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HOUSE BILL NO. 1042

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on January 28, 2020)

(Patron Prior to Substitute—Delegate Herring)

A BILL to amend the Code of Virginia by adding in Chapter 26 of Title 2.2 an article numbered 36, consisting of sections numbered 2.2-2699.8 through 2.2-2699.12, relating to environmental justice council.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 26 of Title 2.2 an article numbered 36, consisting of sections numbered 2.2-2699.8 through 2.2-2699.12, as follows:

Article 36.

Virginia Council on Environmental Justice.

§ 2.2-2699.8. Definitions.

For purposes of this article, unless the context requires a different meaning:

"Council" means the Virginia Council on Environmental Justice established pursuant to this article.

"Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, faith, national origin, or income, regarding the development, implementation, or enforcement of any environmental law, regulation, or policy.

"Fair treatment" means the equitable consideration of all people whereby no group of people bears a disproportionate share of any negative environmental consequence resulting from an industrial, governmental, or commercial operation, program, or policy.

"Meaningful involvement" means the requirements that (i) affected and vulnerable community residents have access and opportunities to participate in the full cycle of the decision-making process about a proposed activity that will affect their environment or health and (ii) decision-makers will seek out and consider such participation, allowing the views and perspectives of community residents to shape and influence the decision.

"Resilience" means, as it pertains to climate change, the ability to anticipate, prepare for, and adapt to changing conditions and to withstand, respond to, and recover rapidly from disruptions through adaptable planning and climate solutions.

§ 2.2-2699.9. Virginia Council on Environmental Justice.

The Virginia Council on Environmental Justice is established as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council is to advise the Governor and provide recommendations that maintain a foundation of environmental justice principles intended to protect vulnerable communities from disproportionate impacts of pollution.

§ 2.2-2699.10. Membership; terms; quorum; meetings.

A. The Council shall have a total membership of 27 members that shall consist of 21 nonlegislative citizen members and six ex officio members. Nonlegislative citizen members shall be appointed by the Governor. The Secretaries of Natural Resources, Commerce and Trade, Agriculture and Forestry, Health and Human Resources, Education, and Transportation, or their designees, including their agency representatives, shall serve ex officio with nonvoting privileges. Nonlegislative citizen members of the Council shall be residents of the Commonwealth and shall include representatives of (i) American Indian tribes, (ii) community-based organizations, (iii) the public health sector, (iv) nongovernmental organizations, (v) civil rights organizations, (vi) institutions of higher education, and (vii) communities impacted by an industrial, governmental, or commercial operation, program, or policy.

Ex officio members of the Council shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years.

B. The Council shall elect a chairperson and vice-chairperson annually from among the membership of the Council. A majority of the members shall constitute a quorum. The meetings of the Council shall be held at the call of the chairperson or whenever the majority of the members so request.

C. The Council shall meet quarterly and shall establish a meeting schedule on an annual basis. When possible, the location of the meetings shall rotate among different geographic regions. When possible, meetings shall be broadcast on the Internet or via teleconference. Each meeting shall include an in-person public comment component.

The Council may provide for the creation of subcommittees. Any subcommittee meetings shall be scheduled with notification to the full Council.

§ 2.2-2699.11. Compensation; expenses; staffing.

60 A. Members of the Council shall receive no compensation for their services but shall be reimbursed
61 for all reasonable and necessary expenses incurred in the performance of their duties as provided in
62 §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members shall be provided by the
63 Secretary of Natural Resources.

64 B. The Office of the Governor and the Secretary of Natural Resources shall provide staff support to
65 the Council. All agencies of the Commonwealth shall provide assistance to the Council, upon request.

66 **§ 2.2-2699.12. Powers and duties of the Council.**

67 The Council shall have the following powers and duties:

68 1. Advise and provide recommendations to the Governor regarding the development of policies and
69 procedures, focusing on equality and equity, to ensure that environmental justice issues are heard and
70 addressed as the Commonwealth evolves, as impacts of climate change increase, and as new
71 environmental justice issues emerge. The Council shall provide advice and recommendations to the
72 Governor and his cabinet on:

73 a. Integrating environmental justice considerations throughout the Commonwealth's programs,
74 regulations, policies, and procedures;

75 b. Strengthening partnerships on environmental justice among governmental agencies, including
76 federal, tribal, and local governments;

77 c. Incorporating potential solutions to environmental justice issues related to stakeholder
78 communication, local governments, climate change and resilience, transportation, clean energy, outdoor
79 access, and cultural preservation;

80 d. Enhancing research and assessment approaches related to environmental justice and identifying
81 potential risks or disproportionate public health impacts related to environmental pollution, particularly
82 those that threaten or could threaten low-income and historically underserved communities;

83 e. Receiving comments, concerns, and recommendations from individuals throughout the
84 Commonwealth; and

85 f. Recommending statutory, regulatory, or executive action, or relevant improvements or additions,
86 for consideration to better address environmental justice issues.

87 2. Submit an annual report to the Governor and the General Assembly for publication as a report
88 document as provided in the procedures of the Division of Legislative Automated Systems for the
89 processing of legislative documents and reports. The chairperson shall submit to the Governor and the
90 General Assembly an annual executive summary of the interim activity and work of the Council no later
91 than the first day of each regular session of the General Assembly starting in 2021. The executive
92 summary shall be submitted as a report document as provided in the procedures of the Division of
93 Legislative Automated Systems for the processing of legislative documents and reports and shall be
94 posted on the General Assembly's website.

95 3. Apply for, accept, and expend gifts, grants, or donations from public, quasi-public, or private
96 sources, including any matching funds designated in an appropriation act, to enable it to better carry
97 out its objectives.

98 **2. That the initial appointments of nonlegislative citizen members to the Virginia Council on**
99 **Environmental Justice, as created by this act, shall be staggered as follows: 10 nonlegislative**
100 **citizen members appointed by the Governor for a term of two years and 11 nonlegislative citizen**
101 **members appointed by the Governor for a term of four years.**