

Professor Barry E. Hill

Maryland Campaign For Environmental Human Rights

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HB 596: Constitutional Amendment-Environmental Rights

Testimony: Favorable

TESTIMONY OF PROFESSOR BARRY E. HILL  
BEFORE THE  
HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE  
(February 22, 2022)

GOOD AFTERNOON CHAIRMAN BARVE, VICE CHAIR STEIN 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.

I WOULD LIKE TO TAKE THIS OPPORTUNITY TO ADDRESS 4 POINTS.

FIRST, THE ADVERSE EFFECTS OF CLIMATE CHANGE SUCH AS SEA-LEVEL RISE, EXTREME WEATHER EVENTS, AND AQUIFER DEPLETION ARE HERE. HOWEVER,

THERE IS NO STATE LAW OR CONSTITUTIONAL PROVISION THAT DESIGNATES MARYLAND AS BEING RESPONSIBLE, AS THE TRUSTEE, FOR PROTECTING MARYLAND'S NATURAL RESOURCES FROM THE ADVERSE EFFECTS OF CLIMATE CHANGE. HB 596 DOES JUST THAT.

TO FURTHER ADD, THERE IS NO STATE LAW THAT DESIGNATES WHICH STATE AGENCY IS RESPONSIBLE FOR SUING BIG OIL AND GAS COMPANIES FOR THE CLIMATE FRAUD COMMITTED IN MARYLAND. THE MARYLAND ATTORNEY GENERAL DOES NOT HAVE SUCH AUTHORITY. WHEREAS, THE ATTORNEY GENERAL OFFICES OF, FOR EXAMPLE, RHODE ISLAND, MINNESOTA AND THE DISTRICT OF COLUMBIA HAVE BROUGHT CLIMATE CHANGE LITIGATION AGAINST SUCH DEFENDANTS. UNFORTUNATELY, THIS IS A GLARING WEAKNESS IN PROTECTING THE PEOPLE OF MARYLAND FROM THE RAVAGES OF CLIMATE CHANGE.

THROUGH AN AGREEMENT WITH THE U.S. DEPARTMENT OF THE INTERIOR, THE MARYLAND DEPARTMENT OF THE ENVIRONMENT (CREATED IN 1987 BY STATUTE), AND THE MARYLAND DEPARTMENT OF NATURAL RESOURCES (ESTABLISHED IN 1969 BY FORMER GOVERNOR MARVIN MANDEL AS PART OF AN EXECUTIVE BRANCH REORGANIZATION) SERVE AS CO-TRUSTEES OF THE STATE'S

NATURAL RESOURCES. THIS ARRANGMENT MAKES ABSOLUTELY NO SENSE IN LIGHT OF THE CLIMATE CHANGE ISSUES FACING THE PEOPLE OF THIS STATE IN 2022. SB 783 IS AN OPPORTUNITY TO BEGIN TO THINK DIFFERENTLY ABOUT ADDRESSING THIS EXISTENTIAL ISSUE.

SECOND, THE GOAL OF ENVIRONMENTAL JUSTICE FOR ALL, AND THE ERA FOR ALL ARE INDEED SYNONYMOUS. HB 596 DECLARES THAT “EVERY PERSON HAS THE FUNDAMENTAL AND INALIENABLE RIGHT TO A HEALTHFUL AND SUSTAINABLE ENVIRONMENT,” WHICH INCLUDES THE RIGHT TO CLEAN AIR, CLEAN WATER AND CLEAN LAND. THIS IS EXACTLY WHAT ENVIRONMENTAL JUSTICE COMMUNITY-BASED ORGANIZATIONS HAVE BEEN SEEKING FOR DECADES SINCE BLACK AND BROWN COMMUNITIES, AND POOR COMMUNITIES HAVE BEEN DISPROPORTIONATELY EXPOSED TO ENVIRONMENTAL HARMS AND RISKS AS COMPARED TO OTHER COMMUNITIES.

IN LIGHT OF THE FACT THAT INSTANCES OF ENVIRONMENTAL INJUSTICE CONTINUE TO EXIST IN THIS 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?**

**THIRD, 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. THE LANGUAGE OF HB 596 IS CONSISTENT WITH EXISTING LAW.**

**WE, THE MARYLAND CAMPAIGN FOR ENVIRONMENTAL HUMAN RIGHTS, SIMPLY ADDED THE LANGUAGE REGARDING THIS RIGHT TO CLEAN AIR, CLEAN WATER AND CLEAN LAND “MAY NOT BE INFRINGED.”**

**FOURTH, SB 783 PROVIDES THAT: “THE STATE SHALL...CONSERVE, PROTECT, AND ENHANCE THE STATE’S NATURAL RESOURCES FOR THE BENEFIT OF EVERY PERSON, INCLUDING PRESENT AND FUTURE GENERATIONS. AGAIN, THIS LANGUAGE WAS LIFTED ALMOST VERBATIM FROM SECTION 1-302 (C) OF MEPA. THE LANGUAGE OF HB 596 IS CONSISTENT WITH EXISTING LAW.**

BUT, JUST IN CASE ONE MIGHT ARGUE THAT WE DON'T NEED HB 596 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, WHICH WOULD BE THE PREEMINENT STATEMENT OF ENVIRONMENTAL LAW AND POLICY IN THIS STATE.

IN CONCLUSION, ENVIRONMENTAL JUSTICE AND THE ERA ARE SYNONYMOUS. CLEAN AIR, CLEAN LAND, AND CLEAN WATER, AND A STABLE AND SUSTAINABLE ENVIRONMENT ARE ENVIRONMENTAL HUMAN RIGHTS.

THE MARYLAND CAMPAIGN FOR ENVIRONMENTAL HUMAN RIGHTS IS IMPLORING THIS HONORABLE COMMITTEE TO EXERCIZE ITS LEADERSHIP SINCE IT IS ESSENTIAL AT THIS TIME TO ADDRESS THE MAJOR ENVIRONMENTAL AND PUBLIC HEALTH ISSUES IN ALL COMMUNITIES BY MOVING HB 596 FORWARD IN THE LEGISLATIVE PROCESS.

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