
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2021 - 2022 Regular

Bill No: AB 649
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Urgency: No
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Fiscal: Yes

SUBJECT: Department of Resources Recycling and Recovery: Office of Environmental Justice and Tribal Relations

DIGEST: Establishes the Office of Environmental Justice and Tribal Relations within the Department of Resources Recycling and Recovery (CalRecycle).

ANALYSIS:

Existing law:

- 1) Establishes CalRecycle within the California Environmental Protection Agency to administer and oversee the Integrated Waste Management Act, the Beverage Container Recycling and Litter Reduction Act, and related laws pertaining to solid waste management.
- 2) Requires the Office of Environmental Health Hazard Assessment (OEHAA) to develop and update the California Communities Environmental Health Screening Tool (CalEnviroScreen), the state's tool to help identify communities that are disproportionately impacted by multiple sources of pollution.
- 3) Establishes the Environmental Justice Task Force within CalEPA to coordinate the compliance and enforcement efforts of the boards, departments, and offices under CalEPA. The goals of the Task Force are:
 - a) Increase compliance in areas disproportionately impacted by health and environmental factors to prevent and reduce burdens on those communities by targeting compliance assistance and enforcement in those areas.
 - b) Identify disproportionately impacted areas for targeted compliance assistance and enforcement efforts using CalEnviroScreen and other information.

- c) Provide communities with meaningful opportunities for input on potential environmental justice concerns and the implementation of proposed remedies.
- d) Increase coordination among CalEPA boards and departments with local, state, and federal regulatory and law enforcement agencies to facilitate compliance and enforcement efforts across all media (i.e. air, water, toxics, solid waste, and pesticides) in disproportionately impacted areas.

This bill establishes the Office of Environmental Justice and Tribal Relations (Office) within CalRecycle. Duties of the Office include, but are not limited to:

- 1) Ensuring that CalRecycle's programs effectively address the needs of disadvantaged communities, low-income communities, California Native American tribes, and farmworkers.
- 2) Providing an evaluation of a range of strategic, scientific, technological, regulatory, and economic issues for CalRecycle related to environmental justice and tribal relations.
- 3) Integrating environmental justice considerations into department programs, policies, and initiatives.
- 4) Lessening the environmental impacts on communities disproportionately burdened by environmental harm and risks.
- 5) Addressing environmental justice by ensuring meaningful involvement of disproportionately burdened communities in CalRecycle decisionmaking, building capacity to address environmental impacts in disproportionately burdened communities, and promoting collaborative problem solving for issues involving environmental justice.
- 6) Strengthening partnerships with other governmental agencies at the federal, city, county, and tribal level regarding environmental justice issues.
- 7) Enhancing research and assessment approaches related to environmental justice.
- 8) Collaborating with impacted communities and governmental agencies to promote equitable data collection regarding environmental burdens.

- 9) Improving access to technical resources for disadvantaged communities.
- 10) Enhancing protections for vulnerable communities.

Background

- 1) *Environmental Justice in California.* Since 1999, the Legislature has enacted several laws to advance consideration of environmental justice; as defined in state law, environmental justice means the fair treatment of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. SB 115 (Solis, Chapter 690, Statutes of 1999) designated the Governor's Office of Planning and Research (OPR) as the lead state agency on environmental justice matters. Subsequently, AB 1553 (Keeley, Chapter 762, Statutes of 2001) required OPR to adopt recommendations in its general plan guidelines that local governments may use to address environmental justice issues. Recognizing the importance of local planning in environmental justice issues, SB 244 (Wolk, Chapter 513, Statutes of 2011) required consideration of specific water, wastewater, and fire protection needs for disadvantaged communities in general plans as well as in some proceedings that determine local government boundaries. SB 535 (de León, Chapter 830, Statutes of 2012) provided that 25% of the revenue from the state's "cap-and-trade" program for greenhouse gas emissions must benefit disadvantaged communities, as identified by the California Environmental Protection Agency (CalEPA), based on geographic, socioeconomic, public health, and environmental hazard criteria. SB 1000 (Leyva, Chapter 587, Statutes of 2016) requires cities and counties to address environmental justice in their general plans, by either adopting a separate environmental justice element or to integrate environmental justice goals, policies, and objectives into their general plans.

One of the leading factors behind the disparity in environmental impacts across California is the degree to which communities can access government services and advocate for their needs. Due to their economic status, many environmental justice communities have been unable to garner the attention of state policy makers at the same level as their richer neighbors. Due to the lack of engagement with environmental justice communities, too frequently, local planners opted to site environmentally damaging facilities in these communities. An overwhelming number of California's waste disposal sites, heavy manufacturing facilities, and trade corridors are in close proximity with environmental justice communities. This in turn, degrades the quality of life in these areas and exposes local residents to greater risks of health impacts

stemming from pollution and other environmental hazards.

- 2) *CalRecycle's Environmental Justice Program.* The purpose of the Environmental Justice Program is to ensure environmental justice concepts, values, and objectives are thoroughly implemented within CalRecycle's programmatic activities. Through its program, CalRecycle addresses the different communication, environmental health, and economic needs within the state, including those of Native Americans and disadvantaged communities. To that end, the program has identified the following objectives:
 - Increase protection of public health and safety, and the environment, within disadvantaged communities.
 - Expand CalRecycle's awareness of, and services to, Californian's varied cultures.
 - Address language barriers to best serve communities.
 - Ensure CalRecycle's vision for solid waste recycling infrastructure includes minimizing negative impacts to disadvantaged communities.
 - Increase community knowledge and capacity through environment-based education.
 - Highlight each person's responsibility to preserve the earth's natural and cultural resources and to protect equal access, rights, and enjoyment for future generations.
 - Advance opportunities for community members to participate in the decision-making process, so they have a say in decisions that affect their well-being.
 - Ensure Environmental Justice interests are prioritized in CalRecycle grant funding decisions and other economic opportunities.
 - Continue research that promotes healthier lives and communities.

- 3) *Tribal Consultations.* CalEPA and some of its boards, departments, and offices have established tribal consultation protocols in an effort to improve their communication and working relationships with California Native American tribes. CalEPA's first tribal consultation policy was adopted in 2009, and was later followed by its tribal consultation protocol in 2020. The protocol is intended to provide guidance to CalEPA and its boards, departments, and offices when conducting government-to-government consultations and engaging with California Native American tribes. The State Water Resources Control Board (State Water Board), the Department of Pesticide Regulation, California Air Resources Board, DTSC, and OEHHA have also adopted tribal consultation policies. According to the CalEPA website, CalRecycle is in the process of developing a tribal consultation policy.

The CalEPA Tribal Advisory Committee (TAC) was established in 2010 to discuss environmental issues and projects involving California Native American Tribes. The TAC includes representatives from federally-recognized and non-federally recognized California Native American Tribes. The TAC meets with the Secretary of CalEPA, the directors of each CalEPA Board, Department, and Office, at least quarterly.

Comments

- 1) *Purpose of Bill.* According to the author, “Environmental justice is an important perspective that needs to be a part of any solution on climate change, recycling, or any other environmental issue. The needs of communities of color and tribal communities are unique and are often overlooked by decision makers. AB 649 will ensure that the needs and concerns of those that are disproportionately affected have a voice in the decision making process.”
- 2) *Need for the bill.* CalRecycle administers and provides oversight for all of California’s state-managed non-hazardous waste handling and recycling programs such as the California Beverage Container Recycling and Litter Reduction plan, electronic-waste recycling, organics management, used tires, used motor oil, paint, carpet, mattresses, construction and demolition debris, medical sharps waste, and food-scrap composting. While the Office of Environmental Justice and Tribal Relations may overlap with some of the objectives of the existing Environmental Justice Program, according to the author, the new office will help add much needed attention directly to tribes and tribal relations. According to the author, tribal land is often used to host environmentally-harmful projects. The office will help ensure that CalRecycle is incorporating tribal communities’ needs and concerns when implementing future projects.

Creating an Office of Environmental Justice and Tribal Relations will strengthen the Environmental Justice Program in the administration of its programs. The bill will help CalRecycle continue to administer these programs in a way that will not disproportionately impact disadvantaged communities, including the implementation of SB 1383 regulations, which will require new facilities to manage the state’s organic waste stream.

Related/Prior Legislation

AB 1001 (C. Garcia) amends the California Environmental Quality Act (CEQA) to require mitigation to compensate for adverse air quality impacts on disadvantaged communities and requires all public agencies, in implementing CEQA, to give

consideration to the principles of environmental justice by ensuring the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins. AB 1001 has been referred to this committee.

AB 2108 (R. Rivas) requires one member of the State Water Board and one member of each Regional Water Quality Control Board to have a proven history of advocating for the environmental justice or tribal rights of communities, and requires the State Water Board and regional water boards to take various actions to address environmental justice and racial equity in their planning and permitting processes. AB 2108 has been ordered to the Senate and pending referral.

AB 345 (Muratsuchi, 2020) would have created an environmental justice program within the Natural Resources Agency to identify and address any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice. AB 345 would have also required the Geologic Energy Management Division to adopt regulations to establish a minimum setback distance between oil and gas production and related operations activities and sensitive receptors. AB 345 failed passage out of the Senate Natural Resources and Water Committee.

SOURCE: Author

SUPPORT:

California Catholic Conference
California Environmental Justice Alliance (CEJA) Action
California Environmental Voters
Californians Against Waste
City of Los Angeles

OPPOSITION:

None received

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