
SUBSTITUTE SENATE BILL 5489

State of Washington

66th Legislature

2019 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators Saldaña, Das, Nguyen, Hasegawa, Darneille, Palumbo, Randall, McCoy, Conway, Billig, Cleveland, Keiser, Kuderer, Rolfes, Wilson, C., and Frockt)

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

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 that will prevent
8 or eliminate damage to the environment and the biosphere, and to
9 stimulate the health and welfare of human beings.

10 (2) The legislature declares it is the public policy of the state
11 to ensure for all people of Washington a safe, healthful, productive,
12 and aesthetically and culturally pleasing surroundings and an
13 environment that supports diversity and variety of individual choice.
14 It is also the continuing policy of the state of Washington to use
15 all practicable means and measures, including financial and technical
16 assistance, in a manner calculated to: (a) Foster and promote the
17 general welfare; (b) create and maintain conditions under which human
18 beings and nature can exist in productive harmony; and (c) fulfill
19 the social, economic, and other requirements of present and future
20 generations of Washington residents.

1 (3) The legislature finds that there are communities and
2 residents that face greater barriers to a healthy environment because
3 of cumulative environmental hazards and population vulnerabilities.

4 (4) The legislature further finds that a fundamental principle of
5 environmental justice and our democracy is that people most impacted
6 by government actions should have, to the extent practicable, advance
7 notice of government decisions that could impact them, a clear
8 understanding of the options and their impacts, and a meaningful
9 opportunity to provide input and be heard before decisions are made.

10 (5) Multiple agency actions recognize the need for public
11 participation and outreach including, but not limited to, education,
12 rule making, enforcement, permitting, grant making, planning, and
13 other government actions. However, individuals and organizations
14 representing vulnerable populations often face barriers to
15 participation, such as limited time, lack of funds for technical
16 experts and reviews, the ability to attend meetings that conflict
17 with work, parenting, child care responsibilities, and language
18 barriers.

19 (6) While state agencies have identified a need to more
20 effectively target their implementation and enforcement actions and
21 funding opportunities to those areas and populations in the state
22 that face greater exposure and susceptibility to environmental
23 burdens, there is limited understanding of which communities across
24 the state are most likely highly impacted.

25 (7) Therefore, the legislature finds that it is necessary to
26 incorporate environmental justice principles into the operations and
27 activities of state agencies in order to achieve state policies of
28 ensuring all people of Washington safe, healthful, productive, and
29 aesthetically and culturally pleasing surroundings, ensuring the
30 right of all Washington residents to a healthful environment, and
31 achieving a balance between population and resource use that will
32 permit high standards of living and wide sharing of life's amenities,
33 including through a task force on environmental justice, and agency
34 analysis and consideration of environmental justice in decision
35 making.

36 NEW SECTION. **Sec. 2.** The definitions in this section apply
37 throughout this chapter unless the context clearly requires
38 otherwise.

1 (1) "Cumulative impact analysis" means the analysis identifying
2 highly impacted communities and vulnerable populations and
3 environmental health disparities in identified areas and populations
4 as conducted by the department of health's Washington tracking
5 network.

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

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

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

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

16 (3) "Environmental justice" means the fair treatment and
17 meaningful involvement of all people regardless of race, color,
18 national origin, or income with respect to the development,
19 implementation, and enforcement of environmental laws, regulations,
20 and policies.

21 (4) "Equity analysis" means an analysis used to determine or
22 evaluate environmental justice considerations.

23 (5) "Fair treatment" means that no group of people, including
24 racial, ethnic, or socioeconomic groups, should bear
25 disproportionately high exposure to pollution or adverse human health
26 or environmental impacts.

27 (6) "Highly impacted communities" means communities designated by
28 state agencies based on the cumulative impact analysis required under
29 section 5 of this act and census tracts that are fully or partially
30 on "Indian country" as defined in 18 U.S.C. Sec. 1151.

31 (7) "Meaningful involvement" means all groups of people have
32 appropriate access to meaningful public participation in decisions
33 that affect their environment.

34 (8) "Precautionary approach" means where there are threats of
35 serious or irreversible damage, lack of full scientific certainty is
36 not used as a reason for postponing measures to prevent environmental
37 degradation.

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

1 (10) "Vulnerable populations" means communities that experience
2 disproportionate cumulative risk from environmental burdens due to:

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

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

8 NEW SECTION. **Sec. 3.** To ensure implementation and adherence to
9 state policies of fostering and promoting the general welfare by
10 ensuring that all people of Washington have a safe and healthful
11 environment, state agencies shall use all practicable means and
12 measures to promote environmental justice and fair treatment.

13 NEW SECTION. **Sec. 4.** (1) A task force is established to
14 recommend strategies for incorporating environmental justice
15 principles into how state agencies discharge their responsibilities.

16 (2) The membership of the task force established under this
17 section is as follows:

18 (a) The director of the department of commerce, or the director's
19 designee;

20 (b) The director of the department of ecology, or the director's
21 designee;

22 (c) The executive director of the Puget Sound partnership, or the
23 executive director's designee;

24 (d) The secretary of the department of transportation, or the
25 secretary's designee;

26 (e) The secretary of the department of health, or the secretary's
27 designee;

28 (f) The chair of the energy facility site evaluation council, or
29 the chair's designee;

30 (g) The chair of the governor's interagency council on health
31 disparities, or the chair's designee;

32 (h) The commissioner of public lands, or the commissioner's
33 designee;

34 (i) A member who is well-informed on the principles of
35 environmental justice and with expertise in statewide environmental
36 justice issues, appointed by the governor;

37 (j) Three members from community-based organizations, appointed
38 by the cochairs specified under subsection (3) of this section, the

1 nominations of which are based upon maintaining a balanced and
2 diverse distribution of ethnic, geographic, gender, sexual
3 orientation, age, socioeconomic status, and occupational
4 representation, where practicable.

5 (3) The representative of statewide environmental justice
6 interests, and the chair of the governor's interagency council on
7 health disparities, or the chair's designee, must cochair the task
8 force.

9 (4) The governor's interagency council on health disparities
10 shall provide staff support to the task force. The interagency
11 council may work with other agencies, departments, or offices as
12 necessary to provide staff support to the task force.

13 (5) The task force must report its findings and recommendations
14 to the appropriate committees of the legislature and the governor by
15 October 31, 2020, and in compliance with RCW 43.01.036. The goal of
16 the report is to provide guidance to agencies, the legislature, and
17 the governor, and at a minimum must include the following:

18 (a) Guidance for state agencies when adopting rules, policies, or
19 guidelines regarding how to use the cumulative impact analysis
20 required under section 5 of this act. Guidance must cover how
21 agencies identify highly impacted communities and must be based on
22 best practices and current demographic data. The guidance provided
23 relating to the designation of a highly impacted community must
24 utilize as a basis for this determination the cumulative impact
25 analysis and additional factors as the task force deems appropriate;

26 (b) Best practices for increasing public participation and
27 engagement by providing meaningful opportunities for involvement for
28 all people, taking into account barriers to participation that may
29 arise due to race, color, ethnicity, religion, income, or education
30 level. In addition, a specific recommendation on how to best
31 meaningfully consult vulnerable populations when periodically
32 evaluating and updating the cumulative impact analysis;

33 (c) Recommendations for establishing measurable goals for
34 reducing environmental health disparities for each community in
35 Washington state and ways in which state agencies may focus their
36 work towards meeting those goals; and

37 (d) Guidelines for prioritizing highly impacted communities and
38 vulnerable populations by identifying and implementing, where
39 practicable, procedures, processes, applications, and reporting
40 requirements so that inspections, enforcement actions, investment of

1 resources, planning and permitting, and public participation are
2 maximized for the purpose of reducing environmental health
3 disparities and advancing a healthy environment for all residents.

4 (6) If time and resources permit, the task force may also include
5 in its report:

6 (a) Recommendations for approaches to integrate an analysis of
7 the distribution of environmental burdens across population groups
8 into evaluations performed under the state environmental policy act,
9 chapter 43.21C RCW;

10 (b) Recommendations for creating and implementing equity analysis
11 into all significant planning, programmatic and policy decision
12 making, and investments. The equity analysis methods may include a
13 process for describing potential risks to, benefits to, and
14 opportunities for highly impacted communities and vulnerable
15 populations;

16 (c) Best practices and needed resources for cataloging and cross-
17 referencing current research and data collection for programs within
18 all state agencies relating to the health and environment of people
19 of all races, cultures, and income levels, including minority
20 populations and low-income populations of the state;

21 (d) Recommendations for criteria for identifying and addressing
22 gaps in current research and data collection to inform agency
23 actions, to refine the common cumulative impact methodology, and to
24 identify factors that may impede the achievement of environmental
25 justice; and

26 (e) Methods for incorporating the precautionary approach into
27 decision making, including permitting, to the extent allowed by law.

28 (7) Members of the task force who are not state employees must be
29 compensated in accordance with RCW 43.03.240 and are entitled to
30 reimbursement individually for travel expenses incurred in the
31 performance of their duties as members of the task force in
32 accordance with RCW 43.03.050 and 43.03.060. The expenses of the task
33 force must be paid by the governor's interagency council on health
34 disparities.

35 (8) The task force may form work groups or consult with
36 stakeholders as necessary to assist the task force in carrying out
37 its duties.

38 (9) The task force must hold four regional meetings to seek input
39 from, present their work plan and proposals to, and receive feedback
40 from communities throughout the state. The following locations must

1 be considered for these meetings: Northwest Washington, central Puget
2 Sound region, south Puget Sound region, southwest Washington, central
3 Washington, and eastern Washington.

4 (10)(a) Upon adoption of rules, policies, or guidelines related
5 to the cumulative impact analysis required under section 5 of this
6 act, each state agency must notify the governor's interagency council
7 on health disparities.

8 (b) One year after the adoption of rules, policies, or
9 guidelines, and two years thereafter, each state agency must submit a
10 report to the governor, governor's interagency council on health
11 disparities, and appropriate committees of the legislature regarding
12 progress made towards reducing disproportionate environmental burdens
13 and attaining environmental health targets. The report must be
14 submitted in compliance with RCW 43.01.036.

15 (c) Reports submitted under this subsection must be available for
16 public inspection and copying through the governor's interagency
17 council on health disparities and must be posted on its web site.

18 NEW SECTION. **Sec. 5.** (1) State agencies, through rules,
19 policies, or guidelines and consistent with task force
20 recommendations, shall adopt the cumulative impact analysis,
21 including any needed modifications, for the purpose of identifying
22 highly impacted communities and vulnerable populations and reducing
23 environmental health disparities in identified areas and populations.
24 State agencies must use the cumulative impact analysis, in accordance
25 with the recommended guidelines provided by the task force under
26 section 4 of this act.

27 (2) State agencies may issue policies, guidance, or adopt
28 practices, guidelines, or rules as necessary to identify highly
29 impacted communities, establish measurable goals for reducing
30 environmental health disparities, and prioritize highly impacted
31 communities and their vulnerable populations in the development,
32 adoption, implementation, and enforcement of environmental laws,
33 regulations, policies, and funding decisions.

34 (3) Within sixty days after the issuance of the task force's
35 initial report, the department of health shall initiate a process to
36 develop model policies for the purpose of providing uniform rules,
37 policies, or guidelines to all state agencies implementing task force
38 recommendations related to the cumulative impact analysis.

1 NEW SECTION. **Sec. 6.** Sections 1 through 5 and 7 of this act
2 constitute a new chapter in Title 43 RCW.

3 NEW SECTION. **Sec. 7.** This chapter may be known and cited as the
4 HEAL act.

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