



## **Raising Up Environmental Justice: Two Major EJ Bills Filed in the 2019 Legislative Session**

*This Summary Provides An Overview of:*

- **S.464/H.761** - Sen. Eldridge, Rep. DuBois & Rep. Miranda (“The Environmental Justice Act”)
- **S.453/H.826** - Sen. DiDomenico and Rep. Madaro (An Amendment to the Massachusetts Environmental Policy Act, MEPA)

### ***Background***

The 2019 legislative season includes good public policy initiatives to reduce and prevent racial and economic inequities across the state. Both newly-elected and long-standing legislators are striving to have environmental justice principles expressly codified into law. In the Massachusetts House of Representatives, a majority of the 160 representatives co-sponsored one of the above bills or both.

*Environmental Justice (EJ)* is a civil rights principle: all people have a right to be protected from environmental pollution and to live in a clean and healthful environment, regardless of race, national origin, or income. In a time of severe climate change, it also means equal protection against the the adverse consequences of severe weather, extreme temperatures, and flooding.

### ***Why Put Environmental Justice into Massachusetts General Law?***

Expressing the principle of environmental justice in law has important practical consequences for protecting people across the state because:

- Low-income communities and communities of color are more likely to be in the shadows of multiple sources of pollution including dirty power plants, incinerators and landfills, roads with high auto & diesel emissions, and high obstacles preparing for and recovering from climate-change related disasters.
- Massachusetts regulatory agencies such as the Dept. of Environmental Protection, the Dept. of Public Utilities, and the Dept. of Transportation need a clear legislative mandate to prioritize the protection of low-income communities and communities of color, instead of continuing to let pollution sources accumulate in already-overburdened communities and neglecting those communities when preparing for and recovering from climate change.

### ***What Massachusetts Precedents Currently Exist?***

Several important pieces of statewide public policy at the regulatory agency level currently exist in Massachusetts. Executive Order 552 on Environmental Justice (EO 552) was issued under Gov. Deval Patrick and is still in force under Gov. Baker; although EO 552 has gone largely unfulfilled, it sets out a prudent comprehensive framework for policy development across regulatory agencies. **This framework has been incorporated into S.464/H.761.** Additionally, the Executive Office of Energy & Environmental Affairs (EEA) is subject to a statewide Environmental Justice Policy, first issued in 2002 and revised in 2017.

### ***Where do we Stand Now?***

Implementation of these policies has been inconsistent and weak. These policies deserve to be firmly set into law, supported by a clear legislative mandate, and consistently enforced for the protection of all Massachusetts residents. **S.464/H.761** and **S.453/H.826** are designed to achieve this goal.

### ***What do these bills specifically do?***

**S.464/H.761, An Act relative to environmental justice and toxics reduction in the Commonwealth**, codifies foundational parts of EO 552 and improves it. This comprehensive Act first puts four key definitions that are consistent with long-standing Massachusetts public policies into Mass. General Law so that they may be used for this Act and guide future laws, regulations and policies:

- **"Environmental justice"**: the right to be protected from environmental pollution and to live in and enjoy a clean and healthful environment regardless of race, income, national origin or English language proficiency. Environmental justice shall include the equal protection and meaningful involvement of all people with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies and the equitable distribution of environmental benefits.
- **"Environmental Benefits"**: access to funding, open space, enforcement, technical assistance, training, or other beneficial resources disbursed by the executive secretariats and their agencies and offices.
- **"Environmental Justice Population"**: a neighborhood in which the annual median household income is equal to or less than 65 percent of the statewide median or in which minorities comprise 25 percent or more of the population or in which 25 percent or more of households lack English language proficiency. Where a neighborhood does not meet any of those criteria, but a geographic portion of that neighborhood meets at least one of those criteria, the Secretary [of EEA] may designate that geographic portion as an environmental justice population upon petition of at least 10 residents of that geographic portion.
- **"Equal Protection"**: that no group of people, because of race, ethnicity, class, gender, or disability bears an unfair share of environmental pollution from industrial, commercial, state and municipal operations or have limited access to natural resources, including waterfronts, parks and open space, and water resources.

#### *The Act then:*

- Establishes an Environmental Justice Advisory Council, composed of technical experts as well as representatives of EJ communities, which will provide independent advice and recommendations to the Governor and the Secretariats and issue regular public reports about EJ in the state;
- Requires the Mass. Dept. of Environmental Protection (DEP) develop an EJ Strategy for its work;
- Strengthens and expands community engagement in environmental decision-making;
- Mandates that DEP coordinate with the Mass. Dept. of Public Health to break down agency silos;
- Limits the number of new facilities that use certain toxic chemicals within EJ neighborhoods;
- Requires EEA to appoint a Director of Environmental Justice;
- Requires the creation of EJ Policies and the designation of EJ Coordinators in all Secretariats and creates an Interagency Working Group to foster interagency cooperation;
- Creates a Supplemental Environmental Project (SEP) bank, an inventory of environmentally beneficial projects in communities with EJ populations that can be funded by environmental violators.

**S.453/H.826, An Act relative to environmental justice in the Commonwealth** focuses on MEPA. It uses EJ-related definitions substantially the same as above. For projects large enough to be subject to MEPA, it requires:

- Enhanced analyses for projects that are within 1 mile of an environmental justice population and 5 miles for air impacts;
- Extensive and meaning public participation by environmental justice populations and vulnerable groups early in the process of public review; and
- Prohibits exemptions from review for projects in EJ communities except in emergency circumstances.

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