

2021 SPECIAL SESSION I

SENATE SUBSTITUTE

21104321D

SENATE BILL NO. 1318

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations
on February 2, 2021)

(Patron Prior to Substitute—Senator Hashmi)

A BILL to amend and reenact § 2.2-234 of the Code of Virginia and to amend the Code of Virginia by adding in Article 12 of Chapter 2 of Title 2.2 a section numbered 2.2-236, relating to environmental justice; interagency working group.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-234 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 12 of Chapter 2 of Title 2.2 a section numbered 2.2-236 as follows:

§ 2.2-234. Definitions.

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

"Agency" means the same as that term is defined in § 2.2-4001.

"Community of color" means any geographically distinct area where the population of color, expressed as a percentage of the total population of such area, is higher than the population of color in the Commonwealth expressed as a percentage of the total population of the Commonwealth. However, if a community of color is composed primarily of one of the groups listed in the definition of "population of color," the percentage population of such group in the Commonwealth shall be used instead of the percentage population of color in the Commonwealth.

"Covered agency action" means any (i) agency action as defined in § 2.2-4001, (ii) issuance of a guidance document as defined in § 2.2-4101, or (iii) expenditure of agency funds in excess of \$500,000 for a particular environmental, economic development, infrastructure, or transportation project.

"Cumulative impact" means the impact, both positive and negative, on human health or the environment that results from the incremental impact of a covered agency action when added to the effects of other past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions. "Cumulative impact" can result from individually minor but collectively significant actions taking place over a period of time.

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

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

"Environmental justice community" means any low-income community or community of color.

"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.

"Fenceline community" means an area that contains all or part of a low-income community or community of color and that presents an increased health risk to its residents due to its proximity to a major source of pollution.

"Low income" means having an annual household income equal to or less than the greater of (i) an amount equal to 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, and (ii) 200 percent of the Federal Poverty Level.

"Low-income community" means any census block group in which 30 percent or more of the population is composed of people with low income.

"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.

"Population of color" means a population of individuals who identify as belonging to one or more of the following groups: Black, African American, Asian, Pacific Islander, Native American, other non-white race, mixed race, Hispanic, Latino, or linguistically isolated.

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

"Virginia Council on Environmental Justice" or "Council" means the Virginia Council on Environmental Justice established pursuant to § 2.2-2699.9.

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60 "Working Group" means the Interagency Environmental Justice Working Group established in
61 § 2.2-237.

62 **§ 2.2-236. Interagency Environmental Justice Working Group; purpose; membership.**

63 A. The Interagency Environmental Justice Working Group is established as an advisory council
64 within the meaning of § 2.2-2100 in the executive branch of state government. The purpose of the
65 Working Group is to further environmental justice in the Commonwealth.

66 B. The Working Group shall have a total membership of at least 15 members that shall consist of 14
67 nonlegislative citizen members and one ex officio member. Nonlegislative citizen members shall be
68 appointed as follows: two of the nonlegislative citizen members of the Virginia Council on
69 Environmental Justice to be appointed by the Governor upon consideration of the recommendation of
70 the Council, one representative of an environmental justice community or environmental justice
71 advocacy group to be appointed by the Governor, one representative from the regulated community to
72 be appointed by the Governor, and at least one environmental justice coordinator designated pursuant
73 to subsection C or his designee. The Director of Diversity, Equity, and Inclusion established by
74 § 2.2-435.12 or his designee shall serve ex officio with voting privileges. Nonlegislative citizen members
75 of the Working Group shall be residents of the Commonwealth.

76 C. Each of the Governor's Secretaries shall designate at least one and no more than three
77 environmental justice coordinators to represent the secretariat as a member of the Working Group.

78 D. The ex officio member shall serve a term coincident with his term of office. The secretarial
79 appointees shall serve at the pleasure of the appointing Secretary. Vacancies shall be filled in the same
80 manner as the original appointments. All members may be reappointed.

81 E. The Director of Diversity, Equity, and Inclusion shall serve as chairman of the Working Group,
82 and one of the nonlegislative citizen members shall serve as vice-chairman. A majority of the members
83 shall constitute a quorum. The Working Group shall meet at least quarterly. The Secretary of Natural
84 Resources shall provide staff support to the Working Group, and all agencies of the Commonwealth
85 shall provide assistance to the Working Group, upon request.

86 F. Members shall receive such compensation for the performance of their duties as provided in
87 § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the
88 performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

89 G. The Working Group shall have the following powers and duties:

90 1. Maximize state resources, research, and technical assistance to carry out the purposes of this
91 article and to further environmental justice in the Commonwealth.

92 2. Coordinate with any other governmental body that is working on similar policy issues.

93 3. Solicit and review comments from the public on the implementation of this article irrespective of
94 whether written comments were submitted to the Working Group in advance of any Working Group
95 meeting where public comment is taken.

96 4. At each meeting receive a report from environmental justice coordinators who serve on the
97 Working Group on actions taken by each secretariat to implement the provisions of this article.

98 5. Submit an annual report to the Governor and the General Assembly for publication as a report
99 document as provided in the procedures of the Division of Legislative Automated Systems for the
100 processing of legislative documents and reports. Prior to submitting the annual report to the Governor
101 and the General Assembly, the chairman shall transmit a final draft of the report to the Council and
102 request that the Council provide written comments. The chairman shall submit to the Governor and the
103 General Assembly an annual executive summary of the interim activity and work of the Working Group,
104 including a summary of any comments received from the public or the Council and a response to such
105 comments, no later than the first day of each regular session of the General Assembly. The executive
106 summary shall be submitted as a report document as provided in the procedures of the Division of
107 Legislative Automated Systems for the processing of legislative documents and reports.

108 H. Notwithstanding the provisions of § 30-19.1:9, this section shall expire on July 1, 2031.