



SB653 – Clean Water Justice Act

Hearing Date: February 27, 2024

Position: FAVORABLE

Dear Chair Feldman and the Members of the Education, Energy & Environment Committee:

Waterkeepers Chesapeake and the below signed organizations strongly urge a FAVORABLE report on SB653 – the Clean Water Justice Act. The Clean Water Justice Act allows communities harmed by illegal water pollution to enforce state law. Access to the courts to enforce laws that protect communities from pollution was at the heart of the federal Clean Water Act (CWA). Unfortunately, the U.S. Supreme Court recently removed more than half of streams and wetlands from federal Clean Water Act protection. Fortunately, Maryland still protects these waterways, but our law provides no right for communities to enforce the law like under the CWA.

Wetlands and streams are the lungs and kidneys of our landscape – filtering out pollution, keeping drinking water clean, protecting us from flooding and storm surges, and providing billions of dollars in benefits. These aquatic ecosystems are also among the very most valuable biodiverse habitats. Now, the majority of these waterways are only protected by Maryland law. Given our urgent climate and biodiversity crises, we should be doing everything we can to protect these waterways and restore what was lost after the Supreme Court decision. The Maryland General Assembly has long established itself as a leader among states in creating protections for water quality that go beyond the federal minimum. This leadership is needed now more than ever. The public enforcement right written into the Clean Water Act serves as a crucial backstop to regulators who do not act to enforce violations of water pollution laws. Even though state and federal agencies were intended to be the primary enforcers, Congress knew

that the public would be an essential backstop, stepping up to enforce the Act where regulatory agencies refused.

The Clean Water Justice Act does not change any environmental standards or add any new requirements. It simply provides a public right to enforce our water quality laws. It ensures that no Marylander is left without access to justice or the ability to protect their right to ensure their waters are made unsafe by illegal levels of pollution.

The Clean Water Justice Act will:

- Provide a new right for impacted community members to enforce the law in state court the same way that they were previously able to do in federal court under the Clean Water Act.
- Give Marylanders the same degree of access to state courts as they have in federal court.
- Repair the threat to Maryland's critical water resources caused by the U.S. Supreme Court decision.

It's important to note that the bill does not create a right of judicial review of final agency actions, and does not expand standing beyond that provided by federal courts, essentially restoring the enforcement of clean water laws to what existed before the Supreme Court's ruling.

Many noteworthy environmental enforcement actions in Maryland have been brought by community groups, with the state often then subsequently filing an enforcement action, allowing the community groups to work alongside the state to enforce the law and negotiate settlements. This partnership is something that has brought crucial capacity to the state to enforce the law and utilizes the community members as the eyes and ears on the water.

Thank you for your consideration, and we look to the committee to give SB653 a favorable report.

Contact: Robin Broder, Waterkeepers Chesapeake, robin@waterkeeperschesapeake.org

Organizations signed on:

Potomac Riverkeeper Network
Chesapeake Legal Alliance
ShoreRivers
Chester Riverkeeper
Choptank Riverkeeper
Miles-Wye Riverkeeper
Sassafras Riverkeeper
Arundel Rivers Federation
South, West & Rhode Riverkeeper
Chesapeake Bay Foundation
Clean Water Action
Maryland PIRG

Potomac Conservancy
Maryland League of Conservation Voters
Sierra Club Maryland Chapter
Blue Water Baltimore - Baltimore Harbor Waterkeeper
Assateague Coastal Trust - Assateague Coastkeeper
Anacostia Riverkeeper
Potomac Riverkeeper
Upper Potomac Riverkeeper
Patuxent Riverkeeper
Severn Riverkeeper Association
Gunpowder Riverkeeper
Lower Susquehanna Riverkeeper Association
Climate XChange
Interfaith Partners for the Chesapeake
Severn River Federation
Trash Free Maryland
League of Women Voters of Maryland
Maryland Conservation Council
Coalition to Prevent Stream Destruction
Cedar Lane Environmental Justice Ministry
IndivisibleHoCoMD Environmental Action Team
St. Mary's River Watershed Society
Maryland Legislative Coalition Climate Justice Wing
CASA
National Aquarium
Quaker Voices
Audubon Mid-Atlantic
Baltimore Jewish Council
Environment Maryland
Maryland Pesticide Education Network
Alice Ferguson Foundation
Beaverdam Creek Watershed Watch Group
Rock Creek Conservancy
Public Employees for Environmental Responsibility
Center for Progressive Reform
The 6th Branch
Nature Forward
Earth Force
Unitarian Universalist Legislative Ministry of Maryland
Maryland Catholics for Our Common Home
Center for Water Security and Cooperation
Vernal Pool Partners
Queen Anne's Conservation Association
The Nature Conservancy