



Sen. Javier L. Cervantes

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1 AMENDMENT TO SENATE BILL 838

2 AMENDMENT NO. _____. Amend Senate Bill 838 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 adding Section 9.20 as follows:

6 (415 ILCS 5/9.20 new)

7 Sec. 9.20. Health and equity insights.

8 (a) Findings. The General Assembly finds that:

9 (1) pollution is distributed unevenly, impacts
10 overburdened communities disproportionately, and varies on
11 a block-by-block basis;

12 (2) disparities in impact are often missed by standard
13 monitoring practices;

14 (3) identifying locations that attract high numbers of
15 medium-duty vehicles and heavy-duty vehicles is crucial to
16 mitigate emissions significantly;

1 (4) investment and policy development decisions must
2 be made with communities and environmental justice
3 advocates in order to reliably, effectively, and
4 accurately prioritize impacted communities; and

5 (5) collaboration with impacted communities must
6 continue through implementation of policy solutions that
7 are designed with those same communities.

8 (b) Definitions. In this Section:

9 "Agency" means the Illinois Environmental Protection
10 Agency.

11 "Board" means the Illinois Pollution Control Board.

12 "Community air quality monitoring" means the deployment of
13 low-cost sensors at the neighborhood level to better identify
14 and mitigate the large disparities in pollution exposure and
15 health outcomes that can occur at the local level.

16 "Continuous fenceline air quality monitoring" means
17 monitoring that is located on-site, that is not switched on
18 and off, and that consistently collects data 24 hours a day, 7
19 days a week unless paused for repair, calibration, or
20 servicing.

21 "Council" means the Health and Equity Advisory Council
22 established under this Section.

23 "Department" means the Department of Commerce and Economic
24 Opportunity.

25 "Federal Equivalent Method" or "FEM" means a method that
26 is used for measuring the concentration of an air pollutant in

1 the ambient air and that has been designated as an equivalent
2 method to the Federal Reference Method.

3 "Federal Reference Method" or "FRM" means a method of
4 monitoring that is certified as regulatory grade and that
5 employs strict measurement standards and performance
6 standards. FRM monitors are generally used by regulatory
7 bodies, such as the United States Environmental Protection
8 Agency.

9 "Local authority" means a State or local governmental
10 entity with the authority to enable mobile monitoring as a
11 complement to stationary and meteorological monitoring.

12 "Meteorological monitoring" means monitoring for
13 meteorological data, such as wind speed and direction.

14 "Overburdened communities" has the same meaning as
15 "environmental justice community" as defined and as may be
16 updated in the long-term renewable resources procurement plan
17 of the Illinois Power Agency and its Program Administrator
18 under the Illinois Solar for All Program.

19 "Regulated facility" means the following:

20 (1) any facility that is at least 100,000 square feet
21 in size;

22 (2) any set of facilities with a common owner or
23 operator that, in the aggregate, is at least 500,000
24 square feet in size; and

25 (3) any facility that is deemed by the Agency, after
26 consultation with affected communities, to threaten local

1 health either because of its individual impact or its
2 contribution to a cumulative impact.

3 "Satellite air quality monitoring" means monitoring,
4 conducted by one or more satellites, to measure the
5 concentration of airborne particles, such as aerosols, in the
6 atmosphere through observations of how much light reaches the
7 surface of the Earth and how much light is reflected off of the
8 aerosols.

9 "Significant emitters" means the stationary, indirect, and
10 mobile sources that are the greatest contributors to
11 health-harming pollutants.

12 "Truck trip" means the one-way trip a truck or tractor
13 makes to or from a site with at least one warehouse to deliver
14 or collect goods stored at that warehouse for later
15 distribution to other locations. A truck or tractor entering a
16 warehouse site and then leaving that site constitutes 2 trips.

17 "Truck-attracting facility" means a property, including,
18 but not limited to, parking areas and driving lanes, for
19 trucks, trailers, or passenger vehicles.

20 "Truck-attracting facility" includes:

21 (1) a warehouse, distribution center, or intermodal
22 facility on the property, including, but not limited to, a
23 main building, an accessory building, or both;

24 (2) an entry-and-exit point for vehicle accessory
25 maintenance or a security building; and

26 (3) fueling or charging infrastructure for vehicles.

1 "Truck count" means an accounting of the number of trucks
2 traveling through a designated intersection.

3 (c) Health and Equity Advisory Council.

4 (1) The Health and Equity Advisory Council is hereby
5 established. The Council shall:

6 (A) make findings, conclusions, and
7 recommendations regarding environmental justice in the
8 State and uses of federal funds provided to the State
9 for environmental justice;

10 (B) file with the General Assembly, in accordance
11 with Section 3.1 of the General Assembly Organization
12 Act, by no later than June 30, 2026, an initial report
13 that is consistent with the transparency provisions of
14 subsection (k) and that delineates the Council's
15 findings, conclusions, and recommendations; and

16 (C) after the initial report under subparagraph
17 (B), file with the General Assembly, in accordance
18 with Section 3.1 of the General Assembly Organization
19 Act, by June 30, 2026 and June 30 of each year
20 thereafter, an annual report that is consistent with
21 the transparency provisions of subsection (k) and that
22 delineates the Council's findings, conclusions, and
23 recommendations.

24 (2) Voting members of the Council shall be appointed
25 by the Governor by no later than 60 days after the
26 effective date of this amendatory Act of the 103rd General

1 Assembly. If a vacancy occurs on the Council, the vacancy
2 shall be filled in a manner that is consistent with the
3 original appointments. The Council shall consist of the
4 following voting members:

5 (A) 4 members, appointed as follows, who
6 represent, when possible, disadvantaged communities:

7 (i) one member appointed by the Speaker of the
8 House of Representatives, who shall serve as
9 co-chairperson;

10 (ii) one member appointed by the President of
11 the Senate, who shall serve as co-chairperson;

12 (iii) one member appointed by the Minority
13 Leader of the Senate;

14 (iv) one member appointed by the Minority
15 Leader of the House of Representatives;

16 (B) the Director of Public Health or his or her
17 designee;

18 (C) the Secretary of Human Services or his or her
19 designee;

20 (D) the Secretary of Transportation or his or her
21 designee; and

22 (E) at least 2 representatives of communities with
23 heavy truck traffic.

24 Additional individuals may be appointed as voting
25 members of the Council with the approval of both
26 co-chairpersons.

1 (3) The Council may, at the discretion of the Council,
2 add the following nonvoting members:

3 (A) one representative of a labor organization;

4 (B) one representative of a statewide organization
5 representing manufacturers;

6 (C) 2 representatives of faith-based
7 organizations; and

8 (D) 2 representatives of health organizations.

9 Additional individuals may participate as nonvoting
10 members of the Council at the discretion of both
11 co-chairpersons.

12 (d) Truck counting and other monitoring.

13 (1) Each year, the Agency shall conduct truck counting
14 on a representative sample of local roads where trucks
15 enter or exit a truck-attracting facility. If possible,
16 the truck counts must include the class and age of the
17 trucks counted. Truck-counting efforts shall build on
18 existing efforts by community and environmental justice
19 organizations and shall be conducted in consultation with
20 those same entities. Any consultant hired by the Agency to
21 conduct truck counting shall be approved by the Council.
22 The Agency shall also take into consideration the
23 experience of communities in deciding where to site
24 monitors and how to move forward on subsequent policy
25 development and implementation.

26 (2) A truck-attracting facility must continuously

1 monitor on-site emissions for diesel particulate matter
2 and nitrogen oxides. Monitoring must be conducted using at
3 least 4 continuous fenceline monitors spaced as far apart
4 as possible from one another around the perimeter of the
5 truck-attracting facility.

6 (3) Within one year after the effective date of this
7 amendatory Act of the 103rd General Assembly, the Agency
8 shall cite Federal Reference Methods (FRM) and Federal
9 Equivalent Methods (FEM) established under 40 CFR Part 53,
10 informed by satellite and community data when available,
11 when determining the placement of air monitoring devices
12 at truck-attracting facilities.

13 (4) The Agency shall not announce in advance the days
14 when federal reference monitors are collecting data or the
15 days when mobile or meteorological monitoring is taking
16 place, if the Agency does not already continuously collect
17 data from those monitors or through that monitoring. The
18 Agency shall identify which federal reference monitors in
19 the State are not collecting data continuously. The Agency
20 shall transition all instruments to continuous monitoring
21 within 2 years upon determining which monitors are not
22 collecting data continuously.

23 (5) The Agency must create a process for community
24 representatives or companies to co-locate monitoring
25 equipment at FRM monitors or FEM monitors managed or owned
26 by the State. Communities may request a new FRM monitor or

1 FEM monitor. This request may be based on satellite or
2 low-cost local data, health data, data concerning recent
3 changes in land use, or other qualitative or quantitative
4 metrics identified by overburdened communities. This
5 request should be granted as of right if the data shows the
6 source is already identified as a high-priority emitter,
7 or the community is already identified as overburdened.

8 (e) Indirect source review.

9 (1) No later than 12 months after the effective date
10 of this amendatory Act of the 103rd General Assembly, the
11 Agency shall adopt rules providing for the
12 facility-by-facility review of regulated facilities, along
13 with a menu of measures to reduce the impact of air
14 pollution from these indirect sources. The Agency shall
15 consider measures, including, but not limited to,
16 requiring all warehouse operators to implement an air
17 emissions reduction plan developed or approved by the
18 Agency in consultation with community representatives and
19 mitigation options, such as installing infrastructure and
20 requiring use of zero-emission vehicles on-site; using
21 alternatives to truck trips for incoming or outgoing
22 trips; installing on-site solar power generation,
23 electricity storage, and managed charging systems; or any
24 combination of these types of measures. The Agency shall
25 also consider greater stringency for all census blocks
26 where transport-related pollution is responsible for 20%

1 or greater of new cases of childhood asthma and all
2 warehouses located within a half mile of an overburdened
3 community, as determined by the Agency after consulting
4 with overburdened communities and community leaders.

5 (2) Once the rules described in paragraph (1) are
6 adopted, the Agency shall require a regulated facility to
7 obtain a permit demonstrating that it will comply with
8 rules and regulations concerning indirect sources in the
9 State if the regulated facility has any development or
10 major modification that would increase the pollution
11 related to the facility.

12 (f) Fee and point system guidelines.

13 (1) The Agency shall create a points system under
14 which warehouse operators must earn points based on the
15 amount of emissions generated by trucks at their
16 facilities, and for implementing mitigation options, such
17 as installing infrastructure, requiring use of
18 zero-emission vehicles on-site, using alternatives to
19 truck trips for incoming or outgoing trips, providing air
20 filtration for neighbors of facilities, and installing
21 on-site solar power generation, electricity storage, and
22 managed charging systems.

23 (2) The Agency shall not allow the transfer of points
24 between facilities. If a warehouse operator earns more
25 points than is required for an annual points compliance
26 obligation in a given reporting period, then it may use

1 those remaining points at the same warehouse to satisfy a
2 points compliance obligation in any of the following 3
3 years.

4 (3) Warehouse operators transferring points to a
5 different compliance period must demonstrate that any
6 on-site improvements or equipment installations that were
7 used to earn the points being transferred are still
8 operational at that warehouse facility in the year that
9 points are used.

10 (4) Points earned 3 years or less before a warehouse
11 operator's first compliance period may be banked and
12 transferred up to 3 years after the warehouse operator's
13 first compliance period. This early compliance must be
14 documented in an annual report immediately following the
15 year in which the action or investment was completed.

16 (5) The minimum registration fee established under
17 subsection (j) shall be set at a level sufficient to
18 reimburse public and private insurance plans and facility
19 neighbors for health care and associated expenditures due
20 to facility operations, including truck activity at the
21 facility. Fee investment shall be prioritized in the
22 community where the fees were levied unless consultation
23 with communities reveals an alternative location is more
24 appropriate.

25 (6) A portion of funds, to be determined by
26 consultation with community representatives, shall be used

1 to fund the Insights, Jobs, and Environmental Justice
2 Grant Program established under this Section; fence-line
3 monitors; and materials necessary to provide education on
4 monitoring, air quality, and impacts of pollution in
5 communities.

6 (7) When considering alternatives to truck trips for
7 incoming or outgoing trips, the warehouse operator shall
8 consult impacted and displaced employees in selecting an
9 alternative to truck trips and shall only use an
10 alternative upon agreement with the impacted and displaced
11 employees. If employees in the warehouse have an exclusive
12 bargaining unit representative and the bargaining unit or
13 the terms of the collective bargaining agreement would be
14 impacted by the use of an alternative, then the warehouse
15 operator shall consult with and obtain agreement from the
16 employees who are impacted, displaced, or both and the
17 representative, in writing, before using the alternative.

18 (g) Health impacts.

19 (1) The Agency shall disclose air pollution impacts on
20 maternal, infant, and child health and health disparities
21 at the granularity of census block group or greater, in
22 line with the transparency requirements of subsection (k).
23 The Agency shall provide clear information on health
24 symptoms and outcomes. Metrics reported on at the census
25 block level shall include, but shall not be limited to,
26 the following:

1 (A) the number of emergency room visits due to
2 pollution-related illness;

3 (B) the number of diagnoses of pollution-related
4 ailments; and

5 (C) the number of missed work and school days.

6 (2) The Agency shall disclose air pollution impacts on
7 educational attainment. Metrics reported on at the census
8 block level include, but shall not be limited to:

9 (A) school attendance;

10 (B) academic performance; and

11 (C) graduation rates at the granularity of census
12 block group or greater.

13 (3) The Agency shall disclose air pollution impacts on
14 the economy. Metrics that shall be reported on at the
15 census block level include, but are not limited to:

16 (A) labor force participation, measured in missed
17 workdays;

18 (B) labor force productivity; and

19 (C) inflation and tax revenues.

20 (3) The Agency shall disclose the sources of air
21 pollution at the granularity of census block group or
22 greater.

23 (4) The Agency shall disclose the jurisdiction with
24 authority over mitigation of emissions from each type of
25 emissions source.

26 (h) Insights, Jobs, and Environmental Justice Grant

1 Program. The Agency shall create and administer an Insights,
2 Jobs, and Environmental Justice Grant Program. The Insights,
3 Jobs, and Environmental Justice Grant Program shall be
4 designed to:

5 (1) identify overburdened communities, in
6 collaboration with residents of overburdened communities,
7 representatives of those communities, or both;

8 (2) deploy an air monitoring network to collect
9 sufficient air quality data for review and accountability
10 for reductions; and

11 (3) identify sources and impacts of concern to
12 communities.

13 Applications for grants from the Insights, Jobs, and
14 Environmental Justice Grant Program should be as simple and
15 streamlined as possible to maximize participation. Application
16 forms and applications should be reviewed by the Advisory
17 Council to ensure accessibility and appropriateness of awards.

18 (i) Insights Analysis Program.

19 (1) In 2025 and every 2 years thereafter, the Agency
20 must conduct a review to determine levels of criteria
21 pollutants in the overburdened communities and in median
22 comparison neighborhoods. Unredacted reviews must be made
23 accessible to the public in full, unless necessary to
24 comply with confidentiality restrictions, and must be
25 posted on a publicly available, multilingual website.
26 Reviews must include an evaluation of initial and

1 subsequent impacts related to criteria pollution in
2 overburdened communities and in comparison to median
3 comparison neighborhoods and may also include climate
4 impacts in overburdened communities.

5 (2) The Agency, in collaboration with the Department
6 and the Board, must identify significant emitters and
7 their parent companies; must identify and quantify the
8 health implications of the persistent air pollution; must
9 identify local educational outcomes of inequitable air
10 pollution; must identify local economic outcomes of
11 inequitable air pollution, such as lost labor
12 productivity, displaced residents, and tax base
13 implications; and must develop a high-priority list of
14 significant emitters and kinds of emissions.

15 (3) Where the Agency is unable to identify sources,
16 health, educational and economic implications of
17 pollution, the Agency must identify key areas of
18 uncertainty and propose a research agenda to achieve the
19 unrealized insights.

20 (4) The Agency shall identify or develop models for
21 emissions inventories from ports and warehouses as
22 indirect stationary sources; tools usable by communities
23 to attribute air pollution to different sources and
24 industries' models to translate concentration readings
25 from non-regulatory monitors; and other inputs, such as
26 meteorological data, for emissions rates, such as pounds

1 per hour or tons per year.

2 (j) Funding.

3 The Board shall impose an annual registration fee for
4 warehouse operators, and institute additional fees for
5 warehouse operators that fail to comply with any rules or
6 regulations promulgated pursuant to this Section. Fines for
7 noncompliance with this Section shall be used for the
8 Insights, Jobs, and Environmental Justice Grant Program,
9 described in subsection (h), as well as needs identified
10 through consultations with impacted communities, including,
11 but not limited to, investment in infrastructure, other
12 pollution mitigation measures, monitoring, and healthcare. The
13 fees and fines shall be made payable to the Environmental
14 Protection Trust Fund.

15 (k) Public participation and transparency.

16 (1) The Agency shall provide a public participation
17 process, including, but not limited to:

18 (A) public notice of the submission of permit
19 applications to assess potential additional
20 contributions to any cumulative impacts;

21 (B) posting, on a public website in
22 machine-readable format, the full permit application,
23 the draft and final findings by the consulted
24 agencies, and the agencies' response to comments;

25 (C) an opportunity for the submission of public
26 comments;

1 (D) an opportunity for a public hearing before a
2 determination; and

3 (E) a summary and response of the comments
4 prepared by the consulted agencies.

5 (2) The Agency shall track progress in an easily
6 accessible format and shall provide a transparent and
7 publicly available rationale for policy and regulatory
8 decisions and shall describe the extent to which community
9 engagement and collected data informed those decisions.
10 Such information must be updated on a quarterly basis. If
11 progress is deemed insufficient by the Advisory Council
12 described in subsection (c), the Agency shall be required
13 to undertake remedial actions and, where appropriate,
14 identify metrics of progress, as designated by the
15 Advisory Council to ensure achievement of the provisions
16 of this Section.

17 (1) Published list. The Agency shall annually publish a
18 list of warehouses and other truck-attracting facilities that
19 will include the following information, which will be annually
20 reported by the facilities:

21 (1) location;

22 (2) facility square footage;

23 (3) operator name;

24 (4) owner name;

25 (5) secured lender name;

26 (6) number of truck bays;

1 (7) compliance status;

2 (8) documented labor violations;

3 (9) the number of electric vehicle charging stations
4 installed and actual usage;

5 (10) the number of hydrogen fueling stations installed
6 and actual usage;

7 (11) the number of on-site renewable energy generation
8 systems installed;

9 (12) the number of vehicles used to deliver from the
10 site that are owned by the operator but leased to a
11 third-party and the proportion of those vehicles that are
12 leased and the proportion that are owned by the operator;

13 (13) the average daily number of inbound and outbound
14 vehicle trips by vehicle weight and class, by time of day,
15 and by day of the week; and

16 (14) the average daily vehicle miles traveled for all
17 vehicles making inbound and outbound trips to and from the
18 qualifying warehouse.

19 (m) Enforcement; investigation.

20 (1) The Agency shall conduct an annual investigation
21 of a random selection of at least 5% of all stationary and
22 indirect sources in non-overburdened communities. The
23 Agency shall conduct an annual investigation of at least
24 10% of all stationary and indirect sources in overburdened
25 communities. The Agency shall conduct an annual
26 investigation of any stationary or indirect source with

1 more than 500 children under the age of 5 living within
2 one-half mile of the source. Communities may request an
3 investigation at stationary or indirect sources. This
4 request shall be granted as of right if the source is
5 already identified as a high priority emitter or the
6 community is already identified as an overburdened
7 community. The results of any investigation shall be made
8 public along with any recommended or required mitigation
9 actions.

10 (2) An annual investigation shall consist of the
11 following:

12 (A) fenceline monitoring and an analysis of
13 meteorological data;

14 (B) an analysis of satellite data;

15 (C) updates on land use, truck counts and ages,
16 and other inputs into emissions inventories;

17 (D) the identification of defeat devices installed
18 on trucks; and

19 (E) other metrics identified as important by
20 community representatives.

21 (n) Severability. If any provision of this Section or its
22 application to any person or circumstance is held invalid, the
23 invalidity does not affect other provisions or applications of
24 this Section which can be given effect without the invalid
25 provision or application, and to this end the provisions of
26 this Section are severable."