



**The Maryland Department of the Environment
Secretary Serena McIlwain**

***House Bill 842
Environmental Justice - Investment in Infrastructure Construction Projects***

Position: Oppose

Committee: Appropriations

Date: March 6, 2023

From: Hadley Anthony

The Maryland Department of the Environment (MDE) **OPPOSES** HB 842.

Bill Summary

House Bill 842 would require all state agencies, including MDE, when administering federal funds, to allocate at least 40% of funds to certain infrastructure construction projects in particular communities to mitigate impacts to overburdened and underserved communities.

Position Rationale

MDE has a number of concerns with this bill. The bill would order the priority of specified infrastructure construction projects (ICPs) following community listening sessions. Prioritizing ICPs that incorporate labor and workforce standards would require MDE to verify that ICPs would be performed under project labor agreements and include targeted hire provisions for workers residing in certain communities. There will need to be more review from MDE's Assistant Attorney Generals on whether privacy or confidentiality concerns relating to union contracts and employment of private contractors will make it difficult or legally untenable to obtain this information.

If MDE staff is primarily responsible for helping the Justice 40 Committee evaluate, coordinate, and allocate funds for infrastructure construction, then there will be a significant fiscal and operational impact on MDE due to the sheer scope of the required analysis. The bill would cover ICPs related to: transportation, water, energy, broadband, and natural resources. MDE would need to develop significant expertise across this broad range of sectors, or contract with those who have the required expertise, in order to meet the needs of the Justice 40 Committee.

The bill would also significantly impact covered funding under MDE's Water Infrastructure Financing Administration (WIFA). WIFA would have to conduct community listening sessions and work with the Justice 40 Committee to identify projects eligible for funding. Any project with a cost greater than \$5 million would need to include project labor agreements. WIFA would need additional resources to conduct the listening sessions, perform coordination with the new EJ Committee, and oversee compliance

Contact: Les Knapp, Government Relations Director
Cell: 410-453-2611, Email: les.knapp@maryland.gov

with the labor agreement requirements. Additionally, WIFA needs to complete these requirements before applying for FY24 and future funding from EPA. This would add significant time to WIFA's funding allocation process, negatively impacting the communities that would receive funding by increasing the time it would take for them to receive funds.

In conclusion, HB 842 would require MDE to expend significant funds and resources evaluating, planning, and tracking potential infrastructure projects. Additional activities for MDE staff would include developing funding criteria, developing priority lists, awarding funds, approving project scopes, and ensuring projects are built and done so in accordance with program requirements. MDE would need, at minimum, seven new positions to administer the requirements proposed in this bill. Because there are many unknowns about the full scope of the work to manage the allocation of federal funds, there is the potential for needing more staff than envisioned at this time.

Accordingly, MDE asks for an **UNFAVORABLE** report for HB 842.