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**SECOND SUBSTITUTE SENATE BILL 5489**

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**State of Washington 66th Legislature 2019 Regular Session**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  (1) Subject to the availability of amounts appropriated for this specific purpose, a task force is established to recommend strategies for incorporating environmental justice principles into how state agencies discharge their responsibilities.

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

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

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

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

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

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

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

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

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

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

(j) Three members from community-based organizations, appointed by the cochairs specified under subsection (3) of this section, the nominations of which are based upon maintaining a balanced and diverse distribution of ethnic, geographic, gender, sexual orientation, age, socioeconomic status, and occupational representation, where practicable;

(k) A tribal leader, appointed by the governor;

(l) One member from an association representing business interests, appointed by the governor; and

(m) One member from a union or other organized labor association representing worker interests, appointed by the governor.

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

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

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

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

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

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

(d) Guidelines for prioritizing highly impacted communities and vulnerable populations by identifying and implementing, where practicable, procedures, processes, applications, and reporting requirements so that inspections, enforcement actions, investment of resources, planning and permitting, and public participation are maximized for the purpose of reducing environmental health disparities and advancing a healthy environment for all residents.

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

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

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

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

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

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

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

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

(9) The task force must hold four regional meetings to seek input from, present their work plan and proposals to, and receive feedback from communities throughout the state. The following locations must be considered for these meetings: Northwest Washington, central Puget Sound region, south Puget Sound region, southwest Washington, central Washington, and eastern Washington.

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

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

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

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

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

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

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

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

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