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SENATE BILL NO. 406

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 55.4, consisting of sections numbered 2.2-5515, 2.2-5516, and 2.2-5517, relating to the Virginia Environmental Justice Act.*

Patrons—Hashmi, Boysko and McClellan

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 55.4, consisting of sections numbered 2.2-5515, 2.2-5516, and 2.2-5517, as follows:

CHAPTER 55.4.**VIRGINIA ENVIRONMENTAL JUSTICE ACT.****§ 2.2-5515. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Environmental" means the natural, cultural, social, economic, and political assets or components of a community.

"Environmental justice" means the fair treatment and actions and processes of a state agency that (i) provide adequate opportunities for participation by potentially affected community members in decisions about a proposed activity that will affect their environment or health, (ii) include consideration of the concerns of all participants in the agency's decision-making process, and (iii) make affirmative efforts to seek out and facilitate the involvement of all people potentially affected regardless of race, color, national origin, income, faith, or disability with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

"Environmental justice community" means a geographically distinct area in which (i) the population of individuals identify as belonging to a non-white census race or ethnic category is greater than the non-white population of the Commonwealth or (ii) 30 percent or more of the population has an annual household income equal to the greater of (a) 80 percent of the median income of the area in which the household is located, as reported by the Department of Housing and Urban Development or (b) 200 percent of the federal poverty line.

"Fair treatment" means ensuring that no community bears a disproportionate burden of environmental harms and risks, including those resulting from industrial, governmental, and commercial operations or programs or policies.

"Governor's Secretaries" means the same as that term is defined in §2.2-200.

"Population of color" means a population of individuals who identify as belonging to one or more of the following groups:

- 1. Black;*
- 2. African American;*
- 3. Asian;*
- 4. Pacific Islander;*
- 5. Native American*
- 6. A non-White race or mixed race;*
- 7. Hispanic;*
- 8. Latino; or*
- 9. Linguistically isolated individuals.*

"State agency" means any agency, authority, institution, board, bureau, commission, council, or instrumentality of state government in the executive branch.

§ 2.2-5516. Policy of the Commonwealth regarding environmental justice; responsibilities of state agencies and the Governor's Secretaries.

A. It shall be the policy of the Commonwealth to promote environmental justice and ensure that environmental justice is carried out throughout the Commonwealth. To further this policy, all state agencies shall examine any new regulation or policy or amendment to an existing regulation or policy involving state action or funds in relation to its impact on environmental justice prior to adoption of the regulation or policy and shall have the authority to incorporate terms and provisions to reduce or eliminate elements contrary to environmental justice for environmental justice.

B. The Governor's Secretaries shall develop a specific policy or strategy to promote environmental

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59 justice in ways that are tailored to the specific authority, mission, and programs under their Secretariat
60 no later than January 1, 2021. Such policies or strategies shall include (i) identification of permitting or
61 other applicable regulatory authority over development projects, brownfield remediation, industrial
62 operations, and commercial facilities that may undermine environmental justice and a description of any
63 mechanism to ensure that environmental justice is considered and becomes integrated in the review
64 process; (ii) identification of economic development opportunities, environmental benefits, and other
65 discretionary funding programs that do, or appropriately should, consider the needs of environmental
66 justice communities in the award process; and (iii) an enhanced public participation plan for residents
67 of environmental justice communities potentially affected by development projects, brownfield
68 remediation, industrial operations, and commercial facilities that focuses secretariat resources on
69 outreach activities that enhance public participation opportunities in environmental justice communities,
70 including a plan for communicating in multiple languages and scheduling public meetings at locations
71 and times in environmental justice communities that are convenient for the potentially affected
72 populations.

73 C. The policies or strategies of each Secretariat shall be reviewed every five years and updated as
74 needed.

75 D. Each of the Governor's Secretaries shall designate an Environmental Justice Coordinator who
76 shall facilitate the efforts in the Secretariat to develop a policy or strategy to promote environmental
77 justice.

78 **§ 2.2-5517. Interagency Environmental Justice Working Group created.**

79 A. There is hereby created the Interagency Environmental Justice Council Working Group (Working
80 Group). The purpose of the Working Group shall be to maximize state resources, research, and
81 technical assistance to further the purposes of this chapter and environmental justice in the
82 Commonwealth.

83 B. The Working Group shall consist of the Environmental Justice Coordinators designated pursuant
84 to § 2.2-5516. The Environmental Justice Coordinator designated by the Secretary of Natural Resources
85 shall conduct meetings of the Interagency Environmental Justice Working Group and serve as chair. The
86 Working Group shall meet at least twice per year.

87 **2. That the chairman of the Interagency Environmental Justice Working Group (Working Group)**
88 **created by § 2.2-5517 of the Code of Virginia, as created by this act, shall conduct the initial**
89 **meeting of the Working Group no later than 90 days after the effective date of this act.**