

HOUSE BILL 840

M3
HB 880/22 – ENT & ECM

3lr1377
CF SB 743

By: **Delegate Boyce**

Introduced and read first time: February 9, 2023

Assigned to: Environment and Transportation and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Climate, Labor, and Environmental Equity Act of 2023**

3 FOR the purpose of requiring the Department of the Environment to conduct a certain
4 evaluation regarding the impact of issuing an approval for certain environmental
5 permits; requiring the Department to provide opportunities for certain
6 communication with certain residents in a certain manner; altering certain reporting
7 requirements for certain State agencies; and generally relating to the impact of
8 actions on climate, labor and employment, and environmental justice and equity.

9 BY repealing and reenacting, without amendments,
10 Article – Environment
11 Section 1–601(a), 1–701(a)(1), (5), (7), and (8), and 1–702(a)(1) and (b)
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2022 Supplement)

14 BY adding to
15 Article – Environment
16 Section 1–7A–01 through 1–7A–05 to be under the new subtitle “Subtitle 7A. Impact
17 of Environmental Permits on Climate, Labor, and Environmental Equity”
18 Annotated Code of Maryland
19 (2013 Replacement Volume and 2022 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Environment
22 Section 2–1305
23 Annotated Code of Maryland
24 (2013 Replacement Volume and 2022 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Environment**

2 1–601.

3 (a) Permits issued by the Department under the following sections shall be issued
4 in accordance with this subtitle:

5 (1) Air quality control permits to construct subject to § 2–404 of this article;

6 (2) Permits to install, materially alter, or materially extend landfill
7 systems, incinerators for public use, or rubble landfills subject to § 9–209 of this article;8 (3) Permits to discharge pollutants to waters of the State issued pursuant
9 to § 9–323 of this article;10 (4) Permits to install, materially alter, or materially extend a structure
11 used for storage or distribution of any type of sewage sludge issued, renewed, or amended
12 pursuant to § 9–234.1 or § 9–238 of this article;13 (5) Permits to own, operate, establish, or maintain a controlled hazardous
14 substance facility issued pursuant to § 7–232 of this article;15 (6) Permits to own, operate, or maintain a hazardous material facility
16 issued pursuant to § 7–103 of this article; and17 (7) Permits to own, operate, establish, or maintain a low–level nuclear
18 waste facility issued pursuant to § 7–233 of this article.

19 1–701.

20 (a) (1) In this section the following words have the meanings indicated.

21 (5) “Environmental justice” means equal protection from environmental
22 and public health hazards for all people regardless of race, income, culture, and social
23 status.24 (7) “Overburdened community” means any census tract for which three or
25 more of the following environmental health indicators are above the 75th percentile
26 statewide:

27 (i) Particulate matter (PM) 2.5;

28 (ii) Ozone;

29 (iii) National Air Toxics Assessment (NATA) diesel PM;

30 (iv) NATA cancer risk;

- 1 (v) NATA respiratory hazard index;
- 2 (vi) Traffic proximity;
- 3 (vii) Lead paint indicator;
- 4 (viii) National Priorities List Superfund site proximity;
- 5 (ix) Risk Management Plan facility proximity;
- 6 (x) Hazardous waste proximity;
- 7 (xi) Wastewater discharge indicator;
- 8 (xii) Proximity to a Concentrated Animal Feeding Operation (CAFO);
- 9 (xiii) Percent of the population lacking broadband coverage;
- 10 (xiv) Asthma emergency room discharges;
- 11 (xv) Myocardial infarction discharges;
- 12 (xvi) Low-birth-weight infants;
- 13 (xvii) Proximity to emitting power plants;
- 14 (xviii) Proximity to a Toxic Release Inventory (TRI) facility;
- 15 (xix) Proximity to a brownfields site;
- 16 (xx) Proximity to mining operations; and
- 17 (xxi) Proximity to a hazardous waste landfill.

18 (8) "Underserved community" means any census tract in which, according
19 to the most recent U.S. Census Bureau Survey:

- 20 (i) At least 25% of the residents qualify as low-income;
- 21 (ii) At least 50% of the residents identify as nonwhite; or
- 22 (iii) At least 15% of the residents have limited English proficiency.

1 (a) On or before December 31, 2023, the Department, in consultation with the
2 Commission on Environmental Justice and Sustainable Communities, shall:

3 (1) Subject to subsection (b) of this section, adopt a methodology for
4 identifying communities disproportionately affected by climate impacts;

5 (b) In evaluating methodologies under subsection (a)(1) of this section, the
6 Department shall, at a minimum, include:

7 (1) Underserved communities;

8 (2) Overburdened communities; and

9 (3) Areas that are vulnerable to climate impacts, such as flooding, storm
10 surges, and urban heat island effects, due to low levels of tree coverage, high levels of
11 impervious surfaces, or other factors.

12 **SUBTITLE 7A. IMPACT OF ENVIRONMENTAL PERMITS ON CLIMATE, LABOR, AND**
13 **ENVIRONMENTAL EQUITY.**

14 **1-7A-01.**

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) “APPLICANT” MEANS A PERSON APPLYING FOR A PERMIT LISTED
18 UNDER § 1-601(A) OF THIS TITLE.

19 (C) “ENVIRONMENTAL JUSTICE” HAS THE MEANING STATED IN § 1-701 OF
20 THIS TITLE.

21 (D) “OVERBURDENED COMMUNITY” HAS THE MEANING STATED IN § 1-701
22 OF THIS TITLE.

23 (E) “PERMIT” MEANS A PERMIT LISTED UNDER § 1-601(A) OF THIS TITLE.

24 (F) “UNDERSERVED COMMUNITY” HAS THE MEANING STATED IN § 1-701 OF
25 THIS TITLE.

26 **1-7A-02.**

27 (A) IF, AFTER CONDUCTING AN EJ SCORE REVIEW REQUIRED UNDER §
28 1-601.1(B) OF THIS TITLE, THE DEPARTMENT DETERMINES THAT ISSUING AN
29 APPROVAL FOR A PERMIT MAY IMPACT AN UNDERSERVED COMMUNITY OR AN
30 OVERBURDENED COMMUNITY, THE DEPARTMENT SHALL CONDUCT A CLIMATE AND

1 ENVIRONMENTAL EQUITY EVALUATION OF THE PERMIT.

2 (B) THE CLIMATE AND ENVIRONMENTAL EQUITY EVALUATION REQUIRED IN
3 THIS SECTION MAY INCLUDE AN ANALYSIS OF:

4 (1) THE DEMOGRAPHIC DATA OF THE AFFECTED COMMUNITY,
5 INCLUDING POTENTIAL VULNERABILITIES WITHIN THE COMMUNITY;

6 (2) EXISTING ENVIRONMENTAL AND CLIMATE DATA REGARDING THE
7 AFFECTED COMMUNITY, INCLUDING MONITORING, MODELING, OR ANY OTHER DATA
8 DEEMED APPROPRIATE;

9 (3) THE APPLICANT FACILITY'S POTENTIAL CONTRIBUTION TO
10 GREENHOUSE GAS EMISSIONS;

11 (4) THE APPLICANT FACILITY'S COMPLIANCE RECORD;

12 (5) EXISTING PUBLIC HEALTH DATA REGARDING THE AFFECTED
13 COMMUNITY;

14 (6) POTENTIAL CHEMICAL AND NONCHEMICAL STRESSORS THAT THE
15 AFFECTED COMMUNITY WILL BE EXPOSED TO AND THE EFFECT OF THOSE STRESSORS
16 ON THE COMMUNITY'S HEALTH AND WELL-BEING;

17 (7) THE CUMULATIVE IMPACT OF POLLUTION IN THE AFFECTED
18 COMMUNITY IF THE PERMIT IS APPROVED; AND

19 (8) POTENTIAL METHODS TO MINIMIZE OR MITIGATE POTENTIAL
20 ADVERSE EFFECTS IN THE AFFECTED COMMUNITY.

21 (C) IN ADDITION TO THE EVALUATION REQUIRED BY THIS SECTION, THE
22 DEPARTMENT, IN COORDINATION WITH THE MARYLAND DEPARTMENT OF HEALTH,
23 MAY CONDUCT A HEALTH IMPACT ASSESSMENT OF THE PERMIT.

24 1-7A-03.

25 (A) THE DEPARTMENT SHALL REGULARLY PROVIDE OPPORTUNITIES FOR
26 RESIDENTS OF THE STATE TO OPT IN TO TEXT, PHONE, E-MAIL, OR REGULAR MAIL
27 NOTIFICATIONS REGARDING ANY FACILITY WITH A PENDING OR FINAL PERMIT
28 APPROVAL IN OR ADJACENT TO THE RESIDENT'S CENSUS TRACT.

29 (B) (1) IF AN APPLICANT IS APPLYING FOR MORE THAN ONE PERMIT FOR
30 THE SAME FACILITY, THE DEPARTMENT SHALL COMPLY WITH THE REQUIREMENTS

1 UNDER § 1-7A-02 OF THIS SUBTITLE ONLY ONCE UNLESS THE DEPARTMENT
2 DETERMINES THAT MORE THAN ONE EVALUATION IS NECESSARY DUE TO THE
3 COMPLEXITY OF THE APPLICATIONS.

4 (2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED
5 TO LIMIT THE AUTHORITY OF THE DEPARTMENT TO HOLD OR REQUIRE ADDITIONAL
6 PUBLIC HEARINGS FOR A PERMIT.

7 (C) THE DEPARTMENT MAY DENY OR ALTER A DECISION OR AMEND THE
8 CONDITIONS UNDER A PENDING PERMIT BASED ON THE DEPARTMENT'S FINDINGS
9 UNDER THIS SUBTITLE.

10 1-7A-04.

11 IN ADDITION TO ANY OTHER FEE AUTHORIZED BY LAW OR REGULATION, THE
12 DEPARTMENT MAY CHARGE A REASONABLE FEE TO COVER THE DEPARTMENT'S
13 COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS SUBTITLE, INCLUDING
14 COSTS TO PROVIDE TECHNICAL ASSISTANCE TO PERMIT APPLICANTS AND
15 RESIDENTS OF RELEVANT CENSUS TRACTS AS NEEDED TO COMPLY WITH THIS
16 SUBTITLE.

17 1-7A-05.

18 THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS
19 SUBTITLE.

20 2-1305.

21 (a) (1) Each State agency shall review its planning, regulatory, and fiscal
22 programs to identify and recommend actions to more fully integrate the consideration of
23 Maryland's greenhouse gas reduction goal and the impacts of climate change, INCLUDING
24 GEOGRAPHIC IMPACTS.

25 (2) The review shall include the consideration of:

26 (i) Sea level rise;

27 (ii) Storm surges and flooding;

28 (iii) Increased precipitation and temperature; [and]

29 (iv) Extreme weather events; AND

1 **(V) WHETHER AGENCY DECISIONS CONTRIBUTE TO LOCAL**
2 **DETERIORATION OF PUBLIC HEALTH OR INCREASES IN POLLUTION ASSOCIATED**
3 **WITH HEALTH AND ENVIRONMENTAL BURDENS FOR UNDERSERVED AND**
4 **OVERBURDENED COMMUNITIES.**

5 **(B) IN ADDITION TO THE REVIEW REQUIRED UNDER SUBSECTION (A) OF**
6 **THIS SECTION, THE MARYLAND DEPARTMENT OF LABOR SHALL ANNUALLY REPORT**
7 **WHETHER AGENCY DECISIONS SUPPORT BUSINESSES THAT PROMOTE EQUITABLE**
8 **LABOR AND WAGE STANDARDS, INCLUDING CONSIDERATION OF WHETHER THE**
9 **AGENCY SUPPORTS BUSINESSES THAT:**

10 **(1) PAY THE AREA PREVAILING WAGE STANDARD FOR EACH TRADE,**
11 **INCLUDING THE WAGES AND FRINGE BENEFITS PER TRADE;**

12 **(2) ARE IN GOOD STANDING WITH ALL STATE REPORTING AND**
13 **COMPLIANCE REQUIREMENTS;**

14 **(3) PARTICIPATE IN AN APPRENTICESHIP PROGRAM REGISTERED**
15 **WITH THE STATE FOR EACH TRADE EMPLOYED ON A PROJECT OR OTHER ITEM**
16 **ASSOCIATED WITH THE PROJECT;**

17 **(4) HAVE BEEN IN COMPLIANCE WITH FEDERAL AND STATE WAGE**
18 **AND FAIR LABOR LAWS FOR THE IMMEDIATELY PRECEDING 3 YEARS;**

19 **(5) ESTABLISH AND EXECUTE A PLAN FOR OUTREACH,**
20 **RECRUITMENT, AND RETENTION OF RESIDENTS OF THE STATE TO PERFORM WORK**
21 **ON A PROJECT OR OTHER ITEM ASSOCIATED WITH THE PROJECT, WITH AN**
22 **ASPIRATIONAL GOAL OF 25% OF TOTAL WORK HOURS PERFORMED BY RESIDENTS**
23 **OF THE STATE, INCLUDING RESIDENTS WHO ARE:**

24 **(I) RETURNING CITIZENS;**

25 **(II) WOMEN;**

26 **(III) MINORITY INDIVIDUALS; OR**

27 **(IV) VETERANS;**

28 **(6) OFFER HEALTH CARE AND RETIREMENT BENEFITS TO THE**
29 **EMPLOYEES WORKING ON A PROJECT OR OTHER ITEM ASSOCIATED WITH THE**
30 **PROJECT; AND**

31 **(7) MAINTAIN ALL APPROPRIATE LICENSES IN GOOD STANDING.**

1 **[(b)] (C)** Each State agency shall identify and recommend specific policy,
2 planning, regulatory, and fiscal changes to existing programs that do not currently support
3 the State's greenhouse gas reduction efforts or address climate change, **INCLUDING**
4 **GEOGRAPHIC IMPACTS**.

5 **[(c)] (D)** (1) **[The] ON OR BEFORE DECEMBER 1 EACH YEAR, THE**
6 following State agencies shall report **[annually]** on the status of programs that support the
7 State's greenhouse gas reduction efforts or address climate change, **INCLUDING**
8 **GEOGRAPHIC IMPACTS**, in accordance with § 2-1257 of the State Government Article, to
9 **THE GENERAL ASSEMBLY**, the Commission, and the Governor:

- 10 (i) The Department;
- 11 (ii) The Department of Agriculture;
- 12 (iii) The Department of General Services;
- 13 (iv) The Department of Housing and Community Development;
- 14 (v) The Department of Natural Resources;
- 15 (vi) The Department of Planning;
- 16 (vii) The Department of Transportation;
- 17 (viii) The Maryland Energy Administration;
- 18 (ix) The Maryland Insurance Administration;
- 19 (x) The Public Service Commission; and
- 20 (xi) The University of Maryland Center for Environmental Science.

21 (2) The report required **[in] UNDER** paragraph (1) of this subsection shall
22 include **THE FOLLOWING INFORMATION RELATING TO THE WORK OF EACH STATE**
23 **AGENCY FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD:**

- 24 (i) Program descriptions and objectives;
- 25 (ii) Implementation milestones, whether or not they have been met;
- 26 (iii) Enhancement opportunities;
- 27 (iv) Funding;

1 (v) Challenges;

2 (vi) Estimated greenhouse gas emissions reductions, by program, for
3 the prior calendar year; [and]

4 (vii) **AGENCY CONTRIBUTIONS OR IMPEDIMENTS TO**
5 **ENVIRONMENTAL JUSTICE; AND**

6 **(VIII)** Any other information that the agency considers relevant.

7 **(3) EACH STATE AGENCY SHALL MAKE THE REPORT REQUIRED**
8 **UNDER PARAGRAPH (1) OF THIS SUBSECTION PUBLICLY AVAILABLE ON ITS**
9 **WEBSITE.**

10 **[(d)] (E)** Each State agency, when conducting long-term planning, developing
11 policy, and drafting regulations, shall take into consideration:

12 (1) The likely climate impact of the agency’s decisions relative to
13 Maryland’s greenhouse gas emissions reduction goals; and

14 (2) The likely impact of the agency’s decisions on disproportionately
15 affected communities identified according to the methodology adopted by the Department
16 under § 1-702 of this article.

17 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
18 October 1, 2024.