



Sen. Celina Villanueva

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LRB104 16637 BDA 36794 a

1 AMENDMENT TO SENATE BILL 3772

2 AMENDMENT NO. _____. Amend Senate Bill 3772 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 adding Section 39.16 as follows:

6 (415 ILCS 5/39.16 new)

7 Sec. 39.16. Air Pollution Control Construction Permitting
8 in Areas of Environmental Justice Concern.

9 (a) Legislative Findings. The General Assembly finds that:

10 (1) all residents of this State have a right to a
11 healthful environment under Article XI of the Illinois
12 Constitution of 1970;

13 (2) no community should bear disproportionate and
14 adverse effects from pollution;

15 (3) in 2024, the Agency entered in an Informal
16 Resolution Agreement with the United States Environmental

1 Protection Agency requiring, among other things,
2 enhancements to its permit review process for certain
3 permit transactions in areas of environmental justice
4 concern; and

5 (4) such enhancements to the Agency's permit review
6 process are necessary to avoid the imposition of
7 disproportionate and adverse effects to communities in
8 areas of environmental justice concern, as such areas are
9 identified herein.

10 The provisions of this Section shall be liberally
11 construed to carry out the purposes of this Section.

12 (b) Definitions. For purposes of this Section:

13 "Area of environmental justice concern" or "area of EJ
14 concern" means a geographical area, the population of which
15 potentially experiences disproportionate environmental harms
16 and risks as a result of both environmental and socioeconomic
17 conditions that may act cumulatively to affect health and the
18 environment and contribute to persistent environmental health
19 disparities. "Area of EJ concern" shall include all census
20 block groups, and all areas within one mile of such census
21 block groups, identified and updated by the Agency on a
22 triennial basis as being within the top 25% of census blocks
23 statewide, scored by multiplying each census block group's
24 average statewide percentile for each of the following
25 environmental indicators, by the census block group's average
26 statewide percentile for each of the following socioeconomic

1 indicators:

2 Environmental indicators:

3 (1) annual average concentration of particulate matter
4 less than 2.5 microns or smaller in diameter;

5 (2) annual average concentration of ozone;

6 (3) annual average concentration of nitrogen dioxide;

7 (4) annual average concentration of diesel particulate
8 matter;

9 (5) annual average toxicity-weighted concentrations of
10 Toxic Release Inventory-listed chemicals;

11 (6) vehicle traffic;

12 (7) drinking water violations that have not been
13 returned to compliance;

14 (8) percentage of housing units built pre-1960;

15 (9) number of proposed or listed National Priorities

16 List sites;

17 (10) number of facilities with Risk Management Plans;

18 (11) number of treatment, storage, and disposal and
19 large-quantity generator hazardous waste facilities;

20 (12) number of leaking underground storage tanks and
21 underground storage tanks; and

22 (13) toxics concentrations at stream segments.

23 Socioeconomic indicators - percentage of population:

24 (1) with household income less than or equal to twice
25 the federal poverty level;

26 (2) unemployed;

1 (3) living in limited English proficiency households;

2 (4) aged 25 or older whose education is short of a high
3 school diploma;

4 (5) under the age of 5; and

5 (6) over the age of 64.

6 Environmental indicators (7) through (13) are given half
7 the weight of environmental indicators (1) through (6) in
8 calculating the averaged percentile.

9 (c) Applicability. This Section applies to the following
10 permits for which an owner or operator applies on or after
11 January 1, 2027:

12 (1) a construction permit for a new source that is to
13 be located in an area of EJ concern and that will require a
14 Clean Air Act Permit Program permit, or a Federally
15 Enforceable State Operating Permit issued by the Agency
16 under Section 39.5 of this Act;

17 (2) a construction permit for any existing source that
18 is located in an area of EJ concern, that possesses a Clean
19 Air Act Permit Program permit, or a Federally Enforceable
20 State Operating Permit issued by the Agency under Section
21 39.5 of this Act and that seeks an increase in annual
22 permitted emissions; or

23 (3) a construction permit for any existing source that
24 is located in an area of EJ concern, that seeks an increase
25 in annual permitted emissions and that will require a new
26 Clean Air Act Permit Program permit, or a Federally

1 Enforceable State Operating Permit issued by the Agency
2 under Section 39.5 of this Act for the first time.

3 (d) Review of permit applications; notifications. Upon
4 receipt of an air pollution control construction permit
5 application, the Agency shall evaluate the application to:

6 (1) determine whether the source falls within an area
7 of EJ concern. Based on this review, the Agency shall send
8 an EJ notification letter to elected officials, community
9 groups, and individuals who have requested to be notified,
10 to provide information about the proposed project and how
11 an individual can request a public hearing on a permit
12 application;

13 (2) determine whether emissions increases from the
14 proposed project can be reduced or voluntarily limited by
15 the applicant to avoid or minimize potential air emission
16 increases to any affected area(s) of EJ concern. This
17 includes, but is not limited to, establishment of lower
18 thresholds for potential-to-emit, installation of
19 alternative pollution controls, and decreased utilization
20 of other units at the facility; and

21 (3) determine the need for the applicant to conduct
22 additional air quality modeling to confirm that the
23 project will not threaten or compromise existing National
24 Ambient Air Quality Standards or other applicable
25 standards appropriate for comparison with other pollutants
26 of concern.

1 (e) Permit enhancements.

2 (1) The Agency shall evaluate and, if necessary to
3 comply with this Act, include appropriate permit
4 enhancements to address potential air emission increases
5 to an area of EJ concern. These enhancements may include,
6 but are not limited to:

7 (A) improved air monitoring systems, including
8 parametric and continuous monitoring systems;

9 (B) development of a fugitive dust operating
10 program/plan or enhancements to an existing
11 program/plan;

12 (C) operational requirements to establish limits
13 on potential-to-emit or to demonstrate source
14 compliance with an emission rate;

15 (D) increased use or frequency of emissions
16 testing;

17 (E) development of enforceable requirements to go
18 into the construction permit to assure that the source
19 meets modeling assumptions used in the air quality
20 modeling (including hours of operation, operating
21 requirements, operating schedule, meteorological
22 assumptions, property boundaries, etc.);

23 (F) development of an odor control plan to
24 identify and mitigate potential off-site odor impacts
25 from the project;

26 (G) development of odor monitoring of third-party

1 complaints, including a process for tracking
2 complaints and inspecting affected process operations
3 known to be capable of causing air pollution;

4 (H) discretionary use of prior adjudications of
5 violations of this Act and regulations adopted
6 thereunder by the applicant that involve a release of
7 a contaminant into the environment in evaluating the
8 permit application;

9 (I) discretionary use of reasonable conditions
10 specifically related to an applicant's past compliance
11 history with this Act and regulations adopted
12 thereunder as necessary to correct, detect, or prevent
13 noncompliance;

14 (J) use of pollution prevention techniques; or

15 (K) applicant outreach, independent of the permit
16 review process, with the affected community.

17 (2) The Agency may also conduct further analysis, as
18 needed, to inform its permit decision, including:

19 (A) consideration of information relating to other
20 sources permitted by the Agency or the United States
21 Environmental Protection Agency;

22 (B) information relating to regulated sources
23 under State or federal environmental laws;

24 (C) data bearing upon the classification of an
25 area of EJ concern;

26 (D) location of sensitive populations or places

1 near the proposed facility, including schools,
2 hospitals, day care centers, and culturally
3 significant resources;

4 (E) factors that may increase community exposure
5 or vulnerability as compared to other populations; or

6 (F) consultation with the United States
7 Environmental Protection Agency or other state and
8 federal regulatory authorities regarding additional
9 areas of study.

10 (3) If the Agency's analysis described in this Section
11 shows disproportionate and adverse effects, the Agency
12 shall consider making additional refinements to the
13 project emissions analysis, air quality modeling, or
14 permit enhancements; prioritizing compliance inspections
15 and any resulting enforcement initiatives of an
16 applicant's existing permitted source or other
17 contributing sources to the affected area, with the aim of
18 reducing existing adverse impacts; prioritizing grant
19 funding for projects in the affected community; and
20 conducting consultations with the United States
21 Environmental Protection Agency or other state and federal
22 agencies relating to potential mitigation options,
23 including fence-line monitoring, risk assessments, or
24 rulemakings.

25 (f) Issuance of permits.

26 (1) In making its determination on permit applications

1 identified in Section 39.16(2) of this Act, the Agency
2 shall consider prior adjudications of noncompliance with
3 this Act and regulations adopted thereunder by the
4 applicant. In granting permits, the Agency shall consider
5 whether to impose reasonable conditions specifically
6 related to the applicant's past compliance history with
7 this Act and regulations adopted thereunder as necessary
8 to correct, detect, or prevent noncompliance. This may
9 include consideration of:

10 (A) information contained within USEPA's and the
11 Agency's environmental compliance tracking system;

12 (B) information submitted in public comments to a
13 construction permit application pending review;

14 (C) judicial or administrative consent decrees or
15 compliance orders that are entered into, or issued by,
16 USEPA involving requirements of the Illinois State
17 Implementation Plan; or

18 (D) information relating to State-only compliance
19 history.

20 (2) The Agency shall prepare a written analysis of its
21 evaluation of compliance enforcement history, as well as
22 any additional civil rights analysis or mitigation
23 measures undertaken. The analysis shall be prepared before
24 a notice of public comment or hearing concerning a draft
25 construction permit and must be posted among the documents
26 available on the Agency's public notice website or public

1 repository. If no public participation is provided for
2 under Agency rules, the analysis shall be posted to the
3 Agency's public notice webpage at the time of permit
4 issuance.

5 (g) Severability. If any provision of this Section or its
6 application to any person or circumstance is held invalid, the
7 invalidity of that provision or application does not affect
8 other provisions or applications of this Section that can be
9 given effect without the invalid provision or application.

10 Section 10. The Environmental Justice Act is amended by
11 adding Section 18 as follows:

12 (415 ILCS 155/18 new)

13 Sec. 18. Office of Environmental Justice. An Office of
14 Environmental Justice is established within the Illinois
15 Environmental Protection Agency. The Office shall coordinate
16 the integration of environmental justice into Agency programs
17 and activities, oversee implementation of language access
18 policies, and provide enhanced public outreach to areas of
19 environmental justice concern. The Director shall appoint an
20 Environmental Justice Officer within the Office of
21 Environmental Justice to administer the Office.

22 Section 97. Severability. If any provision of this
23 Amendatory Act of the 104th General Assembly or its

1 application to any person or circumstance is held invalid, the
2 invalidity of that provision or application does not affect
3 other provisions or applications of this Amendatory Act of the
4 104th General Assembly that can be given effect without the
5 invalid provision or application.

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.".