

February 26, 2024

The Honorable Brian Feldman
Chairman, Senate Education, Energy, and the Environment Committee
2 West Miller Senate Office Building
Annapolis, Maryland 21401

RE: MBIA Letter of Opposition SB 653 Standing – Environmental and Natural Resources Protection Proceedings (Clean Water Justice Act of 2024)

Dear Chairman Feldman,

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **SB 653 Standing – Environmental and Natural Resources Protection Proceedings (Clean Water Justice Act of 2024)**. MBIA **opposes** the Act in its current version.

SB 653 introduces a new standing provision, granting individuals and associations the right to independently sue various entities based on perceived negative impacts to their interests. Prevailing plaintiffs may seek injunctive relief, civil penalties, and litigation costs. They can also intervene in environmental enforcement actions. MBIA is concerned that these provisions could disrupt routine government functions, as opponents could use the broad language of the bill to initiate litigation against legitimate activities under permits. The bill's definition of "Injury in Fact" allows for claims without demonstrating harm to the environment. Instead, they only must show past injury or fear of future injury to the plaintiffs' aesthetic, recreational, conservational, health or economic interests, undermining the balance of environmental appeals.

It is important to note the ever-changing landscape of wetlands laws, with the federal government frequently reversing standards. Additionally, water pollution encompasses sediment and stormwater runoff, leading to significant ambiguity regarding allowable runoff levels during storms. In fact, Maryland law doesn't mandate actual runoff occurrence. Instead, it is a violation if sediments end in a place where runoff is likely to be discharged. This change would allow opponents of development to cite potential aesthetic or recreational harm, potentially stalling projects in court as they pursue injunctions and attorney fees.

For these reasons, MBIA respectfully urges the Committee to give this measure **an unfavorable** report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the Senate Education, Energy, and the Environment Committee