

HOUSE BILL 842

M3, C8

4lr0465

By: **Delegates Taveras, Holmes, and Kaufman**

Introduced and read first time: January 31, 2024

Assigned to: Appropriations and Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Environmental Justice – Investment in Infrastructure Construction Projects**

3 FOR the purpose of requiring a State agency, in administering certain federal funds, to
4 allocate a certain percentage of those funds to certain infrastructure construction
5 projects in overburdened communities, underserved communities, communities of
6 color, and communities with a high percentage of low- to moderate-income
7 households in the State; requiring a State agency, in coordination with the Justice40
8 Committee established under this Act, to identify overburdened communities,
9 underserved communities, communities of color, and communities with a high
10 percentage of low- to moderate-income households in the State and conduct
11 listening sessions in certain areas of the State for certain purposes; restricting, under
12 certain conditions, the allocation or use of certain federal funds for an infrastructure
13 construction project that will cost in excess of a certain amount; and generally
14 relating to the investment in infrastructure construction projects in overburdened
15 communities, underserved communities, communities of color, and communities
16 with a high percentage of low- to moderate-income households.

17 BY repealing and reenacting, without amendments,
18 Article – Environment
19 Section 1–701(a)(1), (4), (5), (7), and (8)
20 Annotated Code of Maryland
21 (2013 Replacement Volume and 2023 Supplement)

22 BY adding to
23 Article – Environment
24 Section 1–703
25 Annotated Code of Maryland
26 (2013 Replacement Volume and 2023 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
28 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Environment

1–701.

(a) (1) In this section the following words have the meanings indicated.

(4) “Community listening session” means a public convening to gather information and input from community members.

(5) “Environmental justice” means equal protection from environmental and public health hazards for all people regardless of race, income, culture, and social status.

(7) “Overburdened community” means any census tract for which three or more of the following environmental health indicators are above the 75th percentile statewide:

(i) Particulate matter (PM) 2.5;

(ii) Ozone;

(iii) National Air Toxics Assessment (NATA) diesel PM;

(iv) NATA cancer risk;

(v) NATA respiratory hazard index;

(vi) Traffic proximity;

(vii) Lead paint indicator;

(viii) National Priorities List Superfund site proximity;

(ix) Risk Management Plan facility proximity;

(x) Hazardous waste proximity;

(xi) Wastewater discharge indicator;

(xii) Proximity to a Concentrated Animal Feeding Operation (CAFO);

(xiii) Percent of the population lacking broadband coverage;

(xiv) Asthma emergency room discharges;

(xv) Myocardial infarction discharges;

- (xvi) Low-birth-weight infants;
- (xvii) Proximity to emitting power plants;
- (xviii) Proximity to a Toxic Release Inventory (TRI) facility;
- (xix) Proximity to a brownfields site;
- (xx) Proximity to mining operations; and
- (xxi) Proximity to a hazardous waste landfill.

(8) “Underserved community” means any census tract in which, according to the most recent U.S. Census Bureau Survey:

- (i) At least 25% of the residents qualify as low-income;
- (ii) At least 50% of the residents identify as nonwhite; or
- (iii) At least 15% of the residents have limited English proficiency.

1-703.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COMMITTEE” MEANS THE JUSTICE40 COMMITTEE ESTABLISHED UNDER SUBSECTION (F) OF THIS SECTION.

(3) “COMMUNITY LISTENING SESSION” HAS THE MEANING STATED IN § 1-701 OF THIS SUBTITLE.

(4) “COVERED PROGRAM” MEANS A FEDERAL PROGRAM, AS OUTLINED IN THE INTERIM IMPLEMENTATION GUIDANCE FOR THE JUSTICE40 INITIATIVE RELEASED BY THE FEDERAL OFFICE OF MANAGEMENT AND BUDGET, THAT MAKES INVESTMENTS IN ONE OR MORE OF THE FOLLOWING AREAS:

- (I) AFFORDABLE AND SUSTAINABLE HOUSING;
- (II) CLIMATE CHANGE;
- (III) CLEAN ENERGY AND ENERGY EFFICIENCY;
- (IV) CLEAN TRANSPORTATION;

(V) CLEAN WATER AND WASTEWATER INFRASTRUCTURE;

(VI) REMEDIATION AND REDUCTION OF LEGACY POLLUTION; OR

(VII) TRAINING AND WORKFORCE DEVELOPMENT RELATED TO:

1. AFFORDABLE AND SUSTAINABLE HOUSING;

2. CLEAN ENERGY;

3. CLEAN TRANSPORTATION;

4. CLEAN WATER AND WASTEWATER INFRASTRUCTURE;

5. CLIMATE CHANGE;

6. THE ENVIRONMENT;

7. NATURAL DISASTERS; OR

8. REMEDIATION AND REDUCTION OF LEGACY
POLLUTION.

(5) “ENVIRONMENTAL JUSTICE” HAS THE MEANING STATED IN §
1–701 OF THIS SUBTITLE.

(6) “FEDERAL ACT” MEANS THE INFRASTRUCTURE INVESTMENT
AND JOBS ACT OF 2021.

(7) “FEDERAL FUNDS” MEANS:

(I) MONEY RECEIVED BY A STATE AGENCY UNDER THE
FEDERAL ACT FOR ANY PROGRAM; AND

(II) ANY OTHER FEDERAL MONEY RECEIVED BY A STATE
AGENCY FOR A COVERED PROGRAM.

(8) “INFRASTRUCTURE CONSTRUCTION PROJECT” MEANS THE
CONSTRUCTION, RECONSTRUCTION, REHABILITATION, MODERNIZATION,
ALTERATION, REPAIR, OR IMPROVEMENT OF BUILDINGS, STRUCTURES, OR
PROPERTY WITHIN THE FOLLOWING SECTORS SPECIFIED IN THE FEDERAL ACT:

1 **(I) TRANSPORTATION;**

2 **(II) WATER;**

3 **(III) ENERGY;**

4 **(IV) BROADBAND; AND**

5 **(V) NATURAL RESOURCES.**

6 **(9) “LOW- TO MODERATE-INCOME HOUSEHOLD” MEANS A**
7 **HOUSEHOLD LOCATED IN A CENSUS TRACT WITH AN AVERAGE MEDIAN INCOME AT**
8 **OR BELOW 80% OF THE AVERAGE MEDIAN INCOME FOR THE STATE.**

9 **(10) “OVERBURDENED COMMUNITY” HAS THE MEANING STATED IN §**
10 **1-701 OF THIS SUBTITLE.**

11 **(11) “PROJECT LABOR AGREEMENT” MEANS PRE-HIRE COLLECTIVE**
12 **BARGAINING AGREEMENTS NEGOTIATED BETWEEN CONSTRUCTION UNIONS AND**
13 **CONSTRUCTION CONTRACTORS THAT ESTABLISH THE TERMS AND CONDITIONS OF**
14 **EMPLOYMENT FOR CONSTRUCTION PROJECTS.**

15 **(12) “STATE AGENCY” MEANS ANY AGENCY, BOARD, COMMISSION,**
16 **DEPARTMENT, OR POLITICAL SUBDIVISION OF THE STATE.**

17 **(13) “UNDERSERVED COMMUNITY” HAS THE MEANING STATED IN §**
18 **1-701 OF THIS SUBTITLE.**

19 **(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT EACH STATE**
20 **AGENCY RECEIVING FEDERAL FUNDS SHALL, TO THE EXTENT PRACTICABLE AND**
21 **NOT IN CONFLICT WITH FEDERAL LAW OR FUNDING GUIDELINES, ENSURE THAT ANY**
22 **FEDERAL FUNDS ADMINISTERED BY THAT STATE AGENCY AVOID SUBSTANTIAL**
23 **BURDENS TO OVERBURDENED COMMUNITIES, UNDERSERVED COMMUNITIES,**
24 **COMMUNITIES OF COLOR, AND COMMUNITIES WITH A HIGH PERCENTAGE OF**
25 **LOW- TO MODERATE-INCOME HOUSEHOLDS, INCLUDING:**

26 **(1) PHYSICAL OR ECONOMIC DISPLACEMENT OF HOUSEHOLDS AND**
27 **SMALL BUSINESSES;**

28 **(2) INCREASED EXPOSURE TO TOXINS; AND**

29 **(3) OTHER SUBSTANTIAL ECONOMIC, ENVIRONMENTAL, OR PUBLIC**
30 **HEALTH BURDENS.**

(C) IN ADMINISTERING FEDERAL FUNDS, EACH STATE AGENCY SHALL, TO THE EXTENT PRACTICABLE AND NOT IN CONFLICT WITH FEDERAL LAW AND FUNDING GUIDELINES, ALLOCATE A MINIMUM OF:

(1) 40% OF THOSE FUNDS TO INFRASTRUCTURE CONSTRUCTION PROJECTS IN OVERBURDENED AND UNDERSERVED COMMUNITIES IN THE STATE; AND

(2) AN ADDITIONAL 40% OF THOSE FUNDS TO INFRASTRUCTURE CONSTRUCTION PROJECTS IN COMMUNITIES OF COLOR AND COMMUNITIES WITH A HIGH PERCENTAGE OF LOW- TO MODERATE-INCOME HOUSEHOLDS IN THE STATE.

(D) (1) TO ACHIEVE THE INVESTMENT REQUIRED UNDER THIS SECTION, A STATE AGENCY SHALL, IN COORDINATION WITH THE COMMITTEE:

(I) IDENTIFY OVERBURDENED COMMUNITIES, UNDERSERVED COMMUNITIES, COMMUNITIES OF COLOR, AND COMMUNITIES WITH A HIGH PERCENTAGE OF LOW- TO MODERATE-INCOME HOUSEHOLDS IN THE STATE; AND

(II) CONDUCT COMMUNITY LISTENING SESSIONS IN DIFFERENT AREAS OF THE STATE, INCLUDING URBAN AND RURAL AREAS, TO SOLICIT INPUT FROM OVERBURDENED COMMUNITIES, UNDERSERVED COMMUNITIES, COMMUNITIES OF COLOR, AND COMMUNITIES WITH A HIGH PERCENTAGE OF LOW- TO MODERATE-INCOME HOUSEHOLDS.

(2) AFTER THE COMMUNITY LISTENING SESSIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION ARE COMPLETED, A STATE AGENCY SHALL WORK WITH THE COMMITTEE TO IDENTIFY AND PROVIDE ASSISTANCE TO INFRASTRUCTURE CONSTRUCTION PROJECTS IN OVERBURDENED COMMUNITIES, UNDERSERVED COMMUNITIES, COMMUNITIES OF COLOR, AND COMMUNITIES WITH A HIGH PERCENTAGE OF LOW- TO MODERATE-INCOME HOUSEHOLDS.

(3) INFRASTRUCTURE CONSTRUCTION PROJECTS IDENTIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE PRIORITIZED BASED ON WHETHER THE INFRASTRUCTURE CONSTRUCTION PROJECT:

(I) ADVANCES ENVIRONMENTAL JUSTICE;

(II) INCORPORATES LABOR AND WORKFORCE STANDARDS, INCLUDING:

1. PROJECT LABOR AGREEMENTS;

1 **2. TARGETED HIRE PROVISIONS FOR WORKERS**
2 **RESIDING IN OVERBURDENED AND UNDERSERVED COMMUNITIES; OR**

3 **3. WAGE STANDARDS;**

4 **(III) PROMOTES APPRENTICESHIP PROGRAMS;**

5 **(IV) PROMOTES THE ADAPTATION OF INFRASTRUCTURE TO**
6 **CLIMATE CHANGE; OR**

7 **(V) REDUCES GREENHOUSE GAS EMISSIONS.**

8 **(4) TO THE EXTENT AUTHORIZED BY FEDERAL LAW, FEDERAL FUNDS**
9 **MAY BE ALLOCATED OR USED TO SUPPORT AN INFRASTRUCTURE CONSTRUCTION**
10 **PROJECT THAT WILL COST IN EXCESS OF \$5,000,000 ONLY IF THE CONSTRUCTION**
11 **WORK WILL BE PERFORMED IN ACCORDANCE WITH A PROJECT LABOR AGREEMENT**
12 **THAT INCLUDES PROVISIONS TO ENCOURAGE APPRENTICESHIP TRAINING AND THE**
13 **HIRING OF WORKERS WHO RESIDE IN OVERBURDENED AND UNDERSERVED**
14 **COMMUNITIES.**

15 **(E) (1) ON OR BEFORE DECEMBER 1, 2024, AND EACH DECEMBER 1**
16 **THEREAFTER, EACH STATE AGENCY ADMINISTERING FEDERAL FUNDS SHALL**
17 **SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF**
18 **THE STATE GOVERNMENT ARTICLE, ON:**

19 **(I) HOW, IN COORDINATION WITH THE COMMITTEE, A STATE**
20 **AGENCY IDENTIFIED OVERBURDENED COMMUNITIES, UNDERSERVED**
21 **COMMUNITIES, COMMUNITIES OF COLOR, AND COMMUNITIES WITH A HIGH**
22 **PERCENTAGE OF LOW- TO MODERATE-INCOME HOUSEHOLDS IN THE STATE;**

23 **(II) HOW, IN COORDINATION WITH THE COMMITTEE, A STATE**
24 **AGENCY IDENTIFIED AND PROVIDED ASSISTANCE TO INFRASTRUCTURE**
25 **CONSTRUCTION PROJECTS IN OVERBURDENED COMMUNITIES, UNDERSERVED**
26 **COMMUNITIES, COMMUNITIES OF COLOR, AND COMMUNITIES WITH A HIGH**
27 **PERCENTAGE OF LOW- TO MODERATE-INCOME HOUSEHOLDS IN THE STATE;**

28 **(III) THE ENTITIES OR INFRASTRUCTURE CONSTRUCTION**
29 **PROJECTS THAT RECEIVED ASSISTANCE; AND**

30 **(IV) THE SPENDING OF FUNDS FOR INFRASTRUCTURE**
31 **CONSTRUCTION PROJECTS THAT BENEFITED OVERBURDENED COMMUNITIES,**
32 **UNDERSERVED COMMUNITIES, COMMUNITIES OF COLOR, AND COMMUNITIES WITH**

1 A HIGH PERCENTAGE OF LOW- TO MODERATE-INCOME HOUSEHOLDS TO ACHIEVE
2 THE INVESTMENT REQUIRED UNDER THIS SECTION DURING THE PRIOR FISCAL
3 YEAR.

4 (2) EACH STATE AGENCY REQUIRED TO SUBMIT A REPORT UNDER
5 PARAGRAPH (1) OF THIS SUBSECTION SHALL MAKE THE REPORT AVAILABLE ON ITS
6 WEBSITE IMMEDIATELY AFTER SUBMISSION TO THE GENERAL ASSEMBLY.

7 (F) (1) THERE IS A JUSTICE40 COMMITTEE.

8 (2) THE COMMITTEE SHALL:

9 (I) IDENTIFY INFRASTRUCTURE DEFICIENCIES IN
10 OVERBURDENED COMMUNITIES, UNDERSERVED COMMUNITIES, COMMUNITIES OF
11 COLOR, AND COMMUNITIES WITH A HIGH PERCENTAGE OF LOW- TO
12 MODERATE-INCOME HOUSEHOLDS IN THE STATE;

13 (II) RECOMMEND INFRASTRUCTURE CONSTRUCTION
14 PROJECTS UNDER ANY COVERED PROGRAM FOR FEDERAL FUNDING; AND

15 (III) RECOMMEND GUIDELINES FOR HOW A STATE AGENCY CAN
16 USE FEDERAL FUNDS TO PROVIDE ASSISTANCE FOR INFRASTRUCTURE
17 CONSTRUCTION PROJECTS IN OVERBURDENED COMMUNITIES, UNDERSERVED
18 COMMUNITIES, COMMUNITIES OF COLOR, AND COMMUNITIES WITH A HIGH
19 PERCENTAGE OF LOW- TO MODERATE-INCOME HOUSEHOLDS TO ACHIEVE BETTER
20 CLIMATE, LABOR, AND EQUITY OUTCOMES.

21 (3) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

22 (I) THE SECRETARY OF THE ENVIRONMENT, OR THE
23 SECRETARY'S DESIGNEE; AND

24 (II) THE FOLLOWING MEMBERS APPOINTED BY THE
25 SECRETARY:

26 1. A REPRESENTATIVE FROM AN ORGANIZATION THAT
27 WORKS ON ENVIRONMENTAL ISSUES AFFECTING OVERBURDENED COMMUNITIES,
28 UNDERSERVED COMMUNITIES, COMMUNITIES OF COLOR, AND COMMUNITIES WITH
29 A HIGH PERCENTAGE OF LOW- TO MODERATE-INCOME HOUSEHOLDS IN THE STATE;

30 2. A REPRESENTATIVE FROM AN ORGANIZATION THAT
31 WORKS ON TRANSPORTATION EQUITY IN THE STATE;

1 **3. A REPRESENTATIVE OF AN ENVIRONMENTAL JUSTICE**
2 **ORGANIZATION IN THE STATE;**

3 **4. A REPRESENTATIVE OF AN EQUITY OR RACIAL**
4 **JUSTICE ORGANIZATION THAT WORKS WITH OVERBURDENED COMMUNITIES,**
5 **UNDERSERVED COMMUNITIES, COMMUNITIES OF COLOR, AND COMMUNITIES WITH**
6 **A HIGH PERCENTAGE OF LOW- TO MODERATE-INCOME HOUSEHOLDS IN THE STATE;**

7 **5. A REPRESENTATIVE OF A PUBLIC SECTOR LABOR**
8 **UNION IN THE STATE; AND**

9 **6. A REPRESENTATIVE FROM A LABOR UNION THAT**
10 **REPRESENTS BUILDING AND CONSTRUCTION TRADES IN THE STATE.**

11 **(4) THE SECRETARY SHALL DESIGNATE THE CHAIR OF THE**
12 **COMMITTEE.**

13 **(5) THE DEPARTMENT SHALL PROVIDE STAFF FOR THE COMMITTEE.**

14 **(6) A MEMBER OF THE COMMITTEE:**

15 **(I) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE**
16 **COMMITTEE; BUT**

17 **(II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER**
18 **THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE**
19 **BUDGET.**

20 **(7) A STATE AGENCY ADMINISTERING FEDERAL FUNDS SHALL**
21 **COORDINATE WITH THE COMMITTEE TO ASSIST COMMUNITIES IN APPLYING FOR,**
22 **AND ACCESSING, FEDERAL FUNDS FOR INFRASTRUCTURE CONSTRUCTION**
23 **PROJECTS.**

24 **(8) ON OR BEFORE DECEMBER 31, 2024, AND EACH DECEMBER 31**
25 **THEREAFTER, THE COMMITTEE SHALL SUBMIT A REPORT TO THE GENERAL**
26 **ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE,**
27 **THAT:**

28 **(I) LISTS ANY RECOMMENDATIONS THE COMMITTEE HAS**
29 **DEVELOPED IN IDENTIFYING AND PROVIDING ASSISTANCE TO INFRASTRUCTURE**
30 **CONSTRUCTION PROJECTS IN OVERBURDENED COMMUNITIES, UNDERSERVED**
31 **COMMUNITIES, COMMUNITIES OF COLOR, AND COMMUNITIES WITH A HIGH**
32 **PERCENTAGE OF LOW- TO MODERATE-INCOME HOUSEHOLDS IN THE STATE;**

1 **(II) EVALUATES THE SPENDING OF FUNDS FOR**
2 **INFRASTRUCTURE CONSTRUCTION PROJECTS THAT BENEFITED OVERBURDENED**
3 **COMMUNITIES, UNDERSERVED COMMUNITIES, COMMUNITIES OF COLOR, AND**
4 **COMMUNITIES WITH A HIGH PERCENTAGE OF LOW- TO MODERATE-INCOME**
5 **HOUSEHOLDS DURING THE PRIOR FISCAL YEAR; AND**

6 **(III) EVALUATES THE SUCCESS OF STATE AGENCIES IN MEETING**
7 **THE INVESTMENT REQUIRED UNDER THIS SECTION DURING THE PRIOR FISCAL**
8 **YEAR.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
10 1, 2024.