

HB1143\_L.001

## HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Energy & Environment.HB20-1143 be amended as follows:

1 Amend printed bill, page 5, line 11, after the period add "FOR  
2 ACCOUNTING PURPOSES, EACH PENALTY AND FINE CREDITED TO THE FUND  
3 PURSUANT TO THIS SECTION IS A DAMAGE AWARD."

4 Page 6, line 3, strike "THREE" and substitute "FIVE".

5 Page 6, line 5, strike "ONE" and substitute "AT LEAST THREE".

6 Page 7, strike lines 12 through 27.

7 Strike page 8.

8 Page 9, strike lines 1 through 3 and substitute:

9           "(4) **Powers and duties of the board.** (a) THE BOARD HAS THE  
10 FOLLOWING POWERS AND DUTIES:

11           (I) TO ADVISE THE DEPARTMENT ON THE IDENTIFICATION OF  
12 ENVIRONMENTAL JUSTICE COMMUNITIES;

13           (II) TO RECOMMEND TO THE DEPARTMENT EMPs IN RESPONSE TO  
14 VIOLATIONS THAT OCCUR IN, OR DIRECTLY AFFECT RESIDENTS OR  
15 WORKERS IN, ENVIRONMENTAL JUSTICE COMMUNITIES;

16           (III) TO DEVELOP PROCEDURES FOR SOLICITING FOR, EVALUATING,  
17 AND RECOMMENDING EMPs THAT ADDRESS ENVIRONMENTAL VIOLATIONS  
18 IN ENVIRONMENTAL JUSTICE COMMUNITIES, INCLUDING ELIGIBILITY  
19 REQUIREMENTS. THE PROCEDURES MUST:

20           (A) SPECIFY EMP CRITERIA IN ACCORDANCE WITH SUBSECTION  
21 (5)(d) OF THIS SECTION, INCLUDING FOR WHEN IT MAY BE APPROPRIATE TO  
22 COMBINE PENALTIES FROM MULTIPLE CASE SETTLEMENTS INTO ONE  
23 SOLICITATION;

24           (B) INCLUDE PROCESSES FOR: NOTIFYING EACH ENVIRONMENTAL  
25 JUSTICE COMMUNITY THAT WAS AFFECTED BY THE VIOLATION OR WILL BE  
26 AFFECTED BY THE PROPOSED EMP; SOLICITING FEEDBACK FROM  
27 RESIDENTS OF, WORKERS IN, AND REPRESENTATIVES OF THOSE  
28 COMMUNITIES; AND HOLDING A PUBLIC HEARING AT WHICH THE PUBLIC  
29 HAS AN OPPORTUNITY TO COMMENT ON THE PROPOSED EMP; AND

30           (C) INCLUDE PUBLIC ENGAGEMENT BEST PRACTICES AND  
31 CONSIDERATION OF COMMUNITY INPUT RECEIVED AND A PROCESS FOR  
32 COLLABORATING WITH IMPACTED COMMUNITIES WHEN SOLICITING FOR  
33 EMP PROPOSALS;

34           (IV) TO SUBMIT AN ANNUAL REPORT TO THE COMMISSION WITH A  
35 SUMMARY OF THE BOARD'S ACTIONS, INCLUDING A DESCRIPTION OF ALL

1 EMPs RECOMMENDED DURING THE PREVIOUS YEAR; AND  
2 (V) TO MAKE RECOMMENDATIONS, AS REQUESTED BY THE  
3 OMBUDSPERSON, TO ADVANCE THE DEPARTMENT'S EFFORTS IN  
4 INCORPORATING PRINCIPLES OF ENVIRONMENTAL JUSTICE.  
5 (b) (I) THE BOARD SHALL NOT BE INVOLVED IN AN ENFORCEMENT  
6 MATTER UNTIL THE DEPARTMENT NOTIFIES THE BOARD THAT THE  
7 DEPARTMENT HAS RESOLVED THE MATTER.  
8 (II) THE BOARD SHALL USE ITS BEST EFFORTS TO RECOMMEND  
9 EMPs WITHIN ONE HUNDRED EIGHTY DAYS AFTER NOTIFICATION BY THE  
10 DEPARTMENT THAT AN ENFORCEMENT MATTER HAS BEEN RESOLVED WITH  
11 FINES THAT WILL BE PAID INTO THE FUND.  
12 (c) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE SEPTEMBER 1,  
13 2025. BEFORE THE REPEAL, THE FUNCTIONS OF THE BOARD ARE  
14 SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.  
15 (5) **Environmental mitigation projects.** (a) THE DEPARTMENT  
16 SHALL USE MONEY IN THE FUND TO PAY FOR EMPs.  
17 (b) FOR VIOLATIONS THAT OCCURRED IN OR DIRECTLY AFFECTED  
18 AN ENVIRONMENTAL JUSTICE COMMUNITY, THE DEPARTMENT SHALL  
19 CONSIDER EMPs RECOMMENDED BY THE BOARD THAT BENEFIT THE  
20 IMPACTED COMMUNITY.  
21 (c) FOR VIOLATIONS THAT DID NOT OCCUR IN OR DIRECTLY AFFECT  
22 AN ENVIRONMENTAL JUSTICE COMMUNITY, THE DEPARTMENT SHALL  
23 AWARD EMPs IN ACCORDANCE WITH SUBSECTION (5)(d) OF THIS SECTION  
24 AND SHALL:  
25 (I) (A) SEEK PUBLIC COMMENT ON AN EMP THAT THE  
26 DEPARTMENT INTENDS TO AWARD BY POSTING A SUMMARY OF THE EMP  
27 ON THE DEPARTMENT'S WEBSITE IN A FORMAT THAT ALLOWS THE PUBLIC  
28 TO SUBMIT COMMENTS; AND  
29 (B) NOT APPROVE AN EMP UNTIL AT LEAST THIRTY DAYS AFTER  
30 THE EMP HAS BEEN POSTED ON THE DEPARTMENT'S WEBSITE; AND  
31 (II) PREPARE AN ANNUAL REPORT TO THE COMMISSION REGARDING  
32 THE DEPARTMENT'S USE OF THE FUND THAT INCLUDES A DESCRIPTION OF  
33 ALL DEPARTMENT-APPROVED EMPs.  
34 (d) IN CONSULTATION WITH THE BOARD, THE DEPARTMENT SHALL  
35 DEVELOP CRITERIA TO GUIDE IT IN MAKING DECISIONS CONCERNING THE  
36 AWARDING OF EMPs. THE CRITERIA MAY INCLUDE:  
37 (I) THE NEEDS OF THE COMMUNITY WHERE THE VIOLATION  
38 OCCURRED;  
39 (II) COMMUNITY SUPPORT FOR THE PROPOSED EMP;  
40 (III) THE FEASIBILITY OF SUCCESSFUL IMPLEMENTATION OF THE  
41 PROPOSED EMP;  
42 (IV) THE NEXUS OF THE EMP TO THE VIOLATION; AND  
43 (V) THE ENVIRONMENTAL AND PUBLIC HEALTH BENEFITS  
44 RESULTING FROM THE IMPLEMENTATION OF THE EMP."

- 1 Renumber succeeding subsection accordingly.
- 2 Page 10, line 4, after "(1.7)(a)(IV)," insert "(1.7)(c),".
- 3 Page 11, line 5, strike "STANDARDS" and substitute "CRITERIA".
- 4 Page 11, line 6, strike "(4)." and substitute "(5).".
- 5 Page 11, after line 6 insert:
  - 6 "(c) The commission shall promulgate rules as may be necessary
  - 7 to administer this subsection (1.7), including ~~but not limited to,~~ rules
  - 8 defining who is eligible for grants and what criteria shall be used in
  - 9 awarding grants; EXCEPT THAT THE COMMISSION NEED NOT PROMULGATE
  - 10 RULES TO ADMINISTER SUBSECTION (1.7)(a)(V) OF THIS SECTION. Any
  - 11 rules shall be promulgated in accordance with article 4 of title 24.
  - 12 C.R.S."

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