

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 232**

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 2020

The Senate Environment and Energy Committee favorably reports a committee substitute for Senate Bill No. 232.

This committee substitute would require the Department of Environmental Protection (DEP) to evaluate the environmental and public health impacts of certain facilities on overburdened communities when reviewing certain permit applications.

Beginning 180 days after the effective date of the bill, the DEP would not consider complete for review any application for a permit for a new facility, or for the expansion of an existing facility, located in whole or in part in an overburdened community unless the permit applicant meets certain conditions. Specifically, a permit applicant would be required to:

(1) prepare an environmental justice impact statement that assesses the environmental impact and associated public health risks of the proposed new or expanded facility, including any adverse environmental impacts that cannot be avoided if the permit is granted, and the cumulative environmental or public health stressors already borne by the overburdened community as a result of existing conditions located in or affecting the community;

(2) transmit the environmental justice impact statement to the DEP and to the governing body and the clerk of the municipality in which the overburdened community is located at least 60 days in advance of the public hearing required under the bill (discussed below). The permit applicant would also be required to make the environmental justice impact statement available to the public, including on its Internet website, if applicable; and

(3) organize and conduct a public hearing in the overburdened community. The permit applicant would be required to publish a notice of the public hearing on its Internet website, if applicable, and in at least two newspapers circulating within the overburdened community at least 60 days prior to the public hearing. The permit applicant would also be required to send the notice to the DEP and to the governing body and the clerk of the municipality in which the overburdened community is located. At the public hearing, the permit applicant would be required to provide clear, accurate, and complete information about the proposed new or expanded facility, and the

potential environmental impacts and health risks of the new or expanded facility. The permit applicant would be required to accept written comments from any interested party, and provide an opportunity for meaningful public participation at the public hearing. The permit applicant would also be required to transcribe the public hearing and submit the transcript, along with any written comments received, to the DEP.

Following the public hearing, the DEP would be required to consider the environmental justice impact statement, any testimony presented at the hearing, and any written comments received, and evaluate any revisions or conditions to the permit that may be necessary to avoid or reduce the adverse impact to the environment or to the public health in the overburdened community. Under the bill, the DEP would not be authorized to issue a decision on a permit application for a new or expanded facility located in whole or in part in an overburdened community until at least 45 days after the public hearing held under the bill.

The DEP would be authorized to deny a permit application for a new or expanded facility located in whole or in part in an overburdened community upon a finding that approval of the permit application would, together with the cumulative environmental or public health stressors posed by existing conditions located in or affecting the overburdened community, result in a disproportionate impact to the overburdened community when compared to the impact and risk born by other communities in the State.

Under the bill, “overburdened community” means any census block group in which at least one half of the households qualify as low-income households, and either: (1) at least 40 percent of the residents identify as Black, African American, Hispanic or Latino, or as members of a State-recognized tribal community; or (2) at least 40 percent of the households have limited English proficiency.

No later than 120 days after the effective date of the bill, the DEP would be required to publish on its Internet website a list of overburdened communities in the State. The DEP would also be required to notify a municipality if any part of the municipality is designated an overburdened community under the bill.