



Sen. Toi W. Hutchinson

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1 AMENDMENT TO SENATE BILL 2193

2 AMENDMENT NO. _____. Amend Senate Bill 2193 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 "Environmental Justice Act".

6 Section 5. Legislative findings and purpose.

7 (a) The General Assembly finds:

8 (i) that the principle of environmental justice
9 requires that no segment of the population regardless of
10 race, national origin, age, or income should bear
11 disproportionately high or adverse effects of
12 environmental pollution;

13 (ii) that certain communities in the State may suffer
14 disproportionately from environmental hazards related to
15 facilities with permits approved by the State; and

16 (iii) that these environmental hazards can cause

1 long-term health effects.

2 (b) It is, therefore, the purpose of this Act to ensure
3 public participation regarding the siting of sources of
4 environmental pollution to minimize those risks in affected
5 communities.

6 Section 10. Definitions. As used in this Act, unless the
7 context clearly indicates otherwise:

8 "Agency" means the Illinois Environmental Protection
9 Agency.

10 "Board" means the Illinois Pollution Control Board.

11 "Community environmental benefit agreement" means a
12 written agreement entered into by a municipality and an owner
13 or developer of real property through which the owner or
14 developer agrees to develop real property that is to be used
15 for a new or expanded regulated facility and to provide
16 financial resources for the purpose of the mitigation, in whole
17 or in part, of impacts reasonably related to that facility,
18 including, but not limited to, impacts on the environment,
19 traffic, parking, and noise.

20 "Environmental justice community" means a United States
21 census block group, as determined in accordance with the most
22 recent United States census data, in which 30% or more of the
23 population consists of low-income persons who are not
24 institutionalized and have an income below 200% of the federal
25 poverty level.

1 "Meaningful public participation" means (i) giving
2 residents of an environmental justice community an appropriate
3 opportunity to participate in decisions about a proposed
4 regulated facility or the expansion of an existing regulated
5 facility that may adversely affect the residents' environment
6 or health; (ii) allowing the public's participation to
7 influence the decisions of the Agency and Board; and (iii)
8 facilitating the participation of potentially affected persons
9 during the regulatory process.

10 "Regulated facility" means any pollution control facility,
11 as defined under Section 3.330 of the Environmental Protection
12 Act; any fossil fuel fired electric generating plant of more
13 than 10 megawatts; any waste incinerator; and any major source
14 of air pollution, as defined by the federal Clean Air Act.
15 "Regulated facility" does not include the portion of an
16 electric generating facility that uses non-emitting and
17 non-polluting renewable resources, such as wind, solar, and
18 hydropower, or fuel cells.

19 Section 15. Commission on Environmental Justice.

20 (a) The Commission on Environmental Justice is established
21 and consists of the following 13 voting members.

22 (1) one member of the Senate appointed by the President
23 of the Senate;

24 (2) one member of the House of Representatives
25 appointed by the Speaker of the House of Representatives;

1 (3) the Director of the Agency or his or her designee;
2 and

3 (4) 10 members appointed by the Governor who represent
4 the following interests:

5 (i) affected communities concerned with
6 environmental justice;

7 (ii) business organizations;

8 (iii) environmental organizations;

9 (iv) experts on environmental health and
10 environmental justice;

11 (v) units of local government; and

12 (vi) members of the general public who have an
13 interest or expertise in environmental justice.

14 (b) Of the initial members of the Commission, 7 shall serve
15 for a 2-year term, 6 shall serve for a 1-year term, as
16 designated by the Governor at the time of appointment.
17 Thereafter, the members shall serve 2-year terms. Vacancies
18 shall be filled in the same manner as appointments. Members of
19 the Commission appointed by the Governor may not receive
20 compensation for their service on the Commission and are not
21 entitled to reimbursement for expenses.

22 (c) The Governor shall designate a Chairperson from among
23 the Commission's members. The Commission shall meet at the call
24 of the Chairperson, but no later than 90 days after the
25 effective date of this Act and at least quarterly thereafter.

26 (d) The Commission shall:

1 (1) advise State entities on environmental justice and
2 related community issues;

3 (2) review and analyze the impact of current State laws
4 and policies on the issue of environmental justice and
5 sustainable communities;

6 (3) assess the adequacy of State and local laws to
7 address the issue of environmental justice and sustainable
8 communities;

9 (4) develop criteria to assess whether communities in
10 the State may be experiencing environmental justice
11 issues; and

12 (5) recommend options to the Governor for addressing
13 issues, concerns, or problems related to environmental
14 justice that surface after reviewing State laws and
15 policies, including prioritizing areas of the State that
16 need immediate attention.

17 (e) On or before October 1, 2011 and each October 1
18 thereafter, the Commission shall report its findings and
19 recommendations to the Governor and General Assembly.

20 (f) The Agency shall provide administrative and other
21 support to the Commission.

22 Section 20. Public participation in decisions affecting
23 environmental justice communities.

24 (a) Before seeking either approval, renewal, or
25 modification of a permit from the Agency for a regulated

1 facility that is located or proposed to be located in an
2 environmental justice community or local siting approval from a
3 unit of local government for a regulated facility that is
4 located or proposed to be located in an environmental justice
5 community, the person seeking that action must file a
6 meaningful public participation plan with the Agency or local
7 siting authority, as applicable, and obtain that governmental
8 entity's approval of the plan.

9 (b) Each meaningful public participation plan must contain
10 measures to facilitate meaningful public participation in the
11 regulatory process and a certification that the person seeking
12 the governmental action will undertake the measures contained
13 in the plan. The plan must identify a time and place where an
14 informal public meeting will be held that is convenient for the
15 residents of the affected environmental justice community. In
16 addition, the plan must identify the methods by which the
17 person seeking the governmental action will publicize the date,
18 time, and nature of the informal public meeting in addition to
19 the publication required by subsection (c) of this Section.
20 Such methods may include, but are not limited to, (i) posting a
21 reasonably visible sign on the proposed or existing facility
22 property, printed in English, in accordance with any local
23 regulations and ordinances, (ii) posting a reasonably visible
24 sign, printed in all languages spoken by at least 20% of the
25 population that resides within a half-mile radius of the
26 proposed or existing facility, in accordance with local

1 regulations and ordinances, (iii) notifying neighborhood and
2 environmental groups, in writing, in a language appropriate for
3 the target audience, and (iv) notifying local and State elected
4 officials, in writing.

5 (c) Not less than 10 days before the informal public
6 meeting and not more than 30 days before that meeting, the
7 person seeking the governmental action must publish the date,
8 time, and nature of the informal public meeting (i) in person
9 or by mail to the members of the General Assembly from the
10 legislative district in which the regulated facility is located
11 or proposed to be located, (ii) by registered or certified mail
12 to the owners of all real property located within 250 feet of
13 the regulated facility or the proposed regulated facility, and
14 (iii) to the general public by publication in a newspaper of
15 general circulation in the county in which the regulated
16 facility is located or the proposed regulated facility is to be
17 located. The person seeking the governmental action shall post
18 a similar notification of the informal public meeting on its
19 website, if it maintains one.

20 (d) At the informal public meeting, the person seeking the
21 governmental action must make a reasonable and good faith
22 effort to provide clear, accurate, and complete information
23 about the activity to be undertaken at the regulated facility
24 or proposed regulated facility that requires governmental
25 approval and any potential environmental and health impacts of
26 that activity.

1 (e) Notwithstanding any provision of law to the contrary,
2 neither the Agency nor the local siting authority may take the
3 requested governmental action earlier than 60 days after the
4 informal public meeting.

5 (f) In the event that the local siting authority has
6 approved a meaningful public participation plan concerning a
7 proposed or existing regulated facility and an informal public
8 meeting has been held in accordance with this Section, the
9 Agency may approve that plan and waive the requirement that an
10 additional informal public meeting be held in accordance with
11 this Section.

12 (g) To the extent that the provisions of this Act conflict
13 with any other Act, the provisions of this Act control.

14 Section 25. Community environmental benefit agreements. A
15 municipality, owner, or developer may enter into a community
16 environmental benefit agreement in connection with a regulated
17 facility. Mitigation may include both on-site and off-site
18 improvements, activities and programs, including, but not
19 limited to: funding for activities such as environmental
20 education, diesel pollution reduction, construction of biking
21 and walking trails, staffing for parks, urban forestry, support
22 for community gardens or any other negotiated benefit to the
23 environment in the environmental justice community. Before
24 negotiating the terms of a community environmental benefit
25 agreement, the municipality shall provide a reasonable and

1 public opportunity for residents of the potentially affected
2 environmental justice community to be heard concerning the need
3 for, and terms of, the agreement.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".