

Testimony of Franklin L. Kury
Maryland House of Delegates
Senate Judicial Proceedings Committee
Annapolis, Maryland

**SB 783 – Constitutional Amendment – Environmental Rights
Favorable**

March 9, 2022

I am Franklin Kury, the author and chief sponsor of an environmental rights amendment that passed the Pennsylvania legislature with complete bi-partisan support and was approved by the voters in 1971 by a 4 to 1 margin.

In the 50 years since its approval, I have followed the workings of this amendment closely.

With that knowledge, I urge you to adopt Senate Bill 783.

This proposal would add two basic principles to Maryland's framework of government.

First, it will give its people the right to a healthy environment on the same plane as the right to free speech, freedom of religion etc. In other words, the right to a healthy environment is a fundamental human right.

The proposal also makes the State the trustee of the State's natural resources. By doing so, it incorporates into the fundamental law of Maryland the ancient public trust doctrine that has been part of common-law since Roman times.

Based on this half-century of “road testing,” I would like to comment on some of the opposition points raised against HB596.

First, the fear that this proposal will engender a flood of litigation that will clog the judicial dockets. Pennsylvania has not seen a flood of litigation to implement the amendment.

Of course there has been some litigation in Pennsylvania, but nothing like a flood. There were a handful of cases over five decades that resulted in State Supreme Court decisions which clarified the State's role as trustee of the State's natural resources and citizens' rights to seek enforcement of it through the courts. There was no sudden flooding of litigation in Pennsylvania.

Secondly, the Pennsylvania amendment did not infringe on private property rights. Owners of property continue to develop and utilize their land for profit, but they cannot use their property in such a way as to damage the environmental condition of others.

Importantly, developers of projects that would impact the environment now plan in advance for the impact their projects will have on the environment and act appropriately under appropriate state law.

Of course the proposed amendment will change things. That is its intent. We cannot continue to go on as we are. But neither Pennsylvania nor Montana nor Hawaii (states with similar environmental provisions) has experienced any unforeseen consequences that some had feared.

I retired from the legislature in 1980, having served six years in the House and eight in the Senate. As I look back at my 14 years in the legislature, nothing has given me a greater sense of satisfaction than Article 1, Section 27. It has been a remarkable experience, to draft and enact the amendment and then see being it used by the courts.

I feel really good about it.

I will be pleased to answer questions.

Thank you.