



## House Bill 82

### *Constitutional Amendment - Environmental Rights*

MACo Position: **OPPOSE**

To: Environment and Transportation Committee

Date: January 20, 2021

From: Alex Butler

The Maryland Association of Counties (MACo) **OPPOSES** HB 82. The bill creates a new and vaguely defined constitutional right and an expansive new class of litigants with broad standing rights to litigate or intervene. HB 82 would amend the Maryland Constitution to create a new environmental right under the Declaration of Rights for any “person,” a dramatic departure from decades of practice.

This newly fashioned right would provide an opportunity for virtually anyone to litigate over “clean air, water and land, a stable climate, and the preservation, protection, and enhancement of ecological, scenic, and historic values of the environment.” Local governments may not cause unreasonable diminution or degradation of the state’s natural resources by action or inaction or infringe on a person’s environmental rights. This language is both vague and overbroad. It could be argued that many basic, essential services provided by a local government could unreasonably degrade natural resources, including: transportation, water and sewer services, emergency management, and planning and zoning. There are already adequate legal remedies available to address valid environmental concerns, without creating a new ill-defined, legally enforceable right. Enshrining such indeterminate entitlements into the state constitution invites myriad unintended consequences and unanticipated costs.

Longstanding and well-established environmental standards could be upended by an aberrant court decision, causing major policy changes and costs for local governments. Furthermore, the bill would empower any person to enforce or intervene in any case involving a right created by the bill, against any public party. This upsets Maryland’s own well considered standing requirements that have been developed over decades by the Maryland General Assembly and the Judiciary.

HB 82 would create a new vaguely defined constitutional right that grants broad standing to bring litigation against both the State and local governments, resulting in a potentially significant increase in costs due to additional litigation over virtually any project or action. Accordingly, MACo requests the Committee give HB 82 an **UNFAVORABLE** report.