



Joint Committee on the Judiciary  
Testimony of Betsy Harper, Chief of Environmental Protection Division (EPD),  
Turner Smith, Deputy Chief of Energy and Environment Bureau, and  
Marcus Holmes, Director of Environmental Justice, EPD  
S2521 and H4143, An Act establishing the environmental justice trust fund  
**Tuesday, December 5, 2023**  
*As Prepared for Delivery*

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**Betsy Harper:**

Good afternoon, Chairs Eldridge and Day and Members of the Joint Committee. Thank you for the opportunity to testify today.

My name is Betsy Harper, and I am Chief of Attorney General Andrea Joy Campbell's Environmental Protection Division, commonly referred to as EPD. I am joined today by Turner Smith, Deputy Chief of the Energy and Environment Bureau, and Marcus Holmes, Director of Environmental Justice. AG Campbell is committed to advancing environmental and climate justice in all corners of the Commonwealth and improving the environments where people live, work, play, and go to school.

To that end, we are here on behalf of the Attorney General to testify in support of S2521 and H4143, An Act establishing the environmental justice trust fund—filed in September and a top priority for the Attorney General's Office. We filed this legislation together with Representative Fluker-Oakley and Senator Gomez. We are so thankful for both legislators' leadership and partnership.

We in EPD enforce Massachusetts's nation-leading environmental laws. Through these cases, we have seen construction projects that spew toxins and other pollutants into the air. We've seen demolition contractors who ignore the presence of asbestos, often exposing residents of crowded neighborhoods to asbestos dust. We've seen pollutants dumped into rivers and streams, disrupting recreation and subsistence fishing. We've seen valuable wetland resources and green spaces

paved over and replaced with parking lots, increasing flood risks and decreasing community resilience in a changing climate.

Most of our enforcement cases concern environmental harms that affect communities that already are disproportionately impacted by environmental, health, and economic burdens. For example, many of these communities already suffer extreme heat and have little green space. Many already breathe polluted air, drink polluted water, and suffer from disproportionately high rates of asthma, cardiovascular issues, and mortality.

Although we recover significant penalties through our enforcement work, we are not able to direct civil penalties to the very communities harmed by the violations of the environmental laws we enforce. And, although our enforcement may be successful in stopping the violations, the communities are left to bear the burden of the impacts on them.

We want to change this; and that is why we introduced S2521 and H4143, the Environmental Justice Trust, which would enable our enforcement work to directly benefit the communities most impacted.

Now I'll turn it over to my colleague Turner Smith to explain briefly how the environmental justice trust would work.

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**Turner Smith:**

Good afternoon, Chairs and Members of the Joint Committee. My name is Turner Smith, and I am Deputy Chief of AG Campbell's Energy and Environment Bureau. I echo my colleague's gratitude for the opportunity to testify today. I'll briefly walk through the mechanics of the EJ Trust.

The EJ Trust would be funded through civil penalties obtained through judgments and settlements in EPD's state environmental enforcement cases. In that sense, the trust is not unusual. It's modeled after similar trusts statutorily authorized for other purposes, such as the Natural Heritage and Endangered Species Fund administered by the Department of Fish and Game (G.L. c. 10, § 35D), and the Natural Resource Damages Trust administered by the Department of Environmental Protection (St. 2011, c. 9, § 22). Other states, too, have similar programs (Conn. Gen. Stat. Sec. 22a-16a).

EPD would use these funds to support on-the-ground projects to address environmental harm in disadvantaged communities across the state by addressing the burdens people face every day—whether economic, environmental or health-related. Put simply, EPD would have the opportunity to respond to community needs we see and hear, rather than leaving communities to bear the financial and health burdens of living with the impacts of environmental violations.

This bill would specifically allow us to serve the needs of disadvantaged communities across the Commonwealth, both rural and urban, identified through our casework and engagement.

I want to briefly clarify the context of this bill within EPD's broader workload and note that we've seen a glimpse of the impact the EJ Trust could have through some of that work. In addition to enforcing state laws, EPD has developed a limited docket of cases enforcing *federal* environmental laws through those laws' citizen suit provisions. Under federal law, plaintiffs are able to direct payments in lieu of penalties to benefit communities impacted by federal violations. As my colleague Marcus Holmes will next describe, through these cases we've been able to fund some—but nowhere near enough—projects to remedy harms suffered in overburdened neighborhoods.

But these federal citizen suits are just a small fraction of the work the division does. We have a statutory duty to enforce *state* environmental laws, and we have dozens of these cases at any given time that result in significant civil penalties. If we could support similar community-based projects with these penalties, we could respond to significant community needs we see in nearly every case and corner of the Commonwealth.

I will now turn the floor to our Director of Environmental Justice, Marcus Holmes, to describe our community engagement work and the kinds of projects we hope to support through the EJ Trust.

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**Marcus Holmes:**

Good afternoon, Chairs and Members of the Joint Committee. I'm Marcus Holmes, Director of Environmental Justice in the Environmental Protection Division.

In EPD, we recognize that environmental justice work should not have a top-down approach; this work must start in the communities themselves, address specific community priorities, and be fully informed by community input throughout the process. A big part of my job is leading the division's efforts to engage with, listen to, and respond to community-based organizations across the state. These organizations engage directly with residents of the communities they serve and are usually led by residents themselves. They often do this work without compensation, are excluded from the decision-making process, and often do not have the experience or resources to compete for other state and federal funds.

To support this engagement, we host monthly coordination calls and regular check-ins with these organizations and individual community groups; we join community meetings; and we host listening sessions at our office so that representatives from across the AGO can ensure we are able to respond to the communities cumulative and cross-cutting concerns.

In this important work, we learn of real time-sensitive needs. But our impact to support such needs are limited and could be greatly expanded through the support and resources of the EJ Trust.

For example, EJ Trust funds could be used to support youth asthma prevention programs to address the effects of illegal air pollution, like asbestos, and mold exposures. In the AGO, we have already supported similar efforts with the New Bedford Community Health Center, who collaborated with the AGO to launch an awareness campaign on illegal idling. In addition, we could expand air monitoring networks to other communities, similar to the work we've already done in Springfield and the Pioneer Valley, to empower people to make informed decisions about their health. Funding could also support community efforts to reduce plastics and trash entering our cherished waterways—like the project we funded in the Chicopee River Watershed. And, funding could even support community gardening projects, to aid in response efforts that address urban heat, or support technical assistance projects for communities that need it the most—like projects we recently funded on the South Coast. These are just a few examples of ways we could use EJ Trust funding. These projects barely scratch the surface of the Trust's potential.

For these reasons, we respectfully ask the Committee to provide a favorable report on S2521 and H4143 this session. Thank you Chairs and members of this Committee for taking the time to hear our testimony today. Attorney General Campbell appreciates the work you do for all Massachusetts residents, especially

our most vulnerable and disproportionately impacted communities, like those we've discussed today. We welcome any questions from the Committee and remain as a resource as you consider this and other similar issues.