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State of Washington

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By Representatives Reeves, Lekanoff, Thai, Gregerson, Jinkins, Ortiz-Self, Ryu, Doglio, Valdez, Stanford, Chapman, Shewmake, Santos, Fitzgibbon, Fey, Appleton, Slatter, Senn, Pettigrew, Pollet, and Stonier

1 AN ACT Relating to establishing a healthy environment for all by
2 addressing environmental health disparities; adding a new chapter to
3 Title 43 RCW; and creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that it is
6 state policy to encourage productive and enjoyable harmony between
7 humankind and the environment; to promote efforts which will prevent
8 or eliminate damage to the environment and biosphere; and to
9 stimulate the health and welfare of human beings.

10 (2) It is also the continuing policy of the state of Washington
11 to use all practicable means and measures, including financial and
12 technical assistance, in a manner calculated to: (a) Foster and
13 promote the general welfare; (b) create and maintain conditions under
14 which human beings and nature can exist in productive harmony; and
15 (c) fulfill the social, economic, and other requirements of present
16 and future generations of Washington citizens.

17 (3) The legislature has further established that it is the
18 continuing responsibility of the state of Washington and all agencies
19 of the state to use all practicable means, consistent with other
20 essential considerations of state policy, to improve and coordinate

1 plans, functions, programs, and resources to the end that the state
2 and its citizens may:

3 (a) Fulfill the responsibilities of each generation as trustee of
4 the environment for succeeding generations;

5 (b) Assure for all people of Washington safe, healthful,
6 productive, and aesthetically and culturally pleasing surroundings;

7 (c) Maintain, wherever possible, an environment which supports
8 diversity and variety of individual choice; and

9 (d) Achieve a balance between population and resource use which
10 will permit high standards of living and a wide sharing of life's
11 amenities.

12 (4) The legislature has further recognized that all citizens of
13 the state have a fundamental and inalienable right to a healthful
14 environment and that each person has a responsibility to contribute
15 to the preservation and enhancement of the environment.

16 (5) The legislature finds that there are communities and
17 residents that face greater barriers to a healthy environment because
18 of cumulative environmental hazards and population vulnerabilities.

19 (6) The legislature further finds that a fundamental principle of
20 environmental justice and our democracy is that people most impacted
21 by government actions should have advance notice of government
22 decisions that could impact them, a clear understanding of the
23 options and their impacts, and a meaningful opportunity to provide
24 input and be heard before decisions are made.

25 (7) Multiple agency actions recognize the need for public
26 participation and outreach including, but not limited to, education,
27 rule making, enforcement, permitting, grant making, planning, and
28 other government actions. However, individuals and organizations
29 representing vulnerable populations often face barriers to
30 participation such as limited time, lack of funds for technical
31 experts and reviews, ability to attend meetings that conflict with
32 work, parenting, child care responsibilities, and language barriers.

33 (8) While state agencies have identified a need to more
34 effectively target their implementation and enforcement actions and
35 funding opportunities to those areas and populations in the state
36 that face greater exposure and susceptibility to environmental
37 burdens, there is limited understanding of which communities across
38 the state are most likely highly impacted.

39 (9) Therefore, the legislature finds that it is necessary to
40 incorporate environmental justice principles into the operations and

1 activities of state agencies in order to achieve state policies of
2 assuring all people of Washington safe, healthful, productive, and
3 aesthetically and culturally pleasing surroundings, assuring the
4 right of all Washington residents to a healthful environment, and
5 achieving a balance between population and resource use which will
6 permit high standards of living and wide sharing of life's amenities,
7 including through a task force on environmental justice, and agency
8 analysis and consideration of environmental justice in decision
9 making.

10 NEW SECTION. **Sec. 2.** The definitions in this section apply
11 throughout this chapter unless the context clearly requires
12 otherwise.

13 (1) "Cumulative impact analyses" refers to analyses required
14 under section 5 of this act.

15 (2) "Environmental burdens" means the cumulative risks to
16 communities caused by historic and current:

17 (a) Exposure to conventional and toxic hazards in the air, water,
18 and land;

19 (b) Adverse environmental effects, which include environmental
20 conditions caused or made worse by contamination or pollution or that
21 create vulnerabilities to climate impacts; and

22 (c) Exposure to hazards made worse by changes in the climate,
23 such as water stress and drought, flooding, wildfire, air quality,
24 ocean acidification, and infectious disease.

25 (3) "Environmental justice" means the fair treatment and
26 meaningful involvement of all people regardless of race, color,
27 national origin, or income with respect to the development,
28 implementation, and enforcement of environmental laws, regulations,
29 and policies.

30 (4) "Equity analyses" refer to analyses that can be used to
31 determine or evaluate environmental justice.

32 (5) "Fair treatment" means that no group of people, including
33 racial, ethnic, or socioeconomic groups, should bear
34 disproportionately high exposure to pollution or adverse human health
35 or environmental impacts and all groups of people have appropriate
36 access to meaningful public participation in decisions that affect
37 their environment.

38 (6) "Highly impacted communities" are those communities
39 designated by state agencies based on cumulative impact analyses

1 required under section 5 of this act, and census tracts that are
2 fully or partially on Indian country as defined in 18 U.S.C. Sec.
3 1151.

4 (7) "Precautionary approach" means that where there are threats
5 of serious or irreversible damage, lack of full scientific certainty
6 is not used as a reason for postponing measures to prevent
7 environmental degradation.

8 (8) "State agency" means a state agency that is represented on
9 the task force created under section 4 of this act.

10 (9) "Vulnerable populations" are communities that experience
11 disproportionate cumulative risk from environmental burdens due to:

12 (a) Adverse socioeconomic factors, including unemployment, high
13 housing and transportation costs relative to income, access to food
14 and health care, and linguistic isolation; and

15 (b) Sensitivity factors, such as low birth weight and higher
16 rates of hospitalization.

17 NEW SECTION. **Sec. 3.** To ensure implementation and adherence to
18 state policies of fostering and promoting the general welfare by
19 assuring all people of Washington have a safe and healthful
20 environment and serving as trustee of the environment for succeeding
21 generations, the state agencies represented on the task force created
22 under section 4 of this act shall use all practicable means and
23 measures to promote environmental justice and fair treatment.

24 NEW SECTION. **Sec. 4.** (1)(a) A task force on recommending
25 strategies for incorporating environmental justice principles into
26 how the state agencies represented on this task force discharge their
27 responsibilities is established, with members as provided in this
28 subsection.

29 (i) The director of the department of commerce, or his or her
30 designee;

31 (ii) The director of the department of ecology, or his or her
32 designee;

33 (iii) The executive director of the Puget Sound partnership, or
34 his or her designee;

35 (iv) The secretary of the department of transportation, or his or
36 her designee;

37 (v) The secretary of the department of health, or his or her
38 designee;

1 (vi) The secretary of the utilities and transportation
2 commission, or his or her designee;

3 (vii) The chair of the governor's interagency council on health
4 disparities, or his or her designee;

5 (viii) The commissioner of public lands, or his or her designee;

6 (ix) A member from an organization representing statewide
7 environmental justice interests, appointed by the governor;

8 (x) Three members from an organization, appointed by the cochairs
9 specified under (b) of this subsection, the nominations of which are
10 based upon maintaining a balanced and diverse distribution of ethnic,
11 geographic, gender, sexual orientation, age, socioeconomic status,
12 and occupational representation, where practicable.

13 (b) The representative of statewide environmental justice
14 interests, and the chair of the governor's interagency council on
15 health disparities or his or her designee, shall cochair the task
16 force.

17 (2) Staff support for the task force must be provided by the
18 governor's interagency council on health disparities. The interagency
19 council may work with other agencies, departments, or offices as
20 necessary to provide staff support to the task force.

21 (3) The task force shall report its findings and recommendations
22 to the appropriate committees of the legislature and the governor by
23 July 31, 2020, and in compliance with RCW 43.01.036. The report must
24 include:

25 (a) Model rules for agency adoption regarding the cumulative
26 impact analyses required under section 5 of this act. The model rules
27 must provide guidance on how agencies will identify highly impacted
28 communities, and must be based on best practices and current
29 demographic data. The guidance provided relating to the designation
30 of "highly impacted community" must be based on the analyses of
31 vulnerable populations and environmental burdens conducted by the
32 University of Washington's department of environmental and
33 occupational health sciences, and additional factors as the task
34 force deems appropriate;

35 (b) Recommendations for how to integrate an analysis of the
36 distribution of environmental burdens across population groups into
37 evaluations performed under the state environmental policy act,
38 chapter 43.21C RCW;

39 (c) Methods to increase public participation and engagement by
40 providing meaningful opportunities for involvement to all people

1 taking into account barriers to participation that may arise due to
2 race, color, ethnicity, religion, income, or education level;

3 (d) Best practices for meaningfully consulting vulnerable
4 populations when the applicable state agencies periodically evaluate
5 and update the designation of highly impacted communities and the
6 cumulative impact analysis of vulnerable populations and
7 environmental burdens;

8 (e) Methods for creating and implementing equity analyses,
9 including but not limited to cumulative impact analyses, into all
10 significant planning, programmatic and policy decision making, and
11 investments. The equity analysis methods may include a process for
12 describing potential risks, benefits, and opportunities to highly
13 impacted communities and vulnerable populations;

14 (f) Recommendations for how to prioritize highly impacted
15 communities and vulnerable populations by identifying and, where
16 legally and fiscally feasible, implementing procedures, processes,
17 application, and reporting requirements to maximize inspection,
18 enforcement actions, investment of resources, planning and
19 permitting, and public participation for the purpose of reducing
20 environmental health disparities and advancing a healthy environment
21 for all residents;

22 (g) Methods for cataloging and cross-referencing current research
23 and data collection for programs within all state agencies relating
24 to the health of, and environment of, people of all races, cultures,
25 and income levels, including minority populations and low-income
26 populations of the state;

27 (h) Methods for establishing a target level of environmental
28 health for each community in Washington state, qualitative at the
29 resolution of the county level or greater and quantitative at the
30 census tract level or greater;

31 (i) Recommendations for criteria for identifying and addressing
32 any gaps in current research and data collection to inform agency
33 actions, refine the common cumulative impact methodology, and
34 identify factors that may impede the achievement of environmental
35 justice; and

36 (j) Methods for incorporating the precautionary approach to
37 decision making, including permitting, to the extent allowed by law.

38 (4) Members of the task force who are not state employees must be
39 compensated in accordance with RCW 43.03.240 and are entitled to
40 reimbursement individually for travel expenses incurred in the

1 performance of their duties as members of the task force in
2 accordance with RCW 43.03.050 and 43.03.060. The expenses of the task
3 force must be paid by the governor's interagency council on health
4 disparities. Task force expenditures are subject to approval by the
5 governor's interagency council on health disparities.

6 (5) The task force shall have regional meetings to present their
7 work plan and proposals to communities throughout the state. At least
8 one meeting must be held in each of the following locations:
9 Northwest Washington, the central Puget Sound region, the south Puget
10 Sound region, southwest Washington, central Washington, and eastern
11 Washington.

12 (6) The task force may form work groups or consult with
13 stakeholders as necessary to assist the task force in carrying out
14 its duties.

15 (7) Upon adoption of rules related to the cumulative impact
16 analyses required under section 5 of this act, each state agency must
17 notify the governor's interagency council on health disparities. The
18 chair of the governor's interagency council on health disparities
19 shall reconvene the task force five years after the last state agency
20 adopts such rules. Once reconvened, the task force must evaluate the
21 findings from each state agency's cumulative impact analyses, and
22 review state agency programs, plans, and policies to determine
23 whether they are promoting the reduction in disproportionate
24 environmental burdens and attainment of the environmental health
25 targets. Records containing the task force's evaluation and findings
26 is available for public inspection and copying through the governor's
27 interagency on health disparities, and must be posted on its web
28 site. The task force must submit a revised report to the appropriate
29 committees of the legislature and the governor that updates its
30 findings and recommendations. The report must be submitted in
31 compliance with RCW 43.01.036.

32 NEW SECTION. **Sec. 5.** (1) State agencies shall conduct
33 cumulative impact analyses. State agencies shall adopt rules related
34 to cumulative impact analyses, in accordance with the recommended
35 model rules provided by the task force under section 4 of this act,
36 and for the implementation of the cumulative impact analyses.

37 (2) The agencies may:

38 (a) Adopt interim guidelines and practices prior to the adoption
39 of rules; and

1 (b) Issue policies, guidance, and adopt rules as necessary to
2 identify highly impacted communities, create target environmental
3 health standards, and prioritize highly impacted communities and
4 their vulnerable populations in the development, adoption,
5 implementation, and enforcement of environmental laws, regulations,
6 policies, and funding decisions.

7 (3) Within sixty days after the issuance of the task force's
8 initial report, the department of ecology shall initiate the rule-
9 making process to adopt rules to implement the task force's
10 recommendations for the purpose of providing uniform rules and
11 guidelines to all state agencies serving on the task force.

12 (4) Based on the revised task force findings and recommendations,
13 issued pursuant to section 4 of this act, the state agencies shall
14 adopt such rules, policies, guidance, and prioritizations as are
15 needed to reduce disproportionate environmental burdens and promote
16 attainment of environmental health targets.

17 NEW SECTION. **Sec. 6.** Sections 2 through 5 of this act
18 constitute a new chapter under Title 43 RCW.

19 NEW SECTION. **Sec. 7.** This act may be known and cited as the
20 HEAL act of 2019.

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