

Maryland-Delaware Solid Waste Association

a chapter of the

**National
Waste & Recycling
AssociationSM**

Collect. Recycle. Innovate.

TO: The Honorable Kumar P. Barve, Chair
Members, House Environment and Transportation Committee
The Honorable Wanika Fisher

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman

DATE: February 23, 2022

RE: **OPPOSE** – House Bill 596 – *Constitutional Amendment – Environmental Rights*

The Maryland Delaware Solid Waste Association (MDSWA), a chapter of the National Waste and Recycling Association, is a trade association representing the private solid waste industry in the State of Maryland. Its membership includes hauling and collection companies, processing and recycling facilities, transfer stations, and disposal facilities. MDSWA and its members **oppose** House Bill 596.

House Bill 596 proposes a Constitutional Amendment which would establish that every “person” has the fundamental and inalienable right to a healthful and sustainable environment and that right may not be infringed. While the language of House Bill 596 is more limited than similar bills proposed in prior Sessions, its implications are not greatly dissimilar to previous versions. The Amendment reflects notable aspirational goals that would appeal to most individuals, however if adopted, the Amendment would likely dramatically expand litigation in Maryland and create ambiguity in Maryland’s current legal standing framework.

Standing means that a party has a sufficient stake in a controversy to be able to obtain judicial resolution of that controversy. Under current Maryland law, to show standing, an individual generally must demonstrate that the person has experienced an adverse effect from the law or action in question and the adverse effect will continue unless the court grants relief. In contrast, this Constitutional Amendment would essentially provide standing to all individuals to intervene in virtually any action given the ambiguity of what constitutes a healthful and sustainable environment and when that right has been infringed.

Given the challenges already faced by local jurisdictions and private sector interests in the development of critical solid waste disposal, processing, and recycling facilities, the enactment of the proposed Constitutional Amendment will create major regulatory uncertainty and litigation risk for both new project development and the expansion or modification of existing facilities. Maryland did a comprehensive review and modification of its standing requirements in 2009. The legislation had the

strong buy-in of both the environmental and business community, given its fair balance of rights and responsibilities.

Maryland has struggled to get its solid waste and recycling infrastructure established, especially for facilities such as landfills and composting facilities. A number of critical workgroups have formed to address the current challenges. Should the uncertainty related to standing that will undoubtedly arise if the ambiguous provisions of the proposed Constitutional Amendment is adopted, it will be virtually impossible to develop essential solid waste management and recycling facilities as they will undoubtedly be challenged by some individual who asserts standing, given the perceived negative impacts of the project. Measures like this Constitutional Amendment will create major regulatory uncertainty and litigation risk not just for the solid waste industry but for any use that affects the environment. MDSWA strongly urges an unfavorable report.

For more information call:

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