

ENSURING ROBUST CITIZEN REPRESENTATION THROUGH VIRGINIA'S CITIZEN BOARDS

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EXECUTIVE SUMMARY

Virginia's regulatory citizen boards give the people of the Commonwealth a meaningful voice in protecting our natural resources. These volunteers devote time and effort to uphold Virginia's environmental statutes and engage the public in decision-making. This system has many benefits but can be improved through greater transparency, independence, public engagement, and representation from environmental justice and fenceline communities.¹ Yet, the boards' inherent value as independent authorities over regulatory programs must be retained. Virginia policymakers must defend the boards' independence and scope of authority, while they help improve public participation and give the boards better access to information.

CHALLENGE

Virginia's regulatory citizen boards, including the State Air Pollution Control Board, State Water Control Board, Waste Management Board, and Marine Resources Commission, play critical roles in ensuring that representatives of residents of the Commonwealth have a meaningful voice in protecting Virginia's natural resources. Through their role in approving, denying, or modifying environmental regulations, permits, and enforcement actions, the boards bring important public perspectives that may not otherwise be accounted for in regulatory programs.

Yet, it has become clear that these volunteers, appointed by the Governor on a staggered basis, often operate with limited and imperfect information when making important decisions. In order to meet their mandates, the boards need to be empowered to receive salient information from the communities affected by a proposed action. In particular, there is a need for fenceline and environmental justice communities to have

greater access to share their concerns with the boards.

State agency staff provide essential technical and administrative expertise to the boards. However, broader access to relevant information from members of the public and affected communities will go a long way to overcoming any agency blinders or limitations that can narrow the options for Board consideration and even lead to industry-tilted decisions that give short shrift to the community or endanger the resource. Similarly, boards have limited ability to seek counsel or expert opinions on issues they face.

SOLUTION

While Virginia's regulatory boards make decisions on behalf of the residents of the Commonwealth, they often do so without the full benefit of hearing from affected members of the public and non-agency issue experts. Board proceedings are open to the public and many proceedings before regulatory boards enable the public to provide meaningful, substantive feedback for the boards to consider in their decisions regarding major environmental issues. However, unnecessary constraints on the ability of the boards to hear from the general public, including a prerequisite for speaking on a regulatory or permitting issue that a person has previously submitted written comments, can hinder boards' abilities to fully understand the implications.

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In order to improve the public's access to the boards and the boards' ability to benefit from that public engagement, regulatory boards' procedures for soliciting and considering public input should be enhanced. Consideration should be given to increasing language accessibility for board meetings, adding an environmental justice community representative to the board membership, scheduling meetings at times and in locations that maximize the opportunities for public participation, and using both in-person and remote meeting options. Special efforts should be made to include parties most directly affected by a proposed action. Likewise, the boards should be empowered to exercise their statutory authority by receiving information well enough in advance of meetings for board members to adequately review and consider agency recommendations. Agency recommendations to the Boards for regulatory actions must include assessments of environmental justice issues in every case.

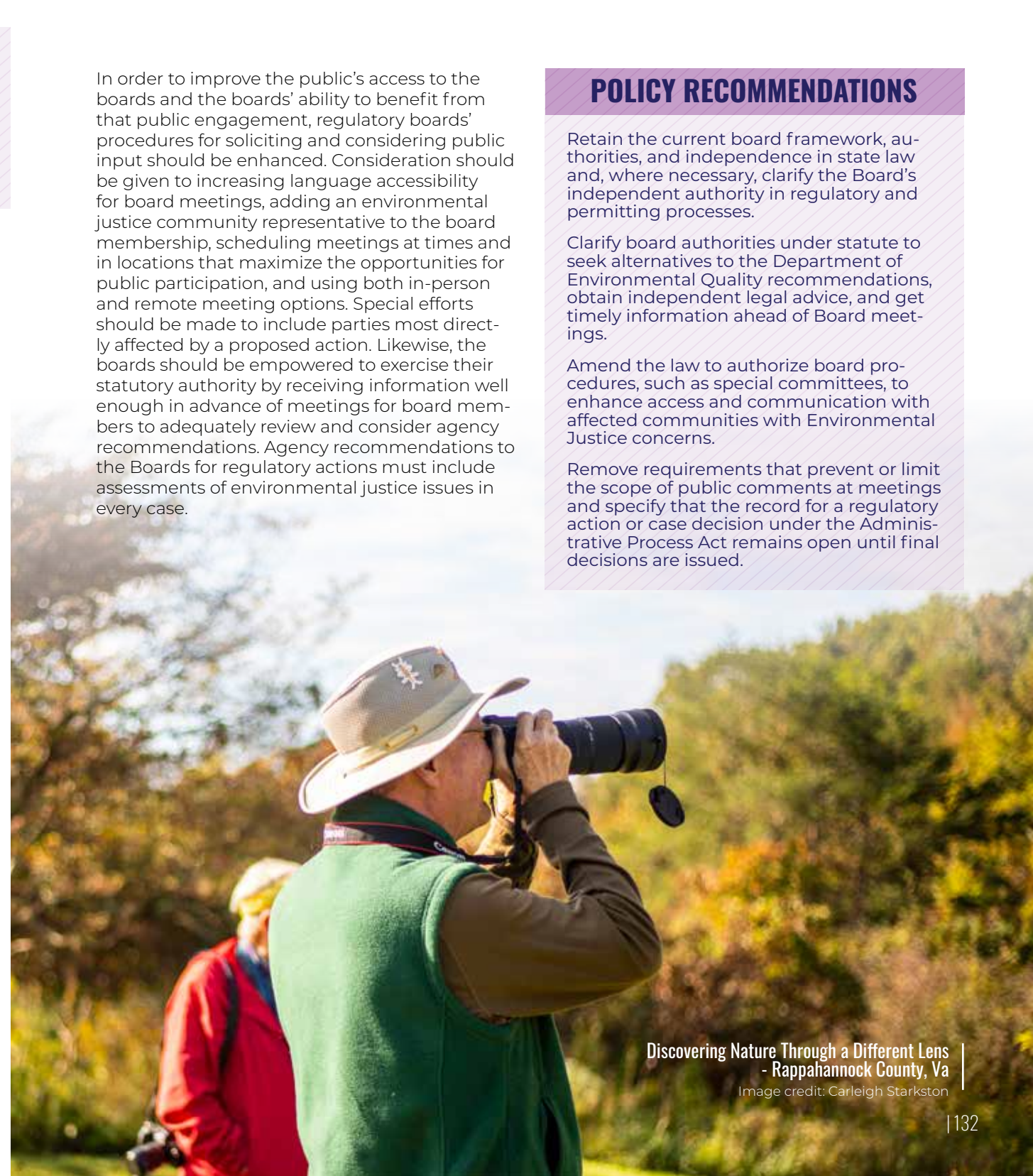
POLICY RECOMMENDATIONS

Retain the current board framework, authorities, and independence in state law and, where necessary, clarify the Board's independent authority in regulatory and permitting processes.

Clarify board authorities under statute to seek alternatives to the Department of Environmental Quality recommendations, obtain independent legal advice, and get timely information ahead of Board meetings.

Amend the law to authorize board procedures, such as special committees, to enhance access and communication with affected communities with Environmental Justice concerns.

Remove requirements that prevent or limit the scope of public comments at meetings and specify that the record for a regulatory action or case decision under the Administrative Process Act remains open until final decisions are issued.



Discovering Nature Through a Different Lens
- Rappahannock County, Va
Image credit: Carleigh Starkston