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HOUSE BILL DRH30313-MHa-29

Short Title: Environmental Justice in North Carolina. (Public)

Sponsors: Representative Crawford.

Referred to:

A BILL TO BE ENTITLED
AN ACT RELATING TO ENVIRONMENTAL JUSTICE IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds all of the following:

- (1) According to American Journal of Public Health studies published in 2014 and 2018 and affirmed by decades of research, Black, Indigenous, and Persons of Color (BIPOC) and individuals with low income are disproportionately exposed to environmental hazards and unsafe housing, facing higher levels of air and water pollution, mold, lead, and pests.
- (2) The cumulative impacts of environmental harms disproportionately and adversely impact the health of BIPOC and communities with low income, with climate change functioning as a threat multiplier. These disproportionate adverse impacts are exacerbated by lack of access to affordable energy, healthy food, green spaces, and other environmental benefits.
- (3) Since 1994, Executive Order 12898 has required federal agencies to make achieving environmental justice part of their mission by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and populations with low incomes in the United States.
- (4) In 2018, the Secretary of the North Carolina Department of Environmental Quality established the Secretary's Environmental Justice and Advisory Board.
- (5) Executive Order 14008 issued in 2021 created the White House Environmental Justice Interagency Council within the Executive Office of the President and the White House Environmental Justice Advisory Council within the Environmental Protection Agency.
- (6) Following Executive Order 14008, the U.S. Department of the Interior enacted Secretary Order 3399 to establish the Climate Task Force to address current and historic environmental injustice. This order also made it the Department's mission to consider environmental justice when conducting National Environmental Protection Act analyses.
- (7) Executive Order 14096 issued in 2023 established a goal that forty percent (40%) of the overall benefits of certain federal climate, clean energy, affordable and sustainable housing, and other investments flow to disadvantaged communities that are marginalized by underinvestment and overburdened by pollution.



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- (8) Governor Cooper issued Executive Order 246 in 2022 and Executive Order 292 in 2023 directing various actions to advance environmental justice in North Carolina, including requirements that agencies consider environmental justice when taking actions related to climate change, resilience, and clean energy, and identify an environmental justice lead to serve as the point person for agency environmental justice efforts.
- (9) State agencies receiving federal funds are also subject to the antidiscrimination requirements of Title VI of the Civil Rights Act of 1964.
- (10) In response to the documented inadequacy of state and federal environmental and land use laws to protect vulnerable communities, increasing numbers of states have adopted formal environmental justice laws and policies.
- (11) The 1991 Principles of Environmental Justice adopted by The First National People of Color Environmental Leadership Summit demand the right of all individuals to participate as equal partners at every level of decision making, including needs assessment, planning, implementation, enforcement, and evaluation.
- (12) Section 33 of Article I of the North Carolina Constitution establishes the government as a vehicle for the common benefit, protection, and security of the State's citizens and not for the particular emolument or advantage of any single set of persons who are only a part of that community. This principle, coupled with Section 1 of Article I of the North Carolina Constitution's guarantee of equal rights to enjoying life, liberty, and enjoyment of the fruits of their own labor, and the assurance of timely and equitable justice for all set forth in Article I. Sections 18 and 19 of the North Carolina Constitution encourage political officials to identify how particular communities may be unequally burdened or receive unequal protection under the law due to race, income, or geographic location.
- (13) Lack of a clear environmental justice policy has resulted in a piecemeal approach to understanding and addressing environmental justice in North Carolina and creates a barrier to establishing clear definitions, metrics, and strategies to ensure meaningful engagement and more equitable distribution of environmental benefits and burdens.
- (14) It is the State's responsibility to pursue environmental justice for its residents and to ensure that its agencies do not contribute to unfair distribution of environmental benefits to or environmental burdens on low-income, limited-English proficient, and BIPOC communities.

SECTION 2. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 21D.

"Environmental Justice.

"§ 143-215.130. Purpose.

The purpose of this Article is to identify, reduce, and eliminate environmental health disparities to improve the health and well-being of all State residents.

"§ 143-215.131. Definitions.

The following definitions apply in this Article:

- (1) Communities of color. – Communities in which the share of nonwhites and Hispanic or Latino (of any race) residents is forty percent (40%) or higher or at least ten percent (10%) higher than the residing county or State share.
- (2) Community. – A group of individuals living in geographic proximity to one another as a census block group or at the municipal level.

- (3) Disproportionate impact. – Disproportionately higher adverse health or environmental effects on communities of color, low-income communities, limited English language proficiency communities, or indigenous communities at levels that are statistically significant.
- (4) Environmental benefits. – The assets and services that enhance the capability of communities and individuals to function and flourish in society. Examples of environmental benefits include access to a healthy environment and clean natural resources, including air, water, land, green spaces, constructed playgrounds, and other outdoor recreational facilities and venues; affordable clean renewable energy sources; public transportation; fulfilling and dignified green jobs; healthy homes and buildings; health care; nutritious food; indigenous food and cultural resources; environmental enforcement; and training and funding disbursed or administered by governmental agencies.
- (5) Environmental burdens. – Any significant impact to clean air, water, and land, including any destruction, damage, or impairment of natural resources resulting from intentional or reasonably foreseeable causes. Examples of environmental burdens include climate change impacts; air and water pollution; improper sewage disposal; improper handling of solid wastes and other noxious substances; excessive noise; activities that limit access to green spaces, nutritious food, indigenous food or cultural resources, or constructed outdoor playgrounds and other recreational facilities and venues; inadequate remediation of pollution; reduction of groundwater levels; increased flooding or stormwater flows; home and building health hazards, including lead paint, lead plumbing, asbestos, and mold; and damage to inland waterways and waterbodies, wetlands, forests, green spaces, or constructed playgrounds or other outdoor recreational facilities and venues from private, industrial, commercial, and government operations or other activities that contaminate or alter the quality of the environment and pose a risk to public health.
- (6) Environmental justice. – The just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, tribal affiliation, or English language proficiency, in State action that affect human health, well-being, quality of life, and the environment so that people:
- a. Are protected from disproportionate and adverse human health effects and environmental hazards, including: those related to climate change, the cumulative impacts of environmental and other burdens, and the legacy of racism or other structural barriers.
- b. Have equitable access to environmental benefits in which to live, play, work, learn, grow, worship, and engage in cultural and subsistence practices.
- c. Have meaningful participation in decision-making processes, including the development, implementation, and enforcement of environmental laws, regulations, and policies.
- (7) Environmental justice communities. – Communities of color, low-income communities, indigenous communities, and limited English language proficiency communities that experience, or are at risk of, environmental burdens or lack access to environmental benefits.
- (8) Indigenous communities. – Communities where "American Indian Tribes" as defined by 01 NCAC 15. 0292, reside or where the share of American and Alaskan Native populations are five percent (5%) higher than the residing county or State share.

- (9) Limited English language proficiency communities. – Communities where at least one percent (1%) or more of households do not have a member 14 years or older who speaks English "very well" as defined by the U.S. Census Bureau.
- (10) Low-income communities. – Communities in which the share of population experiencing poverty is more than twenty percent (20%) or the share of households in poverty is at least five percent (5%) higher than the residing county or State share.
- (11) Meaningful participation. – The opportunity for all individuals to participate in energy, climate change, and environmental decision making. Examples include needs assessments, planning, implementation, permitting, compliance and enforcement, and evaluation. Meaningful participation also integrates diverse knowledge systems, histories, traditions, languages, and cultures of Indigenous communities in decision-making processes and requires that communities are enabled and administratively assisted to participate fully through education and training. Finally, meaningful participation requires the State to operate in a transparent manner with regard to opportunities for community input and also encourages the development of environmental, energy, and climate change stewardship.
- (12) Program. – The Environmental Justice Program of the Department of Environmental Quality.
- (13) Rules Review Commission. – As defined in G.S. 143B-30.1.

"§ 143-215.132. Environmental justice State policy.

It is the policy of the State that no segment of the population of the State should, because of its racial, cultural, or economic makeup, bear a disproportionate share of environmental burdens or be denied an equitable share of environmental benefits. It is further the policy of the State to provide the opportunity for the meaningful participation of all individuals, with particular attention to environmental justice communities, in the development, implementation, or enforcement of any law, regulation, or policy.

"§ 143-215.133. Implementation of State policy.

(a) As used in this Article, "covered agencies" means the following State agencies: the Departments of Environmental Quality, Health and Human Services, Transportation, Commerce, Public Safety, Agriculture and Consumer Services, and Public Instruction and the Utilities Commission.

(b) The covered agencies shall consider cumulative environmental burdens and access to environmental benefits when making decisions about the environment, energy, climate, and public health projects; facilities and infrastructure; and associated funding.

(c) Each of the covered agencies shall create and adopt on or before July 1, 2027, a community engagement plan that describes how the agency will engage with environmental justice communities as it evaluates new and existing activities and programs. Each plan shall describe how the agency plans to provide meaningful participation in compliance with Title VI of the Civil Rights Act of 1964.

(d) The covered agencies shall submit an annual summary beginning on January 15, 2026, and annually thereafter, to the Environmental Justice Advisory Council, detailing all complaints alleging environmental justice issues or Title VI violations and any agency action taken to resolve the complaints. The Advisory Council shall provide any recommendations concerning those reports within 60 days after receipt of the complaint summaries. Agencies shall consider the recommendations of the Advisory Council pursuant to sub-subdivision (c)(1)e. of G.S. 143-215.135 and substantively respond in writing if an agency chooses not to implement any of the recommendations within 90 days after receipt of the recommendations.

1 (e) The Program, in consultation with the Environmental Justice Advisory Council and
2 the Interagency Environmental Justice Committee, shall review the definitions contained in
3 G.S. 143-215.131 at least every five years and recommend revisions to the General Assembly to
4 ensure the definition achieves the environmental justice State policy.

5 (f) The Program, in consultation with the Interagency Environmental Justice Committee
6 and the Environmental Justice Advisory Council, shall issue guidance on how the covered
7 agencies shall determine which investments provide environmental benefits to environmental
8 justice communities on or before September 15, 2025. A draft version of the guidance shall be
9 released for a 40-day public comment period before being finalized.

10 (g) Covered Agency Baseline Spending Reports. –

11 (1) On or before February 15, 2026, the covered agencies shall, in accordance
12 with the guidance document developed by the Program pursuant to subsection
13 (f) of this section, review the past three years and generate baseline spending
14 reports that include all of the following:

15 a. Where investments were made, if any, and which geographic areas, at
16 the municipal or census block group level, where practicable, received
17 environmental benefits from those investments.

18 b. A description and quantification of the environmental benefits as an
19 outcome of the investment.

20 (2) The covered agencies shall publicly post the baseline spending reports on their
21 respective websites.

22 (h) On or before July 1, 2026, it shall be the goal of the covered agencies to direct
23 investments proportionately in environmental justice communities.

24 (1) Beginning on January 15, 2028, and annually thereafter, the covered agencies
25 shall either integrate the following information into existing annual spending
26 reports or issue annual spending reports that include all of the following:

27 a. Where investments were made and which geographic areas, at the
28 municipal and census block group level, where practicable, received
29 environmental benefits from those investments.

30 b. The percentage of overall environmental benefits from those
31 investments provided to environmental justice communities.

32 (2) The covered agencies shall publicly post the annual spending reports on their
33 respective websites.

34 (i) Beginning on January 15, 2027, the covered agencies shall each issue and publicly
35 post an annual report summarizing all actions taken to incorporate environmental justice into its
36 policies or determinations, rulemaking, permit proceedings, or project review.

37 **"§ 143-215.134. Rulemaking.**

38 (a) On or before July 1, 2027, the Department of Environmental Quality, in consultation
39 with the Environmental Justice Advisory Council and the Interagency Environmental Justice
40 Committee, shall adopt rules to:

41 (1) Define cumulative environmental burdens;

42 (2) Implement consideration of cumulative environmental burdens within the
43 Program; and

44 (3) Inform how the public and the covered agencies implement the consideration
45 of cumulative environmental burdens and use the environmental justice
46 mapping tool developed by the Program.

47 (b) On or before July 1, 2028, and as appropriate thereafter, the covered agencies, in
48 consultation with the Environmental Justice Advisory Council, shall adopt or amend policies and
49 procedures, plans, guidance, and rules, where applicable, to implement this Article.

50 (c) The following requirements apply to rulemaking by covered agencies:

(1) Prior to drafting new rules required by this Article, agencies shall consult with the Environmental Justice Advisory Council to discuss the scope and proposed content of rules to be developed. Agencies shall also submit draft rulemaking concepts to the Advisory Council for review and comment. Any proposed rule shall be provided to the Advisory Council not less than 45 days prior to submitting the proposed rule or rules to the Rules Review Commission (RRC).

(2) The Advisory Council shall vote and record individual members' support or objection to any proposed rule before it is submitted to RRC and make documentation of that proceeding as part of the rulemaking record submitted to RRC.

"§ 143-215.135. Environmental Justice Advisory Council and Interagency Environmental Justice Committee.

(a) Advisory Council and Interagency Committee. –

(1) There is created:

a. The Environmental Justice Advisory Council (Advisory Council) to provide independent advice and recommendations to State agencies and the General Assembly on matters relating to environmental justice, including the integration of environmental justice principles into State programs, policies, regulations, legislation, and activities.

b. The Interagency Environmental Justice Committee (Interagency Committee) to guide and coordinate State agency implementation of the Environmental Justice State Policy and provide recommendations to the General Assembly for amending the definitions and protections set forth in this Article.

(2) Appointments to the groups created in this subsection shall be made on or before December 15, 2025.

(3) Both the Advisory Council and the Interagency Committee shall consider and incorporate the Equitable Access & Just Transition to Clean Energy provisions of the North Carolina Clean Energy Plan in their work.

(b) Meetings. – The Advisory Council and the Interagency Committee shall each meet not more than eight times per year, with at least four meetings occurring jointly. Meetings may be held in person, remotely, or in a hybrid format to facilitate maximum participation and shall be recorded and publicly posted on the Secretary's website.

(c) Duties. –

(1) The Advisory Council shall have the following duties:

a. To advise State agencies on environmental justice issues and on how to incorporate environmental justice into agency procedures and decision making and evaluate the potential for environmental burdens or disproportionate impacts on environmental justice communities as a result of State actions and the potential for environmental benefits to environmental justice communities.

b. To advise State agencies in the development of community engagement plans.

c. To advise State agencies on the use of the environmental justice mapping tool established by the Program and on the enhancement of meaningful participation, reduction of environmental burdens, and equitable distribution of environmental benefits.

d. To review and provide feedback to the relevant State agency, pursuant to G.S. 143-215.134(c), on any proposed rules for implementing this Article.

- 1 e. To receive and review annual State agency summaries of complaints
2 alleging environmental justice issues, including Title VI complaints,
3 and suggest options or alternatives to State agencies for the resolution
4 of systemic issues raised in or by the complaints.
- 5 (2) The Interagency Committee shall have the following duties:
6 a. To consult with the Program in the development of the guidance
7 document required by G.S. 143-215.133(f) on how to determine which
8 investments provide environmental benefits to environmental justice
9 communities.
- 10 b. On or before July 1, 2025, to develop, in consultation with the Program
11 and the Environmental Justice Advisory Council, a set of core
12 principles to guide and coordinate the development of the State agency
13 community engagement plans required under G.S 143-215.133(c).
- 14 (3) The Advisory Council and the Interagency Committee shall jointly:
15 a. Consider and recommend to the General Assembly, on or before
16 December 1, 2026, amendments to the terminology, thresholds, and
17 criteria of the definition of environmental justice communities,
18 including whether to include populations more likely to be at higher
19 risk for poor health outcomes in response to environmental burdens.
- 20 b. Examine existing data and studies on environmental justice and
21 consult with State, federal, and local agencies and affected
22 communities regarding the impact of current statutes, regulations, and
23 policies on the achievement of environmental justice.
- 24 (d) Membership. –
25 (1) Advisory Council. – Each member of the Advisory Council shall be well
26 informed regarding environmental justice principles and committed to
27 achieving environmental justice in North Carolina and working
28 collaboratively with other members of the Advisory Council. To the greatest
29 extent practicable, Advisory Council members shall represent diversity in
30 race, ethnicity, age, gender, urban and rural areas, and different regions of
31 the State. The Advisory Council shall consist of the following 11 members,
32 with a goal to have more than fifty percent (50%) residing in environmental
33 justice communities:
- 34 a. The head of the Program or designee.
35 b. The following members appointed by the Governor:
36 1. One representative of municipal government.
37 2. One representative of a social justice organization.
38 3. One representative of mobile home park residents.
39 4. One representative of a statewide environmental organization.
40 5. One person representing an organization working on food
41 security issues.
- 42 c. One person who resides in a census block group that is designated as
43 an environmental justice community by the House of Representatives
44 upon the recommendation of the Speaker of the House of
45 Representatives.
- 46 d. One person who is a representative of immigrant communities in
47 North Carolina appointed by the Senate upon the recommendation of
48 the President Pro Tempore of the Senate.
- 49 e. One representative of a State-recognized Native American Indian
50 tribe, recommended and appointed by the North Carolina Indian
51 Affairs Commission.

- 1 f. The Executive Director of the North Carolina Housing Finance
2 Agency or designee.
3 g. The Executive Director of the North Carolina Land and Water Fund
4 or designee.
5 (2) Interagency Committee. – The Interagency Committee shall consist of the
6 following nine members:
7 a. The Superintendent of Public Instruction or designee.
8 b. The Secretary of the Department of Environmental Quality or
9 designee.
10 c. The Secretary of Transportation or designee.
11 d. The Director of the North Carolina Housing Finance Agency or
12 designee.
13 e. The Commissioner of the Department of Agriculture and Consumer
14 Services or designee.
15 f. The Secretary of the Department of Health and Human Services or
16 designee.
17 g. The Director of the Division of Emergency Management of the
18 Department of Public Safety or designee.
19 h. The Secretary of the Department of Natural and Cultural Resources or
20 designee.
21 i. The Chair of the Utilities Commission or designee.
22 (3) The Advisory Council and the Interagency Committee may each elect two
23 cochairs.
24 (4) After initial appointments, all appointed members of the Advisory Council
25 shall serve six-year terms and serve until a successor is appointed. The initial
26 terms shall be staggered so that one-third of the appointed members shall serve
27 a two-year term, another third of the appointed members shall serve a
28 four-year term, and the remaining members shall be appointed to a six-year
29 term.
30 (5) Vacancies of the Advisory Council shall be appointed in the same manner as
31 original appointments.
32 (6) The Advisory Council shall have the administrative, technical, and legal
33 assistance of the Program."

34 **SECTION 3.** Reports. – On or before December 15, 2027, the Program shall submit
35 a report to the Joint Legislative Commission on Governmental Operations and the Fiscal
36 Research Division of the General Assembly describing whether the baseline spending reports
37 completed pursuant to G.S. 143-215.133(g), as enacted by Section 2 of this act, indicate if any
38 municipalities or portions of municipalities are routinely underserved with respect to
39 environmental benefits, taking into consideration whether those areas receive, averaged across
40 three years, a significantly lower percentage of environmental benefits from State investments as
41 compared to other municipalities or portions of municipalities in the State. This report shall
42 include a recommendation as to whether a statutory definition of "underserved community" and
43 any other revisions to Article 21D of Chapter 143 of the General Statutes, as enacted by Section
44 2 of this act, are necessary to best carry out the policies described in this act.

45 **SECTION 4.** This act is effective when it becomes law.