



SB 0783 CONSTITUTIONAL AMENDMENT ENVIRONMENTAL RIGHTS

Hearing before the Judicial Proceedings Committee,
March 9, 2022

Position: SUPPORT (FAV)

Chesapeake Physicians for Social Responsibility (CPSR) is statewide evidenced-based, organization of over 900 physicians, other health professionals and supporters, that addresses the existential public health threats: nuclear weapons, the climate crisis and the issues of pollution and toxics' effect on health as seen through the intersectional lens of environmental, social and racial justice. As an organization founded by physicians, we understand that prevention is far superior to treatment in reducing costs; death, illness, injury, and suffering

HB596, if passed and approved by voters in November, would create Constitutional Environmental rights for Marylanders: "That each person has a fundamental and inalienable right to a healthful and sustainable environment, and said right shall not be infringed. 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."

Like the right to free speech, the Amendment would give Marylanders, including in minority communities long burdened with environmental injustices, the right to expect state and local governments to consider their right to a healthy environment when issuing and enforcing permits and regulations.

Three quarters of the nations on this planet have a Constitutional right to a clean and healthy environment, but not the United States.¹ Seven states have Constitutional environmental protections of which three have the protections in their state Bill of Rights including most recently New York State. Maryland is one of a number of additional states that have proposed environmental amendments.²

¹ <http://blogs.law.columbia.edu/climatechange/2021/08/31/environmental-rights-in-state-constitutions/>

² <https://www.bdlaw.com/publications/new-york-becomes-the-third-state-to-adopt-a-constitutional-green-amendment/>

Concerns about a floodgate of litigation have not materialized.³

New York State Bar Association study concluded that “states that recognize a robust, self-executing environmental right have not experienced a radical or undesirable shift of environmental policymaking authority to the judiciary.”⁴ In Maryland, if this environmental rights amendment passes, the State and not private corporations would be held legally responsible.⁵

Pollution is expensive. The Thurston report in 2017 estimated direct and indirect health costs for Marylanders for one year of fine and ultrafine particulate matter emissions (pm2.5) from the BRESCO incinerator was nearly \$22 million.⁶ A study out of Mt. Sinai in 2005 estimated that the cohort of children born in the United States in 2000 will have lost a lifetime collective earnings of \$1.5 billion due to the effects of mercury exposure in utero attributable to United States power plants.⁷ The numbers are even higher for lead poisoning.⁸

Citizens who have struggled for years to stop polluters coming into their neighborhood have commented how helpful such an amendment would be.⁹ I know from my experience with Curtis Bay, particularly, zip code, 21226, which has had the most stationary sources of air pollution in the State, once #8 in country, and as recently as 2017 named by a national realty report as the third most polluted zip code in the country.¹⁰ It is home to coal piers, coal ash piles, the largest medical waste incinerator in the country and at least 6 chemical companies and 3 petroleum terminals.¹¹ In 2012, after discovering an out of state company, Energy Answers, was planning to build a new waste incinerator in 21226, just 1 mile from their school (as well as from an elementary school), students at Ben Franklin High began organizing against this newest source of pollution., which would have been the largest trash-burning incinerator in the United States, planning to burn plastic, rubber, vinyl and metal.¹² Though incinerators are not supposed to be within 3 miles of a school, by being called a waste to energy facility, it received a permit from the Maryland Department of the Environment (MDE) which kept renewing its permit despite delays that violated its terms. Students partnered with environmentalists, community organizers, and neighbors for petition drives, rallies, marches

³ <https://www.marylandmatters.org/2021/11/29/supporters-launch-a-renewed-push-for-environmental-human-rights-amendment/>

⁴ <https://www.arnoldporter.com/-/media/files/perspectives/publications/2017/10/debate-over-environmental-rights-and-state-constitutional-convention.pdf>

⁵ https://www.bayjournal.com/news/policy/push-is-on-for-green-amendments-in-four-bay-state-constitutions/article_6bea6c4e-de78-11eb-a03e-37aac2b667b0.html

⁶ <https://www.cbf.org/document-library/state-legislative-testimony/wheelabrator-thurston-wheelabrator-health-impacts-2017.pdf>

⁷ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1257552/>

⁸ https://www.pewtrusts.org/~media/assets/2010/02/22/063_10_paes-costs-of-lead-poisoning-brief_web.pdf

⁹ <https://www.marylandmatters.org/2021/11/29/supporters-launch-a-renewed-push-for-environmental-human-rights-amendment/>

¹⁰ <https://rtracdev.wpengine.com/blog/2016-environmental-hazard-housing-risk-index/>

¹¹ <https://insideclimatenews.org/news/24082020/baltimore-maryland-waste-to-energy/> and <https://www.epa.gov/toxics-release-inventory-tri-program>

¹² <https://chesapeakeclimate.org/maryland/incinerators/curtis-bay/>

and eventually a sit in at the office of the Secretary of the Environment. Finally, MDE pulled the permit in 2016 before it was able to start building, thankfully before it started spewing particulate matter, nitrogen oxides, heavy metals and other harmful pollutants associated with heart disease, asthma, other respiratory ailments, and lung cancer. Mercury and lead are associated with neurological impairment including loss of IQ in children (the permit would have allowed up to 1000 lb of lead yearly released into the air).¹³ One student at Ben Franklin received the Goldman International Environmental Prize for North America for this work.

But it shouldn't have taken so much struggle and years to achieve. And they could have lost, as many communities have, had Energy Answers lined up enough customers sooner. Without environmental rights, citizens in places like Curtis Bay, Dundalk, and Brandywine PGC less than 15 minutes from 4 coal fire power plants, have few options as permits are granted without attention to the health risks. In already overburdened, usually minority and low-income neighborhoods, this disregard is called environmental injustice. This bill will allow voters to decide if there is a constitutional right for everyone, including families with children, to be raised in a healthy environment whether or not they cannot afford to purchase a home elsewhere.

When we damage our environment, we imperil our health. Toxic chemicals mess with our endocrine system, reduce immunity, affect fertility, cause neurologic damage.¹⁴ The regulated criteria pollutants ozone and particulate matter are associated with increased mortality and fine particulate matter is additionally linked to lung cancer, heart disease, asthma, chronic lung disease, as well as increased mortality.¹⁵ The sources of air pollution are largely from fossil fuels, that are also a source of greenhouse gases.¹⁶ Climate chaos driven droughts, heat waves, and floods and fires are deadly. We are destroying our food source as we harm animals, and plants. There are related changes in infectious diseases, especially vector-borne diseases.¹⁷ COVID 19 morbidity has been linked to both toxic air pollutants and the criteria pollutants like particulate matter and nitrogen oxides.¹⁸ Our environment is our home. We all have a stake in protecting it.

With an environmental rights amendment, we will have one more tool to help in this urgent and important work. Chesapeake Physicians for Social Responsibility strongly supports SB0783

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¹³ <https://www.bloomberg.com/news/articles/2016-03-22/state-regulators-scrap-baltimore-waste-to-energy-incinerator-plan>

¹⁴ <https://www.niehs.nih.gov/health/topics/agents/endocrine/index.cfm#:~:text=Endocrine%20disruptors%20are%20found%20in,break%2Ddown%20in%20the%20environment.>

¹⁵ <https://www.epa.gov/particle-pollution-and-your-patients-health/health-effects-pm-patients-lung-disease>

¹⁶ <https://www.nejm.org/doi/10.1056/NEJMra2030281>

¹⁷ <https://www.pnas.org/content/110/47/18753>

¹⁸ <https://www.lung.org/blog/covid-19-mortality-and-air-pollution>

