



Environment Committee

Committee: Environment and Transportation

Testimony on: HB596 – Constitutional Amendment – Environmental Rights

Organization: Takoma Park Mobilization Environment Committee

Submitting: Laurie McGilvray, Co-Chair

Position: Favorable

Hearing Date: February 23, 2022

Dear Chair and Committee Members:

We are pleased to submit testimony in favor of HB596 – Constitutional Amendment – Environmental Rights. The Takoma Park Mobilization Environment Committee is a grassroots organization focused on State and County level climate action. We strongly urge you to vote favorably on HB596.

HB596, if passed and approved by voters in November, would add an important right to the preamble in Maryland's Constitution:

“(A) That each person has a fundamental and inalienable right to a healthful and sustainable environment, and said right shall not be infringed.

(B) That the State, as trustee, shall protect, conserve, and enhance Maryland's natural resources, including its air, lands, waters, wildlife, and ecosystems, for the benefit of both present and future generations.”

Maryland Should Have an Environmental Safety Net Like Other States

Seven states have environmental rights language in their constitutions - Hawaii, Illinois, Massachusetts, Montana, Pennsylvania, Rhode Island, and voters in New York approved language last November. Pennsylvania and Montana have had constitutional environmental rights since the 1970's, and experience has shown that there is not a flood of litigation. Bringing a lawsuit is hard and expensive. Cases have largely involved instances in which state laws and their implementation by environmental agencies failed to protect citizens' constitutional rights to a healthy environment.

In the 1999 case of Montana Environmental Information Center (MEIC) v. Montana Department of Environmental Quality (MDEQ), the State had allowed a mining company to pump, without any treatment, millions of gallons of arsenic-tainted water into the Landers Fork and Blackfoot Rivers. Tests showed arsenic concentrations of 36 to 55 parts per billion, far above the State standard of 18 ppb. The water also contained iron, zinc, and manganese in excess of State standards. The legislature had passed a law, which included two blanket exemptions from the State's non-degradation policy, which MDEQ used to grant the permits. The Montana Supreme Court ruled that

these blanket exemptions were unconstitutional unless the State could show a compelling State interest in granting exemptions.

Clearly, if state and local governments are doing their jobs to protect the environment, then litigation would be unnecessary. However, Maryland communities like Brandywine, Eagle Harbor, and Lothian continue to experience environmental degradation, despite strong environmental laws in Maryland. State agencies and local governments can grant permits that don't actually protect the environment and they can fail to enforce existing permits. HB649 - Environment - Discharge Permits - Inspections and Administrative Continuations, highlights the issue of "zombie permits" and the Maryland Department of Environment's lack of enforcement of noncompliant permit holders. A constitutional right to a healthy environment would provide Marylanders with a powerful safety net.

Let the Voters Decide

A recent poll found that 76% of Marylanders surveyed would support the Constitutional Amendment on Environmental Human Rights and 69% said they would vote in favor of it if the election were held today. Voters should have a chance to make the decision for themselves.

We therefore, strongly urge a **FAVORABLE** vote on HB596 to let the voters can decide.