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TO: The Honorable Brian J. Feldman
Chair, Education, Energy, and Environment Committee

FROM: Tiffany Johnson Clark
Chief, Legislative Affairs, Office of the Attorney General

RE: Senate Bill 653 – Standing - Environmental and Natural Resources
Protection Proceedings (Clean Water Justice Act of 2024) – **Support with
amendments**

The Office of Attorney General respectfully urges this Committee to report favorably on Senate Bill 653 – Standing - Environmental and Natural Resources Protection Proceedings (Clean Water Justice Act of 2024) with amendments. As drafted, Senate Bill 653 (1) establishes standing for persons and associations in claims arising under specified environmental and natural resources laws and (2) authorizes a person that has standing pursuant to the bill to bring a civil action against any person or governmental entity that is alleged to have violated or to be in violation of any standard under specified environmental laws.

The federal Clean Water Act establishes the structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. Under the Clean Water Act, individuals can bring a lawsuit against anyone who is discharging pollutants into navigable waters under certain circumstances. Individuals also have the right to seek relief from polluters for damages caused by the pollution and to be fully compensated for any costs associated with cleaning up the pollutant. A recent U.S. Supreme Court case, *Sackett v. EPA*,

greatly cut back communities' access to courts by removing many streams and wetlands from Clean Water Act applicability. Senate Bill 653 would restore the ability of communities that are impacted by water pollution to enforce State law.

However, as drafted, Senate Bill 653 goes far beyond *Sackett* by amending numerous areas of State law that have nothing to do with water pollution or have no Clean Water Act analog and exceeds the CWA's provisions for citizen suits. While Senate Bill 653 is needed to protect impacted communities' rights to enforce laws in State court, Senate Bill 653 should be amended to (1) clarify its provisions and confine its scope to the Clean Water Act's citizen plaintiff provisions and to (2) clarify that Citizen plaintiffs cannot intervene in criminal actions.

For the foregoing reasons, the Office of the Attorney General urges a favorable with amendments report on Senate Bill 653.

cc: Education, Energy, and the Environment committee members