

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

April 22, 2021

Committee on Energy & Environment.

After consideration on the merits, the Committee recommends the following:

HB21-1266 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

1 Amend printed bill, page 2, line 14, strike "effects," and substitute
2 "effects as documented in numerous studies, including the "Toxic Wastes
3 and Race at Twenty, 1987-2007" report by the United Church of Christ
4 Justice & Witness Ministries, federal environmental protection agency
5 annual Environmental Justice Progress Reports, and a 2021 report from
6 the "Mapping for Environmental Justice" project at the Berkeley Public
7 Policy/The Goldman School that shows how the pollution burden is
8 distributed in Colorado,".

9 Page 3, after line 8 insert:

10 "(I) Federal action to address environmental justice includes the
11 federal environmental protection agency's office of environmental justice,
12 originally established in 1992, and the assignment of EPA regional
13 liaisons to minority, Tribal, and low-income communities pursuant to 42
14 U.S.C. sec. 4370i;

15 (II) States have also addressed environmental justice, with the
16 National Law Review recently noting on October 30, 2020, that "the vast
17 majority of states now address [environmental justice] in some
18 fashion-via legislation, agency policy and guidance, or advisory
19 groups-with fewer than five failing to mention the concept at all";

20 (III) Environmental justice laws that promote outreach to and
21 facilitate feedback from disproportionately impacted communities and
22 require that agencies consider that feedback have been upheld by the
23 courts as a legitimate exercise of legislative authority, such as in *Friends*

1 *of Buckingham v. State Air Pollution Control Bd.*, 947 F.3d 68 (4th Cir.
2 2020) (vacating the issuance of a permit due to the board's failure to
3 properly consider the permit's environmental justice impacts);".

4 Renumber succeeding subparagraphs accordingly.

5 Page 11, strike lines 5 through 10 and substitute:

6 "(IV) A POTENTIAL REQUIREMENT THAT PERMITS MUST BE ISSUED
7 AND RENEWED ONLY AFTER AN ENVIRONMENTAL EQUITY ANALYSIS
8 DETERMINES THAT THE TERMS AND CONDITIONS OF THE PERMIT OR
9 RENEWAL ARE SUFFICIENT TO ENSURE, TO A REASONABLE CERTAINTY,
10 THAT ANY HARM TO THE HEALTH AND ENVIRONMENT OF
11 DISPROPORTIONATELY IMPACTED COMMUNITIES IS EITHER:

12 (A) AVOIDED; OR

13 (B) MINIMIZED TO THE EXTENT PRACTICABLE AND, TO THE EXTENT
14 ANY HARM REMAINS, IS MITIGATED;".

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