

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 E.R.S.".

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