAIGN FOR ENVIRONMENTAL HUMAN RIGHTS, I AM IMPLORING THIS HONORABLE COMMITTEE TO EXERCIZE ITS LEADERSHIP SINCE IT IS ESSENTIAL AT THIS TIME TO ADDRESS THESE MAJOR ENVIRONMENTAL AND PUBLIC HEALTH ISSUES IN ALL COMMUNITIES BY MOVING SB 151 FORWARD IN THE LEGISLATIVE PROCESS.

THANK YOU VERY MUCH FOR YOUR CONSIDERATION OF OUR REQUEST AND YOUR ATTENTION.