



**Support for the Environmental Transparency and Accountability Act  
HB 614 / SB 460 (Lierman/Elfreth)**

March 2, 2020

Dear Members of the Maryland General Assembly:

The undersigned groups appreciate the opportunity to comment and express our **strong support for the Environmental Transparency and Accountability Act**, House Bill 614/Senate Bill 460 (Lierman/Elfreth). Our organizations collectively work across the state of Maryland to protect and preserve our valuable natural resources. The Chesapeake Accountability Project's (CAP) campaign to reduce pollution and demand accountability is the first of its kind, made up of five nonprofit organizations, including the Center for Progressive Reform, Chesapeake Bay Foundation, Chesapeake Legal Alliance, Choose Clean Water Coalition, and Environmental Integrity Project.

When Congress created our foundational environmental laws a half century ago, it understood that in order for these fundamentally new statutory schemes to succeed in solving the enormous challenges ahead, the laws would need both well-resourced public servants and an engaged public. One without the other would not suffice. Thus, Congress provided wholly new "citizen enforcement" rights in many of these laws and established a number of other important provisions designed to cement this critical partnership between agencies and concerned communities.

The first section of the federal Clean Water Act states that: "public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States."<sup>1</sup> Moreover, the "citizen suit" provision of the CWA alleviates some of the burden on governments to enforce environmental laws against polluters, and can provide a check if the government is failing to uphold those laws. Also found in state law is a fundamental right of access to environmental information. The Maryland Environmental Policy Act requires state agencies to provide "the fullest practicable provision of timely public information" and Maryland's Public Information Act establishes that "all persons are entitled to have access to information about the affairs of government."

---

<sup>1</sup> 33 U.S.C. Sec. 1251(e)

However, over the last five decades the ability of the public to participate in the implementation and enforcement of these laws has steadily eroded. This is particularly true in this state, where Marylanders face a lack of access to the environmental information they need to become appropriately engaged and equipped; a lack of access to agency decision-making processes; and a lack of access to the courts.

HB 614/ SB 460 will do two important things:

(1) Create Much Needed Transparency and Access to Public Information

The public must have access to pollution information in order to exercise its enforcement right. In Maryland, our current system for obtaining this is through a Public Information Act request (PIA) which can be time intensive and costly for the public and our government agencies. HB 614/SB 460 would bring Maryland into the modern area and streamline access to critical information by posting certain public information online. Facility inspection reports and settlement agreements are not confidential and are subject to PIAs, by having this information readily available online we will save agency staff time and resources of having to fulfill one off requests.

The Maryland Department of the Environment (MDE) is overwhelmed by Public Information Act requests and receives more requests than any other state agency. The lack of adequate staffing at MDE is well documented and a significant hindrance to its mission. The agency would save extremely valuable time, money, and staff resources by proactively putting information online. Other states throughout the country, and all of our neighboring Bay jurisdiction states, have much greater transparency and easily accessible information regarding inspections, enforcement actions, and settlements online.

(2) Create an Ombudsman to Oversee Environmental Enforcement and Compliance

HB 614/SB 460 will create a centralized office of an Environmental Ombudsman to increase transparency and accountability across state environmental agencies and will allow the public to meaningfully participate in protecting and restoring our environment. The Ombudsman will receive and process complaints from concerned Marylanders of suspected environmental or natural resource violations and will refer to the appropriate state or local enforcement agency. This will streamline the public process for supporting the important enforcement work of these agencies.

It is also worth noting what HB 614/SB 460 will not do.

- Nothing in this bill will require disclosure of information that is not already publicly available through a PIA.
- Nothing in this bill will require an agency to collect any additional information than they do not already collect.
- This bill will not create more PIA requests - in fact, we firmly believe it will reduce the number of PIA requests by proactively putting information online that will be easily downloadable to the public.

- This bill will not usurp any enforcement authority or decision-making power of the agencies. The Office of the Ombudsman will be there to ensure transparency and accountability across state environmental agencies, but will not be substituting their authority.

In sum, HB 614/SB 460 will increase transparency and accountability across state environmental agencies and will allow the public to meaningfully participate in protecting and restoring our environmental resources as is our right. We urge your support of this important bill.

Sincerely,

David Reed  
Co-Executive Director  
Chesapeake Legal Alliance

Matthew Shultz  
Executive Director  
Center for Progressive Reform

Mary Greene  
Deputy Director  
Environmental Integrity Project

Alison Prost  
Maryland Executive Director  
Chesapeake Bay Foundation, Inc.