



CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

House Bill 1101

Standing - Environmental and Natural Resources Protection Proceedings
(Clean Water Justice Act of 2024)

Date: March 26, 2024
To: Education, Energy, and the Environment Committee

Position: **FWA**
From: Matt Stegman
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Chesapeake Bay Foundation (CBF) **SUPPORTS HB 1101, the Clean Water Justice Act of 2024, WITH AMENDMENTS TO BE OFFERED BY THE SPONSOR.** The bill ensures that communities throughout Maryland have access to state courts to demand enforcement of laws that protect our waterways from pollution. Communities previously enjoyed access to federal courts to pursue enforcement actions under the Clean Water Act (CWA). However, the United States Supreme Court's decision late last year in *Sackett v. Environmental Protection Agency*¹ casts into serious doubt whether many ephemeral streams and wetlands previously covered by the CWA are still protected. Fortunately, Maryland already has existing laws that protect these waterways, however a provision for regular citizens to enforce those laws akin to what was provided by the CWA does not exist in current state law.

As important as it is to note what HB 1101 will do to protect communities impacted by pollution, it is also important to note what the bill will *not* do. HB 1101 does not create a right of judicial review of final agency actions, and it does not expand standing beyond that provided by federal courts, essentially restoring the enforcement of clean water laws to what existed before the *Sackett* ruling.

Sponsor amendments would restore "political subdivisions" as an entity that may be sued for an enforcement action. This is an important provision in the bill, as it is the backstop communities have when they have exhausted all other recourse and federal court is not an option. As a principle, it is important that governments be held to at least the same standards to care for our environment as private industry. The bill does not create any new requirements or legal prohibitions so it is very unlikely that the total volume of enforcement actions in the state will increase if this bill is passed. Additionally, the penalties assessed against a polluter in state courts are often significantly less than equivalent federal penalties. The practical impact of the amendment does not appreciably increase the legal liabilities of local governments, but does preserve access to legal redress in a very small number of instances where federal courts may no longer be available.

CBF urges the Committee's FAVORABLE WITH AMENDMENT report on HB 1101

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.

¹ 598 U.S. ____ (2023).

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