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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2334

03/22/2021

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The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy

1.1 A bill for an act

1.2 relating to environment; providing for environmental justice considerations in

1.3 determining certain state permitting; amending Minnesota Statutes 2020, sections

1.4 116.06, by adding subdivisions; 116.07, subdivision 6; proposing coding for new

1.5 law in Minnesota Statutes, chapter 116.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2020, section 116.06, is amended by adding a subdivision

1.8 to read:

1.9 Subd. 6a. **Commissioner.** "Commissioner" means the commissioner of the Minnesota

1.10 Pollution Control Agency.

1.11 Sec. 2. Minnesota Statutes 2020, section 116.06, is amended by adding a subdivision to

1.12 read:

1.13 Subd. 6b. **Community of color.** "Community of color" means a geographically distinct

1.14 population with a substantial number of individuals who identify as Black, African American,

1.15 Hispanic, Latinx, Asian, Pacific Islander, or any other nonwhite race.

1.16 Sec. 3. Minnesota Statutes 2020, section 116.06, is amended by adding a subdivision to

1.17 read:

1.18 Subd. 6c. **Cumulative impacts.** "Cumulative impacts" means the potential public health

1.19 and environmental impacts from combined pollutant exposures and risks, incorporating the

1.20 context of community vulnerabilities, assessed from publicly accessible data based on the

1.21 past, present, and reasonably foreseeable future levels, emissions, and discharges affecting

1.22 the geographical area.

2.1 Sec. 4. Minnesota Statutes 2020, section 116.06, is amended by adding a subdivision to  
2.2 read:

2.3 Subd. 10a. **Environmental justice.** "Environmental justice" means that communities  
2.4 of color, indigenous communities, and low-income communities have a healthy environment  
2.5 and are treated fairly when environmental statutes, rules, and policies are developed, adopted,  
2.6 implemented, and enforced.

2.7 Sec. 5. Minnesota Statutes 2020, section 116.06, is amended by adding a subdivision to  
2.8 read:

2.9 Subd. 10b. **Environmental justice area of concern.** "Environmental justice area of  
2.10 concern" means a census tract or tracts:

2.11 (1) wherein at least 40 percent of people reported income less than 200 percent of the  
2.12 federal poverty level;

2.13 (2) wherein at least 45 percent of the people identify as people of color in the most recent  
2.14 data from the United States Census Bureau; or

2.15 (3) that are in Indian country, as defined in United States Code, title 18, section 1151.

2.16 Sec. 6. [116.065] ENVIRONMENTAL JUSTICE AREAS OF CONCERN.

2.17 (a) When a new facility or a proposed expansion of an existing facility is located in an  
2.18 environmental justice area of concern, the owner or operator of the facility must conduct  
2.19 an analysis of the cumulative impacts that the facility or expansion would cause or contribute  
2.20 to in the environmental justice area of concern.

2.21 (b) An owner or operator of a facility or project that requires a state permit under chapters  
2.22 115 to 116 and that is located in an environmental justice area of concern must hold at least  
2.23 one public meeting in the area of concern before the commissioner issues or denies a permit.

2.24 (c) The commissioner may require a permitted facility located in an environmental justice  
2.25 area of concern to hold in-person meetings with neighbors to share information and discuss  
2.26 community concerns. The commissioner may set the number and frequency of required  
2.27 meetings as permit conditions.

2.28 (d) The commissioner may deny permits in an environmental justice area of concern if  
2.29 the commissioner finds that a new facility that requires a permit from the agency would  
2.30 cause or contribute to adverse cumulative impacts. The commissioner may consider other  
2.31 compelling public interests in the decision to issue permits according to this section.

3.1 (e) The commissioner must adopt rules according to chapter 14 to implement this section.

3.2 Sec. 7. Minnesota Statutes 2020, section 116.07, subdivision 6, is amended to read:

3.3 Subd. 6. **Pollution Control Agency; exercise of powers.** In exercising all its powers,  
3.4 the commissioner of the Pollution Control Agency shall give due consideration to must:

3.5 (1) consider the establishment, maintenance, operation and expansion of business,  
3.6 commerce, trade, industry, traffic, and other economic factors and other material matters  
3.7 affecting the feasibility and practicability of any proposed action, including, but not limited  
3.8 to, the burden on a municipality of any tax which may result therefrom, and shall must take  
3.9 or provide for such action as may be reasonable, feasible, and practical under the  
3.10 circumstances; and

3.11 (2) to the extent reasonable, feasible, and practical under the circumstances:

3.12 (i) ensure that actions or programs that have a direct, indirect, or cumulative impact on  
3.13 environmental justice areas of concern incorporate community-focused practices and  
3.14 procedures in agency processes, including communication, outreach, engagement, and  
3.15 education to enhance meaningful, timely, and transparent community access;

3.16 (ii) collaborate with other state agencies to identify, develop, and implement means to  
3.17 eliminate and reverse environmental and health inequities and disparities;

3.18 (iii) promote the utility and availability of environmental data and analysis for  
3.19 environmental justice areas of concern, other agencies, federally recognized tribal  
3.20 governments, and the public;

3.21 (iv) encourage coordination and collaboration with residents of environmental justice  
3.22 areas of concern to address environmental and health inequities and disparities; and

3.23 (v) ensure environmental justice values are represented to the agency from a  
3.24 commissioner-appointed environmental justice advisory committee that is composed of  
3.25 diverse members and that is developed and operated in a manner open to the public and in  
3.26 accordance with the duties described in the bylaws and charter adopted and maintained by  
3.27 the commissioner.