

PROFESSOR ROBERT PERCIVAL  
SB783 "CONSTITUTIONAL AMENDMENT – ENVIRONMENTAL RIGHTS"

Hearing Date: March 9, 2022  
Favorable

I am Robert Percival, the Robert Stanton Professor of Law and Director of the Environmental Law Program at the University of Maryland Carey School of Law. I have taught at the law school since 1987 when Maryland became one of the first law schools to launch an Environmental Law Program. I teach Environmental Law, Constitutional Law, and Global Environmental Law and I have written extensively on each of these topics.

More than seven years ago Rabbi Nina Cardin contacted me seeking advice on the status of environmental provisions in national and state constitutions. Working with students in my Global Environmental Law seminar, we researched the status of constitutional provisions dealing with the environment. We found that during the last half century nearly every country that has adopted a new constitution or extensively revised its existing constitution has included an environmental provision. Although the U.S. Constitution does not address the environment, more than twenty state constitutions do. Last fall New York voters overwhelmingly approved adding an environmental rights provision to the New York Constitution. Several other states also are considering such amendments.

I support the Environmental Amendment embodied in Senate Bill 783. The proposed amendment is the culmination of more than seven years of careful work to craft an environmental amendment for the Maryland Constitution. Adoption of this amendment is important for several reasons. First, it makes a powerful statement concerning the importance of environmental protection for all Marylanders and the need to consider the interests of future generations not represented in the political process. Second, it strengthens the ability of all branches of Maryland government to protect the environment against environmental threats. Third, it provides insurance against unexpected future threats to Maryland's environment from other states or even the federal government.

While the Maryland amendment will not magically transform the state's environment, it will add an important new tool to the state's legal arsenal to protect it. Experience with similar constitutional provisions in other states has demonstrated their value. An amendment has powerful symbolic and practical impact and they have not spawned a flood of litigation. When special interests sought to strip cities and counties of their right to maintain basic health and safety protections, Pennsylvania's environmental amendment came to the rescue. We live in volatile political times. A little more than a year ago the federal government was hellbent on rolling back federal environmental protections, and even in some cases to deny states the power to protect their own environment. We now have a Supreme Court embracing novel legal theories to undermine important health and safety legislation. The Environmental Human

Rights Amendment will strengthen Maryland's ability to protect the state's environment from external assaults now and in the future.

The time has come for the Maryland General Assembly to recognize the environmental rights of all the state's residents by giving Maryland voters an opportunity to endorse the Environmental Human Rights Amendment.