



January 19, 20201

Senate Education, Health & Environmental Affairs Committee
11 Bladen Street
Annapolis, MD 21401

Re: SUPPORT for SB 324 Environment and Natural Resources – Complaints, Inspections, and Enforcement – Information Maintenance and Reporting

Chairman Pinsky and Members of the Committee:

Thank you for the opportunity to comment in support of SB 324. Chesapeake Legal Alliance is a nonprofit organization that provides pro bono legal services to individuals and groups working to protect and restore the Chesapeake Bay. For the reasons set forth below, we strongly urge your support on SB 324.

Access to Public Information is a Right

Our bedrock environmental laws, such as the Clean Water Act, were drafted to allow the public to help the government enforce the law. In fact, Maryland is specifically encouraged to assist the public in doing so. The first section of the federal Clean Water Act states that: “public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States.”¹ Moreover, the “citizen suit” provision of the CWA alleviates some of the burden on governments to enforce environmental laws against polluters, and can provide a check if the government is failing to uphold those laws.

Also found in state law is a fundamental right of access to environmental information. The Maryland Environmental Policy Act (MEPA) requires state agencies to provide “the fullest practicable provision of timely public information” and Maryland's Public Information Act establishes that “all persons are entitled to have access to information about the affairs of government.”

This bill would enable the public easy access to public information necessary to engage in citizen suit enforcement.

SB 324 Supports the Legal Right of Public Participation in Environmental Enforcement

The need for the public to exercise its right to enforce environmental laws is clear. Since 2002, Maryland state agency staffing has been cut by 6,500 positions, which has led to dramatic decreases in environmental agencies’ abilities to provide the public with accountability and transparency of

¹ 33 U.S.C. Sec. 1251(e)

their enforcement activities. Further, the federal administration continues to recommend cuts in funding and staffing for U.S. EPA enforcement. In order to exercise our environmental enforcement right, the public must have access to information about pollution violations. In Maryland, our current system for obtaining pollution violation information is through a Public Information Act request (PIA) which can be time intensive and costly for the public and our government agencies. It involves sending a letter to the agency requesting specific information, and then waiting 30 days for a response. This request is not necessarily free. For example, Maryland Department of the Environment (MDE) may charge the requester for staff time to prepare and review the documents in order to ensure confidential information is not accidentally disclosed. Once the materials are ready, MDE will give the requester the option to receive a hard copy (potentially charging a fee per page), or the requester can drive to Baltimore and review the materials at MDE headquarters, either paying to make copies there or bringing his or her own scanner to scan documents. Sometimes files are available digitally, but this is not the norm.

SB 324 would alleviate this burden by proactively putting basic, non-confidential public information, including pollution inspection reports, online. MDE is overwhelmed by Public Information Act requests and receives more requests than any other Maryland state agency. The lack of adequate staffing at MDE is well-documented. The agency would save valuable time, money, and staff resources by ensuring basic public information was readily available online. Other states throughout the country, including several of our neighboring Bay jurisdiction states, have much greater transparency and easily accessible information regarding inspections, enforcement actions, and settlements.

Enforcement Impacts Water Quality

In Maryland, there are currently thousands of permit holders under the Clean Water Act National Pollution Discharge Elimination System that are in significant noncompliance with their permits. Yet, according to MDE's annual enforcement report, the number of enforcement actions that the state has initiated has decreased dramatically over the last several years. In 2015, the number of enforcement actions was 204. In 2018, the number *decreased to just 42*. Maryland's lack of enforcement stemming from diminished resources translates into real impacts to our water quality, allowing harmful runoff into our waters, and signaling to other would-be polluters that they can disregard their permits without repercussion.

SB 324 will increase transparency and accountability across state environmental agencies and will allow the public to meaningfully participate in protecting and restoring our environmental resources as is our right. We urge your support of SB 324.

Thank you,



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