

Environment Committee

Committee: Environment and Transportation

Testimony on: SB783 – Constitutional Amendment – Environmental Rights

Position: Favorable

Hearing Date: March 9, 2022

Dear Chairman, Vice Chair and Members of the Committee,

As a resident of Baltimore, MD, I am writing to express my strong support of SB783.

We have two incinerators within 10 miles of my house. One is for municipal wastes and the other is for medical waste. The Baltimore region ranks among the worst in the U.S. for air pollution. A study by the Chesapeake Bay Foundation in 2017 found air quality in the region was ranked moderate or worse one of every three days, according to the EPA's Air Quality Index. The same study notes poor air quality triggers asthma and can cause other health issues. Little wonder then that children in Baltimore City have asthma at twice the rate of the rest of the country.

The story doesn't stop there, it continues with Plastics, the new coal. Baltimore has a single-stream recycling program. In total only 3% of plastics are recycled in Baltimore. Of the total trash collected, about 49% of it goes to the incinerator. Where it is burned, then breathed in by residents. The toxic ash is taken to the landfill, located in the same Black, Brown and low-income area. At the same time petroleum companies are ramping up production of single use plastics to offset the decline in fuel use. Thus, increasing the waste stream being burned. Incidentally, on the medical waste incinerator, NIH's medical waste used to be burned in Bethesda, but now it is burned in Baltimore - a move from a white area to a Black, Brown, and low-income area.

Something is wrong here. Everything is in "compliance", but people are dying. Current laws are either ineffective or not enforced. The people need a mechanism to make sure their health is treated with more value than corporate profits.

SB783, 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. SB492 - 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.

I strongly urge a FAVORABLE vote on SB783 to let the voters can decide.

For all of these reasons and many more, I ask that you all vote favorably and move this bill out of committee.

Thank you.

Dave Arndt

Retired Chemical Engineer and Climate, Environmental and Social Justice Advocate