

SENATE BILL 460

P1, M1, M3

0lr1126
CF HB 614

By: **Senators Elfreth, Beidle, Feldman, Guzzone, Hayes, Hester, King, Lee, Pinsky, Rosapepe, Sydnor, Washington, West, and Zucker**

Introduced and read first time: January 27, 2020

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 8, 2020

CHAPTER _____

1 AN ACT concerning

2 **State Government – ~~Office of the~~ Environmental and Natural Resources**
3 **Ombudsman – Establishment**
4 **(Environmental Accountability and Transparency Act)**

5 FOR the purpose of establishing the ~~Office of the~~ Environmental and Natural Resources
6 Ombudsman; ~~requiring the Office of the Attorney General to provide office space and~~
7 ~~staff for the Ombudsman in a certain manner;~~ providing for the appointment,
8 qualifications, ~~term,~~ and salary of the Ombudsman; requiring the Ombudsman to be
9 a full-time State employee; requiring the Ombudsman to receive and process
10 complaints involving suspected environmental and natural resources violations in a
11 certain manner; requiring the Ombudsman to maintain and update certain
12 information involving suspected environmental and natural resources violations in
13 consultation with the Department of the Environment, the Department of Natural
14 Resources, and the Department of Agriculture in a certain manner; requiring the
15 Ombudsman to update a certain individual who has submitted a complaint under
16 certain provisions of this Act ~~under certain circumstances~~ on request of the
17 individual; requiring the Ombudsman to develop and maintain a certain website ~~in~~
18 ~~conjunction with the Department of the Environment, the Department of Natural~~
19 ~~Resources, and the Department of Agriculture~~ to provide certain information;
20 requiring certain information posted on a certain website to be kept in a certain
21 manner; providing for the application of certain provisions of this Act to complaints
22 initiated or investigated by the Natural Resources Police Force; defining certain
23 terms; stating the intent of the General Assembly; providing for the construction of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~this Act~~; and generally relating to the ~~Office of the~~ Environmental and Natural
2 Resources Ombudsman.

3 BY adding to

4 Article – State Government

5 Section 6–501 through 6–504 to be under the new subtitle “Subtitle 5. ~~Office of the~~
6 Environmental and Natural Resources Ombudsman”

7 Annotated Code of Maryland

8 (2014 Replacement Volume and 2019 Supplement)

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

11 **Article – State Government**

12 **SUBTITLE 5. ~~OFFICE OF THE~~ ENVIRONMENTAL AND NATURAL RESOURCES**
13 **OMBUDSMAN.**

14 **6–501.**

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) “OMBUDSMAN” MEANS THE ENVIRONMENTAL AND NATURAL
18 RESOURCES OMBUDSMAN.

19 (C) “SUSPECTED ENVIRONMENTAL AND NATURAL RESOURCES VIOLATION”
20 OR “SUSPECTED VIOLATION” MEANS A SUSPECTED VIOLATION OF:

21 (1) AN ENVIRONMENTAL LAW OR REGULATION RELATED TO
22 MANAGING OR PROTECTING AMBIENT AIR QUALITY OR WATER QUALITY; OR

23 (2) A NATURAL RESOURCES OR CONSERVATION LAW OR REGULATION
24 RELATED TO MANAGING OR PROTECTING WILDLIFE OR FISHERY SPECIES OR
25 POPULATIONS.

26 **6–502.**

27 ~~(A) THERE IS AN OFFICE OF THE ENVIRONMENTAL AND NATURAL~~
28 ~~RESOURCES OMBUDSMAN IN THE OFFICE OF THE PUBLIC ACCESS OMBUDSMAN~~
29 ~~ESTABLISHED UNDER § 4–1B–02 OF THE GENERAL PROVISIONS ARTICLE.~~

30 ~~(B) THE OFFICE OF THE ATTORNEY GENERAL SHALL PROVIDE OFFICE~~
31 ~~SPACE AND STAFF FOR THE OMBUDSMAN, WITH APPROPRIATE STEPS TAKEN TO~~
32 ~~PROTECT THE AUTONOMY AND INDEPENDENCE OF THE OMBUDSMAN.~~

1 6-503.

2 (A) (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE ATTORNEY
3 GENERAL SHALL APPOINT THE OMBUDSMAN.

4 (2) THE OMBUDSMAN SHALL SERVE AT THE PLEASURE OF THE
5 ATTORNEY GENERAL.

6 (B) THE OMBUDSMAN SHALL MEET THE QUALIFICATIONS ESTABLISHED BY
7 THE ATTORNEY GENERAL, INCLUDING HAVING THE CAPABILITY TO:

8 (1) ANALYZE ENVIRONMENTAL- AND NATURAL
9 RESOURCES-RELATED DATA; AND

10 (2) COMMUNICATE EFFECTIVELY WITH STATE AGENCIES AND THE
11 PUBLIC.

12 (C) ~~(1) THE TERM OF THE OMBUDSMAN IS 8 YEARS.~~

13 ~~(2) THE OMBUDSMAN MAY SERVE CONSECUTIVE TERMS.~~

14 ~~(3) AT THE END OF A TERM, THE OMBUDSMAN CONTINUES TO SERVE~~
15 ~~UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.~~

16 ~~(4) AN OMBUDSMAN WHO IS APPOINTED AFTER A TERM BEGINS~~
17 ~~SERVES FOR THE REMAINDER OF THE TERM UNTIL A SUCCESSOR IS APPOINTED AND~~
18 ~~QUALIFIES.~~

19 ~~(D)~~ THE OMBUDSMAN SHALL BE A FULL-TIME STATE EMPLOYEE.

20 ~~(E)~~ (D) THE OMBUDSMAN IS ENTITLED TO AN ANNUAL SALARY AS
21 PROVIDED FOR IN THE STATE BUDGET.

22 6-504.

23 (A) THIS SECTION DOES NOT APPLY TO COMPLAINTS INITIATED OR
24 INVESTIGATED BY, OR INSPECTIONS OR ENFORCEMENT ACTION CONDUCTED BY,
25 THE NATURAL RESOURCES POLICE FORCE.

26 (B) THE OMBUDSMAN SHALL:

27 (1) (I) RECEIVE AND PROCESS COMPLAINTS THAT INVOLVE
28 SUSPECTED ENVIRONMENTAL AND NATURAL RESOURCES VIOLATIONS; AND

1 **(II) NOTIFY THE COMPLAINANT THAT ANY COMPLAINT THAT**
2 **DOES NOT IDENTIFY A SUSPECTED ENVIRONMENTAL AND NATURAL RESOURCES**
3 **VIOLATION, AS DEFINED IN § 6-501 OF THIS SUBTITLE, WILL NOT BE REFERRED TO**
4 **A STATE OR LOCAL ENFORCEMENT AGENCY;**

5 **(2) REFER EACH VALID COMPLAINT THAT IS RECEIVED UNDER THIS**
6 **SECTION TO THE APPROPRIATE STATE OR LOCAL ENFORCEMENT AGENCY;**

7 **(3) KEEP A RECORD OF EACH COMPLAINT THAT IS RECEIVED UNDER**
8 **THIS SECTION, INCLUDING INFORMATION ON:**

9 **(I) THE COUNTY IN WHICH THE SUSPECTED VIOLATION**
10 **OCCURRED; AND**

11 **(II) WHETHER THE ACTUAL OR POTENTIAL IMPACT OF THE**
12 **SUSPECTED VIOLATION RELATES TO AMBIENT AIR QUALITY, WATER QUALITY,**
13 **WILDLIFE, OR FISHERIES;**

14 **(4) ON AT LEAST A ~~MONTHLY~~ QUARTERLY BASIS AND IN**
15 **CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT, THE**
16 **DEPARTMENT OF NATURAL RESOURCES, AND THE DEPARTMENT OF**
17 **AGRICULTURE, MAINTAIN AND UPDATE A LIST OF:**

18 **(I) NEW COMPLAINTS THAT HAVE BEEN RECEIVED BY THE**
19 **DEPARTMENTS THAT INVOLVE SUSPECTED ENVIRONMENTAL AND NATURAL**
20 **RESOURCES VIOLATIONS, INCLUDING INFORMATION ON:**

21 **1. THE COUNTY IN WHICH THE SUSPECTED VIOLATION**
22 **OCCURRED; AND**

23 **2. WHETHER THE ACTUAL OR POTENTIAL IMPACT OF**
24 **THE SUSPECTED VIOLATION RELATES TO AMBIENT AIR QUALITY, WATER QUALITY,**
25 **WILDLIFE, OR FISHERIES;**

26 **(II) COMPLAINTS THAT REMAIN OPEN; AND**

27 **(III) COMPLAINTS THAT HAVE BEEN RECENTLY CLOSED;**

28 **(5) ON AT LEAST A ~~WEEKLY~~ MONTHLY BASIS AND IN CONSULTATION**
29 **WITH THE DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT OF NATURAL**
30 **RESOURCES, AND THE DEPARTMENT OF AGRICULTURE, MAINTAIN AND UPDATE A**
31 **LIST OF NEW LEGAL SETTLEMENTS PROPOSED BY THE DEPARTMENTS THAT**
32 **INVOLVE SUSPECTED ENVIRONMENTAL AND NATURAL RESOURCES VIOLATIONS,**
33 **INCLUDING INFORMATION ON:**

1 (I) THE DATE THE SETTLEMENT WAS PROPOSED;

2 (II) THE RELEVANT LAW OR REGULATION THAT IS THE BASIS OF
3 THE SUSPECTED VIOLATION; AND

4 (III) WHETHER THE ACTUAL OR POTENTIAL IMPACT OF THE
5 SUSPECTED VIOLATION RELATES TO AMBIENT AIR QUALITY, WATER QUALITY,
6 WILDLIFE, OR FISHERIES; AND

7 ~~(IV) THE APPROPRIATE POINT OF CONTACT FOR INFORMATION~~
8 ~~ON THE PROPOSED SETTLEMENT; AND~~

9 (6) ON REQUEST, PROVIDE AN UPDATE TO AN INDIVIDUAL WHO HAS
10 SUBMITTED A COMPLAINT UNDER THIS SECTION ~~IF:~~

11 ~~(I) A STATE OR LOCAL ENFORCEMENT AGENCY INITIATES AN~~
12 ~~INVESTIGATION OR AN ENFORCEMENT ACTION BASED ON THE COMPLAINT; OR~~

13 ~~(II) THE OMBUDSMAN HAS CLOSED THE COMPLAINT.~~

14 ~~(B)~~ (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION ~~AND IN~~
15 ~~CONJUNCTION WITH THE DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT~~
16 ~~OF NATURAL RESOURCES, AND THE DEPARTMENT OF AGRICULTURE, THE~~
17 OMBUDSMAN SHALL DEVELOP AND MAINTAIN A WEBSITE TO PROVIDE:

18 (I) A LIST OF EACH COMPLAINT RECEIVED BY THE
19 OMBUDSMAN, THE DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT OF
20 NATURAL RESOURCES, AND THE DEPARTMENT OF AGRICULTURE FOR A
21 SUSPECTED ENVIRONMENTAL AND NATURAL RESOURCES VIOLATION, ~~INCLUDING~~
22 ~~INFORMATION ON THAT INCLUDES ONLY:~~

23 1. THE DATE ON WHICH THE COMPLAINT WAS
24 SUBMITTED;

25 2. THE COUNTY AND, IF READILY AVAILABLE, THE ZIP
26 CODE IN WHICH THE SUSPECTED VIOLATION OCCURRED;

27 3. WHETHER THE ACTUAL OR POTENTIAL IMPACT OF
28 THE SUSPECTED VIOLATION RELATES TO AMBIENT AIR QUALITY, WATER QUALITY,
29 WILDLIFE, OR FISHERIES; AND

30 4. THE COMPLAINT OR CASE IDENTIFICATION NUMBER;

(II) A LIST OF EACH INSPECTION THAT HAS BEEN CONDUCTED BY THE DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT OF NATURAL RESOURCES, AND THE DEPARTMENT OF AGRICULTURE DURING THE PREVIOUS 365 DAYS UNDER THE AUTHORITY OF A STATE OR FEDERAL LAW OR REGULATION RELATED TO MANAGING OR PROTECTING AMBIENT AIR QUALITY, WATER QUALITY, WILDLIFE, OR FISHERIES, ~~INCLUDING INFORMATION ON~~ THAT INCLUDES ONLY:

1. THE SITE NAME;

2. THE COUNTY AND, IF READILY AVAILABLE, THE ZIP CODE IN WHICH THE INSPECTION OCCURRED;

3. THE PERMIT NUMBER ASSOCIATED WITH THE SITE;

4. THE INSPECTION IDENTIFICATION NUMBER;

5. THE FINDINGS OF THE INSPECTOR ON WHETHER:

A. THE SITE IS IN COMPLIANCE; AND

B. ANY ADDITIONAL INVESTIGATION IS NECESSARY;

6. THE STATUS OF THE INSPECTION;

7. THE STATUTORY AUTHORITY FOR THE INSPECTION;

AND

8. WHETHER THE BASIS OF THE INSPECTION INVOLVED AMBIENT AIR QUALITY, WATER QUALITY, WILDLIFE, OR FISHERIES;

(III) AN ELECTRONIC LINK TO A DIGITAL COPY OF EACH INSPECTION SPECIFIED UNDER ITEM (II) OF THIS PARAGRAPH;

(IV) A LIST OF EACH ENFORCEMENT ACTION THAT HAS BEEN INITIATED BY THE DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT OF NATURAL RESOURCES, AND THE DEPARTMENT OF AGRICULTURE DURING THE PREVIOUS 365 DAYS UNDER THE AUTHORITY OF A STATE OR FEDERAL LAW OR REGULATION RELATED TO PROTECTING OR MANAGING AMBIENT AIR QUALITY, WATER QUALITY, WILDLIFE, OR FISHERIES, ~~INCLUDING INFORMATION ON~~ THAT INCLUDES ONLY:

1. WHETHER ANY PENALTIES WERE IMPOSED;

2. WHETHER ANY ORDERS WERE ISSUED;

1 3. WHETHER THE CASE WAS REFERRED FOR
2 PROSECUTION OR FURTHER ACTION;

3 4. WHETHER COMPLIANCE ASSISTANCE WAS RENDERED;

4 5. THE COUNTY AND, IF READILY AVAILABLE, THE ZIP
5 CODE IN WHICH THE ENFORCEMENT ACTION OCCURRED;

6 6. THE STATUTORY AUTHORITY FOR THE ENFORCEMENT
7 ACTION;

8 7. THE ENFORCEMENT ACTION IDENTIFICATION
9 NUMBER; AND

10 8. WHETHER THE BASIS OF THE ENFORCEMENT ACTION
11 INVOLVED AMBIENT AIR QUALITY, WATER QUALITY, WILDLIFE, OR FISHERIES;

12 ~~(IV)~~ (V) A LIST OF EACH VIOLATION DISCOVERED WITHIN THE
13 PREVIOUS 365 DAYS THAT THE DEPARTMENT OF THE ENVIRONMENT, THE
14 DEPARTMENT OF NATURAL RESOURCES, OR THE DEPARTMENT OF AGRICULTURE
15 HAS DEEMED “SIGNIFICANT NONCOMPLIANCE”, A “HIGH-PRIORITY VIOLATION”, OR
16 ANY OTHER ELEVATED STATUS OF CONCERN, ~~INCLUDING INFORMATION ON THAT~~
17 INCLUDES ONLY:

18 1. THE DATE ON WHICH THE VIOLATION WAS IDENTIFIED
19 AS AN ELEVATED STATUS OF CONCERN;

20 2. THE DATE ON WHICH THE FACILITY REGAINED
21 COMPLIANCE;

22 3. THE COUNTY AND, IF READILY AVAILABLE, THE ZIP
23 CODE IN WHICH THE SUSPECTED VIOLATION OCCURRED;

24 4. WHETHER ANY ENFORCEMENT ACTION HAS BEEN
25 INITIATED OR CORRECTIVE ACTION REQUESTED; AND

26 5. WHETHER THE ACTUAL OR POTENTIAL IMPACT OF
27 THE SUSPECTED VIOLATION RELATES TO AMBIENT AIR QUALITY, WATER QUALITY,
28 WILDLIFE, OR FISHERIES;

29 ~~(V)~~ (VI) A LIST OF ALL EXPIRED AND ADMINISTRATIVELY
30 CONTINUED ENVIRONMENTAL PERMITS ISSUED BY THE DEPARTMENT OF THE
31 ENVIRONMENT, INCLUDING INFORMATION ON:

- 1 1. THE FACILITY NAME;
- 2 2. THE EXPIRATION DATE OF THE PERMIT;
- 3 3. THE PERMIT NUMBER;
- 4 4. THE COUNTY AND, IF READILY AVAILABLE, THE ZIP
- 5 CODE IN WHICH THE FACILITY IS LOCATED; AND
- 6 5. ANY INFORMATION ON THE STATUS OF THE PERMIT
- 7 RENEWAL PROCESS, INCLUDING WHETHER AN APPLICATION TO RENEW THE PERMIT
- 8 HAS BEEN SUBMITTED AND WHETHER THE PERMIT IS DEEMED TO BE EXPIRED OR
- 9 ADMINISTRATIVELY CONTINUED; AND
- 10 ~~(VI)~~ (VII) ALL INFORMATION REQUIRED TO BE POSTED ON THE
- 11 DEPARTMENT OF THE ENVIRONMENT'S WEBSITE IN ACCORDANCE WITH § 4-802(A)
- 12 OF THE ENVIRONMENT ARTICLE.

13 (2) THE INFORMATION POSTED ON THE WEBSITE IN ACCORDANCE

14 WITH THIS SUBSECTION SHALL BE:

- 15 (I) KEPT FOR ~~3~~ 5 YEARS;
- 16 (II) UPDATED ON AT LEAST A MONTHLY BASIS; AND
- 17 (III) MAINTAINED IN A DATABASE FORMAT TO ENSURE THAT THE
- 18 INFORMATION IS SEARCHABLE BY CATEGORY OF INFORMATION.

19 SECTION 2. AND BE IT FURTHER ENACTED, That:

20 (a) It is the intent of the General Assembly that:

21 (1) this Act enhance efficiency and reduce the burden on State agencies by

22 taking advantage of modern technology, maximizing interagency coordination and

23 collaboration, minimizing redundancy in agency activities, reducing the amount of agency

24 staff time needed to respond to and complete Public Information Act requests, properly

25 vetting and routing public complaints about suspected environmental and natural

26 resources violations, and marshalling nongovernmental resources through the facilitation

27 and enablement of public participation; and

28 (2) government agencies responsible for implementing this Act rely on, to

29 the maximum extent practicable, existing budgeted resources to implement this Act,

30 including by realizing the efficiencies gained under this Act, reallocating newly available

1 resources, and relying on technology to undertake tasks that are currently processed
2 manually.

3 (b) Nothing in this Act shall be construed to require any unit of State government
4 to undertake additional data collection, publish any confidential information not already
5 subject to disclosure under State law, or perform any additional redaction of information to
6 implement this Act.

7 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2020.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.