

Will Environmental Justice Finally Catch On In Trenton?

Environmental justice is an idea that may have finally caught on in Trenton. On January 24, 2019, an environmental justice bill, S1700, was reported out of the Senate Environment and Energy committee after a unanimous vote. This bill, originally introduced in February 2018, will now head to the Senate Budget and Appropriation Committee for additional consideration.

This is hardly a new issue for Trenton. S1700, presently co-sponsored by Senator Troy Singleton of Burlington and Senator Loretta Weinberg of Bergen, has had nearly nine lives, having been introduced in five prior legislative sessions, going back ten years, to 2008. The new bill places restrictions on environmental permitting for power plants, resource recovery facilities or incinerators, sewage treatment plants, transfer stations, recycling centers and landfills, among other heavily regulated facilities. In particular, the bill requires the Department of Environmental Protection to review permit applications for such facilities, as well as those governed by a host of other state and federal environmental laws, in order to assess the potential for additional adverse impacts to “burdened communities.” Burdened communities are defined as any place within a census tract “that is ranked within the bottom 33 percent of census tracts in the State for median annual household income.”

The objective of the bill is clearly a worthy one - to limit and even prohibit the additional development or location of new regulated facilities or the expansion of existing ones in places where they already exist, and specifically in communities that are economically challenged and in places where perniciously stubborn health problems tend to afflict the residents, particularly the elderly and children. While the objectives seem obvious, this bill and its predecessors have been slow to gain traction in the past. Not so it seems for S1700.

The new bill will require the New Jersey Department of Environmental Protection (“DEP”) to do a number of things, including: identify, publish and maintain a list of “burdened communities” in the State; organize and conduct public hearings on notice to interested parties on any permit application that seeks to build or expand a regulated facility, assessing “the cumulative impacts” and adverse environmental and public health effects that might result in the event the permit is granted and a new or expanded facility is built within an already burdened community. Additionally, DEP must prepare and circulate reports of its assessment and conclusions in this regard. If the bill becomes law, permits will be held for at least 60 days after the public hearing in order to ensure ample time for community participation and DEP an adequate opportunity to review the record.

Needless to say, the Senate hearing last week was well-attended, and concerned advocacy was provided by stakeholders from both sides. From the regulated community, concerns were expressed about the likely delays this new review will have on the permitting process, including financing and construction. Environmental and community groups voiced concerns about the longstanding need for such a review and the importance for communities to be able to oppose the location of new or expanded facilities within their midst.

Additional revisions of the bill seem likely - as written and even after the series of amendments made to date, the standard by which the DEP will evaluate “the cumulative impacts” has not been developed. While this bill finally has gained traction, defining this critically important term will be where the proverbial rubber meets the road.

If you have questions about this bill or any other matters, please contact [Lori Grifa, Esq.](#) or any member of Archer & Greiner’s [Environmental](#) or [Government Affairs](#) Groups in Haddonfield, N.J., at (856) 795-2121, in Princeton, N.J., at (609) 580-3700, in Hackensack, N.J., at (201) 342-6000, in Philadelphia, Pa., at (215) 963-3300, or in Wilmington, Del., at (302) 777-4350.

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