



CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

House Bill 596

Constitutional Amendment - Environmental Rights

Date: February 23, 2022

Position: Support

To: Environment and Transportation Committee

From: Robin Clark, Maryland Staff Attorney

Chesapeake Bay Foundation **SUPPORTS** HB 596 which proposes a constitutional right to the environment that would establish the State as the trustee of Maryland's natural resources. The establishment of a constitutional right to the environment in Maryland could support the works of residents, community groups, and environmental organizations seeking to save the Chesapeake Bay.

The State of Maryland is the trustee of its natural resources

HB 596 states, "The State shall (1) Serve as the trustee of the State's natural resources including the air, land, water, wildlife, and ecosystems of the State and (2) Conserve, protect, and enhance the State's natural resources for the benefit of every person, including present and future generations. (Page 2, lines 10-16)

The State of Maryland is the trustee of its natural resources, including the Chesapeake Bay – and the actions of each branch of State government are critical to its fate. For this reason, the Chesapeake Bay Foundation works closely with the Departments of Agriculture, Natural Resources, and Environment on topics ranging from farming practices, to fisheries management, to urban runoff controls to protect the national treasure in Maryland's backyard.

Consideration of Environmental Human Rights in Administrative Decisions will help protect environmental resources

The permitting decisions and administrative actions of state agencies are the most frequent and widespread touchpoint of environmental issues with the State. For example, determinations of where to site power plants, how to treat the waste from a new development, and the amount of fertilizer a farm may apply are all decisions that occur at the regulatory level and ultimately have an effect on Maryland's air quality, water quality, and wildlife.

This legislation may create a new lens for State agency decision making by adding a reasonable consideration of the effect of agency actions on the State's role as a trustee of natural resources. Based on similar laws in other states, it is unlikely that the amendment will have a dramatic effect on litigation, but rather update the State's actions to account for the value we now know our natural resources possess.

Reasonableness standards will allow courts to appropriately construe this Amendment

The Constitutional Amendment proposed in HB 596 would prohibit the State or political subdivision to "cause unreasonable diminution of or degradation to the State's Natural resources by action or inaction." The legal construction of reasonable, applied often to common law and statutory law, will allow courts to tailor the application of this Amendment as appropriate to balance the multiple responsibilities of State and local government.

CBF urges the Committee's FAVORABLE report on HB 596.

Maryland Office | Philip Merrill Environmental Center | 6 Herndon Avenue | Annapolis Maryland 21403 | 410 268-8816 | CBF.ORG

The Chesapeake Bay Foundation (CBF) is a non-profit environmental education and advocacy organization dedicated to the restoration and protection of the Chesapeake Bay. With 300,000 members and e-subscribers, including over 109,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Bay and its resources.