

NOTICE: While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Friday, July 28, 2006.

Met at five minutes past twelve o'clock midnight.

Unfinished Business.

The House Bill relative to streamlining and expediting the permitting process in the Commonwealth (House, No. 4968, amended),— was considered, the main question being on the Senate receding from its amendments (inserting after section 3 the following 2 sections:—

“SECTION 3A. Section 2 of chapter 21A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after clause (7) the following clause:—

(7A) develop state-wide policies to promote environmental justice in the commonwealth and protect and regulate the use of areas of critical environmental justice concern in the commonwealth.

SECTION 3B. Said chapter 21A, as so appearing, is hereby further amended by adding the following 2 sections:—

Section 21. As used in this section and in section 22, the following words shall have the following meanings unless the context clearly requires otherwise:—

‘Cleaner production’, a manufacturing process or approach to manufacturing production that is based on toxics use reduction and pollution prevention and that strives to incorporate the following components: waste reduction, non-polluting production, energy efficiency, safe and healthy work environments and environmentally sound products and packaging.

‘Disproportionate burden’, an unfair share of environmental pollution from industrial, commercial, state or municipal operations or limited access to natural resources, including open space and water resources borne by a group of people.

‘Equal protection’, protection for a group of people, based on race, ethnicity, class, gender or handicap from bearing a disproportionate burden.

‘Environmental benefits’, access to funding, open space, enforcement, technical assistance, training or other beneficial resources disbursed by the secretary of environmental affairs, its agencies and its offices.

‘Environmental justice’, 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 justice population’, a neighborhood in which the annual median household income is equal to or less than 65 per cent of the state-wide median or whose population is made up 25 per cent minority, foreign born or lacking English language proficiency or a community that the secretary has determined has borne a disproportionate burden or otherwise not received equal protection.

‘Foreign born’, individuals who identify themselves on federal census forms as not United States citizens at birth.

‘Lacking English language proficiency’, households that, according to federal census forms, do not have an adult proficient in English residing therein.

‘Low income’, median annual household income at or below 65 per cent of the state-wide median income for Massachusetts, according to federal census data.

‘Meaningful involvement’, that all neighborhoods have the right to participate in partnership with government in environmental decision-making, including needs assessment, planning, implementation, enforcement and evaluation, and that all neighborhoods

are enabled and administratively assisted to participate fully through education and training means and encouraged to develop environmental stewardship.

'Minority', individuals who identify themselves on federal census forms as non-white or Hispanic.

'Neighborhood', a census block group as defined by the United States Census Bureau, but not including people who live in college dormitories or people under formally authorized, supervised care or custody.

'Supplemental environmental project', the performance of environmentally beneficial projects in the settlement of environmental enforcement cases.

Section 22. The secretary of environmental affairs shall establish an environmental justice program consisting of, but not limited to, the following components:

- (a) a policy position entitled the director of environmental justice and brownfields redevelopment within the office of the secretary. The director shall act as the initial point of contact on all environmental justice matters and shall coordinate the implementation of this policy, track progress and prepare annual reports for public distribution. The director shall develop a work plan for the implementation of the environmental justice program within the office of the secretary;
- (b) identification of environmental justice populations to be serviced by this section via geographic information systems mapping or other suitable tools, and updating of the map as new United States census data becomes available;
- (c) establishment of a procedure under which additional communities that does not fall under the strict demographic definition of an environmental justice population may petition for such status. The secretary shall make a finding whether the petitioner has borne a disproportionate burden or otherwise has not received equal protection;
- (d) establishment of regional agency outreach teams of liaisons from each agency and region. The team shall consist of a coordinator and existing agency staff. The teams shall, without limitation: (1) open lines of communication with local neighborhood groups through routine meetings; (2) establish special task forces; (3) further identify language issues; (4) identify enforcement priorities on a local basis; (5) identify a list of community improvement projects; (6) allow issues with existing facilities to be raised and addressed; (7) assist the department of environmental protection and other agencies with targeting enforcement; (8) assist the office of technical assistance and other agencies with targeting assistance; and (9) identify potential economic development opportunities that promote cleaner production and sustainable business practices;
- (e) establishment and coordination of the efforts of a working group made up of senior-level managers from each agency within the executive office of environmental affairs, the department of economic development, the department of housing and community development and the department of public health, as well as representatives from at least 2 environmental justice populations. The working group shall maximize state resources, research and technical assistance to further the goals of this section to ensure environmental justice concerns are evaluated and addressed in each of the agencies' jurisdiction and programs;
- (f) direction of agencies under the secretary to designate senior-level managers to participate in and actively support the working group and the regional agency environmental justice outreach teams;
- (g) direction of agencies under the secretary to identify and promote agency-sponsored projects, funding decisions, rule makings or other actions intended to further environmental justice in the commonwealth;
- (h) identification of resources to create, restore and maintain open spaces located in neighborhoods where environmental justice populations reside. At a minimum, the agencies charged with acquiring and maintaining state lands shall make the promotion of preserving and restoring open spaces in neighborhoods in which environmental justice populations reside a priority;
- (i) providing an introductory environmental justice training program for employees in the executive office of environmental affairs, watershed teams and municipalities applying for grant programs or for any other resources prioritized or focused on neighborhoods in which environmental justice populations reside. Staff serving on regional agency environmental justice outreach teams, employees or organizations disbursing state funds to municipalities, individuals and organizations for the provision of open space, river maintenance or restoration, education and technical assistance, environmental policy staff and the environmental justice working group shall receive such training;
- (j) development of fact sheets describing programs directly relevant to obtaining funding or additional resources for environmental justice populations including, but not limited to, the urban self help program, Massachusetts Environmental Trust and the Massachusetts environmental policy act. The fact sheets shall be made available in languages other than English;
- (k) development of a distribution list of interested members of environmental justice populations, non-profit organizations, and others to be incorporated into mailing lists for newsletters and other general outreach information;
- (l) development and maintenance of a list of alternative information outlets that service environmental justice populations including, but not limited to, media in languages other than English, for the purpose of seeking public comments or publishing public notices;
- (m) establishment of multiple information repositories in neighborhoods in which environmental justice populations reside;
- (n) direction of agencies to develop and implement a public participation strategy that focuses agency resources on outreach activities to enhance public participation and input to agency decision making that potentially affect environmental justice populations including, but not limited to: (1) scheduling public meetings or hearings at locations and times convenient for neighborhood stakeholders; (2) translating public notices into other languages; (3) offering interpreters and translated documents at public meetings; (4) providing notices as early as possible to all neighborhoods potentially impacted by a decision; and (5) assisting environmental justice populations with grant applications and questions about environmental regulations to assist them with compliance and sustainability;
- (o) cooperation with other agencies as necessary to maximize site remediation and redevelopment programs under chapter 206 of the acts of 1998 and the promotion of nonpolluting development in neighborhoods where environmental justice populations reside;

(p) direction of the environmental justice regional agency outreach teams to identify and address environmental justice issues and to identify and reclaim brownfields sites identified under chapter 206 of the acts of 1998 within each region;

(q) direction of the Massachusetts environmental policy act office to: (1) develop enhanced public participation for any project that exceeds an Environmental Notification Form threshold for air, solid and hazardous waste, other than remediation projects, or wastewater and sewage sludge treatment and disposal, if the project site is located within 1 mile of an environmental justice population, or in the case of projects exceeding the threshold for air, within 5 miles of an environmental justice population; and require enhanced analysis of impacts and mitigation for an Environmental Impact Report scope if the project exceeds a mandatory Environmental Impact Report threshold for air, solid and hazardous waste, other than remediation projects, or wastewater and sewage sludge treatment and disposal, and the project site is located within 1 mile of an environmental justice population or, in the case of projects exceeding a mandatory threshold for air, within 5 miles of an environmental justice population. Thresholds for the forms and reports identified in this subsection are codified at 310 CMR 11.00 et seq; and (2) exempt site assessment grants and loans granted under the Brownfields Redevelopment Fund, as well as investment tax credits for equipment, tenant fit-ups, and other post-development activities administered under chapter 206 of the acts of 1998 from the category of state financial assistance for the purposes of triggering Massachusetts environmental policy act review. Projects undertaken under chapter 206 of the acts of 1998 that otherwise trigger Massachusetts environmental policy act review may be considered environmental restoration projects and subject to expedited review. In making a decision, the secretary shall consider the extent to which the new proposal would prevent pollution and eliminate or minimize risks to public health and the environment;

(r) direction to the department of environmental protection to: (1) prioritize neighborhoods in which environmental justice populations reside when selecting sectors and facilities for inspection and monitoring, prosecuting non-compliance, providing compliance assistance and allocating resources; (2) prioritize municipal outreach for sites identified under chapter 21E to neighborhoods with environmental justice populations; (3) incorporate environmental justice as a criterion for awarding technical assistance grants to non-profit organizations; (4) prioritize technical assistance to environmental justice populations in neighborhoods with hazardous waste sites identified under chapter 21E; (5) communicate with the list of community-based organizations in neighborhoods in which environmental justice populations reside in addressing compliance matters; (6) consider environmental justice as a factor in establishing priorities for activity use limitation audits under chapter 21E; (7) incorporate environmental justice as a criterion in prioritizing the investigation of sites, negotiating cost recovery under chapter 21E; (8) provide for commensurate cost recovery to municipalities for taxes owed, exclusive of interest and penalties, on sites identified under said chapter 21E and located in neighborhoods in which environmental justice populations reside; and (9) meet regularly with the executive office of environmental affairs and the department of public health to coordinate on environmental issues potentially affecting public health, including matters related to exposures from multiple sources of pollution.”; and by adding the following section:—

“SECTION 25. The executive office of environmental affairs shall adopt the initial regulations required by clause (7A) of section 2 of chapter 21A of the General Laws within 90 days after the effective date of this act.”; in section 11, in proposed section 10 of chapter 43D of the General Laws, by striking out the figure “20”, wherever it occurs, and inserting in place thereof, in each instance, the following figure:— “40”; striking out section 9; and striking out sections 15, 16 and 17).

The question on the Senate receding from its amendment was determined by a call of the yeas and nays, at six minutes past twelve o'clock midnight, on motion of Ms. Wilkerson, as follows, to wit: (*yeas 24 — nays 12*) **[Yeas and Nays No. 580]**:

YEAS.	
Antonioni, Robert A.	Lees, Brian P.
Augustus, Edward M., Jr.	McGee, Thomas M.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	Murray, Therese
Chandler, Harriette L.	O'Leary, Robert A.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Spilka, Karen E.
Hedlund, Robert L.	Tarr, Bruce E.

Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A. — 24.
NAYS.	
Barrios, Jarrett T.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Timilty, James E.
Fargo, Susan C.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Montigny, Mark C.	Wilkerson, Dianne — 12.
ABSENT OR NOT VOTING.	
Buoniconti, Stephen J.	Rosenberg, Stanley C. — 3.
Nuciforo, Andrea F., Jr.	

The yeas and nays having been completed at eight minutes past twelve o'clock midnight, the Senate recessed from its amendment.

Engrossed Bills.

An engrossed Bill relative to streamlining and expediting the permitting process in the Commonwealth (see House, No. 4968, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the President and laid before the Governor for his approbation.

Subsequently, Mr. Lees moved reconsideration; and this motion was negatived.

An engrossed Bill providing for a certain exemption from the sales tax (see House, No. 5200, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the President and laid before the Governor for his approbation.

Order Adopted.

On motion of Ms. Murray,—

Ordered. That when the Senate adjourns today, it adjourn to meet again on Monday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

Adjournment in Memory of former Norfolk County Commissioner Bruce Olsen.

The Senator from Norfolk, Bristol and Plymouth, Mr. Joyce, requested that when the Senate adjourns today, it do so as a mark of respect to the memory of former Norfolk County Commissioner Bruce Olsen of Stoughton.

Mr. Olsen of Stoughton served his community and his country with honor and distinction and will be remembered as a strong and honorable man who will be missed by his loved ones.

Accordingly, as a mark of respect to the memory of former Norfolk County Commissioner Bruce Olsen of Stoughton, at ten minutes past twelve o'clock midnight, on motion of Ms. Murray, the Senate adjourned to meet again on Monday next at eleven o'clock A.M. in a full formal session.