

MBIA Testimony SB 446.pdf

Uploaded by: Graf, Lori

Position: FAV

February 10, 2021

The Honorable Paul G. Pinsky
Senate Education, Health & Environmental Affairs Committee
Miller Senate Office Building,
2 West Wing 11 Bladen St.,
Annapolis, MD, 21401

RE: Support of SB 446 (Department of the Environment – Supplemental Environmental Projects Database

Dear Chairman Pinsky:

The Maryland Building Industry Association, representing 1,100 member firms statewide, appreciates the opportunity to participate in **SB 446 - Department of the Environment – Supplemental Environmental Projects Database** MBIA Supports the Act in its current version.

This bill would require the department of the environment to create and maintain a database of supplemental environmental projects that can be undertaken as part of a settlement. MBIA supports this measure, requiring that companies participate in environmental projects as part of a settlement is a good way to channel them into public works. Having a database of approved projects will make it much easier and more efficient for companies to complete these settlement projects.

For these reasons, MBIA respectfully requests the Committee give this measure a favorable 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: Senate Education, Health & Environmental Affairs Committee

Senator West - SB 446 – Department of the Environm

Uploaded by: West, Christopher

Position: FAV

CHRIS WEST
Legislative District 42
Baltimore County

Judicial Proceedings Committee

Vice Chair, Baltimore County
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THE SENATE OF MARYLAND
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February 10, 2021

Senate Education, Health and Environmental Affairs Committee
The Honorable Paul G. Pinsky
2 West Miller Senate Building
Annapolis, Maryland 21401-1991

RE: SB 446 – Department of the Environment – Supplemental Environmental Projects Database

Dear Chairman Pinsky and Members of the Committee:

I am pleased to introduce Senate Bill 446. This bill embodies one of the recommendations of the Senate President’s Advisory Workgroup on Equity and Inclusion, on which I sat. The Workgroup issued its Report just last month.

The background of Senate Bill 446 is as follows: When businesses, institutions or individuals take actions that are found to be in violation of the State’s environmental laws, they typically face a penalty or fine. For example, in Fiscal Year 2019, the Maryland Department of the Environment initiated nearly 10,000 enforcement actions, resulting in over \$5.5 million in administrative or civil penalties. While these monetary penalties may deter future environmental violations, they don’t directly address the harm to the State’s environment caused by the infractions. All too frequently, the harm to the environment is disproportionately shouldered by low income communities largely comprised of racial and ethnic minorities.

Maryland law currently provides that, instead of paying fines or penalties, environmental violators can engage in what are known as Supplemental Environmental Projects (“SEPS”). A SEP is an environmentally beneficial project that a defendant subject to an enforcement action voluntarily agrees to undertake as part of a settlement of the action but which the defendant is otherwise not legally required to perform. Examples of SEPs include planting trees in the neighborhood where the violation occurred, providing funding for environmental projects, installing high performance air filtration systems in schools, conducting home air quality assessments and remediation, cleaning up watercourses, restoring watersheds and the like.

In FY 2019, the Maryland Department of the Environment entered into three SEPs with a total value of over \$3.5 million. The previous year, MDE entered into five SEPs with a total value of over \$6 million.

Senate Bill 446 requires MDE to create and maintain a database of SEPs which a person that commits a violation of State environment law may choose to undertake. In compiling its list of SEPs, MDE is required to solicit input from communities in the State that have been most impacted by environmental justice issues. The bill further requires that before a violator is authorized to undertake a SEP, MDE must ensure that the scope and cost of the project is commensurate with the scope and cost of the violation.

This bill makes good sense because it ensures that SEP dollars will be spent directly on environmental projects and will achieve improvements to the State's environment that could not be accomplished by just monetary fines or penalties. SEPs result in an improved environment where the violation occurred rather than merely money paid into the State treasury.

For these reasons, the other members of the Equity and Inclusion Workgroup and I hope that you will give SB 446 a favorable report.

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Uploaded by: abbott, tyler

Position: INFO



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Crumbles, Secretary
Horacio Tablada, Deputy Secretary

February 10, 2021

The Honorable Paul Pinsky
Chairman
Senate Education, Health, and Environmental Affairs Committee
Miller Senate Office Building
Annapolis, Maryland 21401

Re: Senate Bill 446 – Supplemental Environmental Projects Database

Dear Chairman Pinsky and Members of the Committee:

The Maryland Department of the Environment (MDE) has reviewed Senate Bill 446, entitled Supplemental Environmental Projects Database and would like to offer a letter of information regarding this legislation.

Senate Bill 446 requires MDE to develop a database of supplemental environmental projects that a violator may choose to undertake as part of a settlement or enforcement action. MDE recognizes the usefulness of supplemental environmental projects (SEP) as a tool in the enforcement process. SEPs provide the opportunity for direct environmental benefits that go beyond restoration as part of the enforcement process. These benefits can be particularly important in addressing issues related to environmental justice or climate change where projects that go beyond compliance for a facility can provide long term, positive impacts for the community.

However, MDE has concerns about implementing the database as prescribed in SB 446. In order to develop a list of potential, pre-approved SEPs, MDE would need to determine not only appropriate projects, but the specific costs to implement the projects. MDE does not maintain data on project costs. Costs are too variable due to factors including location, contractor, and timing for the MDE to determine them in advance. Additionally, violators would be required to complete the SEP and, if the cost was less than the amount in the database, they would have to pay the remaining amount as a penalty. If the SEP required additional funds to complete, the violator would still need to spend the additional funds to complete the project.

The Department can develop and maintain a list SEPs that could be recommended as part of a settlement or enforcement action. We respectfully request that the requirement to determine the specific costs for each of the projects be amended from the bill.

Thank you for your consideration. We will continue to monitor Senate Bill 466 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", written over a thin horizontal line.

Tyler Abbott

cc: The Honorable Chris West