

2SSB 5489 - H COMM AMD

By Committee on Appropriations

NOT CONSIDERED 12/23/2019

1 Strike everything after the enacting clause and insert the
2 following:

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

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

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

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

28 (5) Multiple agency actions recognize the need for public
29 participation and outreach including, but not limited to, education,
30 rule making, enforcement, permitting, grant making, planning, and
31 other government actions. However, individuals and organizations
32 representing vulnerable populations often face barriers to

1 participation, such as limited time, lack of funds for technical
2 experts and reviews, the ability to attend meetings that conflict
3 with work, parenting, child care responsibilities, and language
4 barriers.

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

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

22 NEW SECTION. **Sec. 2.** The definitions in this section apply
23 throughout this chapter unless the context clearly requires
24 otherwise.

25 (1) "Cumulative impact analysis" means the analysis tool used by
26 the department of health's Washington tracking network to identify
27 highly impacted communities and vulnerable populations and
28 environmental health disparities in identified areas and populations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 4.** (1) Subject to the availability of amounts
2 appropriated for this specific purpose, a task force is established
3 to recommend strategies for incorporating environmental justice
4 principles into how state agencies discharge their responsibilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (5) The task force must submit a final report of its findings and
6 recommendations to the appropriate committees of the legislature and
7 the governor by October 31, 2020, and in compliance with RCW
8 43.01.036. The goal of the final report is to provide guidance to
9 agencies, the legislature, and the governor, and at a minimum must
10 include the following:

11 (a) Guidance for state agencies when adopting rules, policies, or
12 guidelines regarding how to use the cumulative impact analysis,
13 defined under section 2 of this act. Guidance must cover how agencies
14 identify highly impacted communities and must be based on best
15 practices and current demographic data. The guidance provided
16 relating to the designation of a highly impacted community must
17 utilize as a basis for this determination the cumulative impact
18 analysis, exposure scenarios developed by tribes for use in
19 remediation decisions at, or to mitigate and address natural resource
20 damage from, national priority list sites pursuant to the federal
21 comprehensive environment response, compensation, and liability act,
22 42 U.S.C. 9601 et seq., or sites regulated under chapter 70.105D RCW,
23 and additional factors as the task force deems appropriate;

24 (b) Best practices for increasing public participation and
25 engagement by providing meaningful opportunities for involvement for
26 all people, taking into account barriers to participation that may
27 arise due to race, color, ethnicity, religion, income, or education
28 level. In addition, a specific recommendation on how to best
29 meaningfully consult vulnerable populations, including how to
30 consider exposure scenarios developed by tribes as described in (a)
31 of this subsection, when periodically evaluating and updating the
32 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;

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 and

5 (e) Best practices for how local governments that plan under RCW
6 36.70A.040 may incorporate environmental justice principles into the
7 development of comprehensive plans to evaluate the ways in which the
8 plans they propose or adopt disproportionately contribute to or
9 threaten displacement of low-income communities and people of color
10 particularly in urban areas, or exacerbate environmental burdens to
11 vulnerable populations.

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

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

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

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

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

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

36 (7) By December 1, 2019, and in compliance with RCW 43.01.036,
37 the task force must submit a preliminary report to the appropriate
38 committees of the legislature and the governor if the task force is
39 not able to complete the tasks required under this section because of

1 insufficient funds appropriated to implement this section. The
2 preliminary report must include the following information:

3 (a) Tasks that could not be completed as a result of insufficient
4 funds appropriated;

5 (b) The status of the task force's activities; and

6 (c) Additional resources the task force needs to complete all of
7 the requirements under this section.

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

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

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

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

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

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

38 NEW SECTION. **Sec. 5.** (1) State agencies, through rules,
39 policies, or guidelines, shall adopt the use of the cumulative impact

1 analysis to identify highly impacted communities and vulnerable
2 populations and reduce environmental health disparities in identified
3 areas and populations. If the task force created under section 4 of
4 this act issues guidance on how to use the cumulative impact
5 analysis, the rules, policies, or guidelines adopted pursuant to this
6 subsection must be consistent with the task force's guidance.

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

14 (3) If the task force created under section 4 of this act issues
15 guidance on how to use the cumulative impact analysis, then within
16 sixty days after the issuance of the task force's guidance, the
17 department of health shall initiate a process to develop model
18 policies for the purpose of providing uniform rules, policies, or
19 guidelines to all state agencies implementing the task force guidance
20 related to the cumulative impact analysis.

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

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

25 NEW SECTION. **Sec. 8.** If specific funding for the purposes of
26 this act, referencing this act by bill or chapter number, is not
27 provided by June 30, 2019, in the omnibus appropriations act, this
28 act is null and void."

29 Correct the title.

EFFECT: (1) Modifies the definition of "cumulative impact
analysis" to mean the analysis tool used by the Department of
Health's (DOH) Washington Tracking Network to identify certain
populations, rather than the analysis identifying certain
populations.

(2) Requires the task force to submit a preliminary report to the
Legislature and Governor by December 1, 2019, if the task force is
not able to complete the tasks required under the bill as a result of
insufficient funds appropriated.

(3) Requires the preliminary report to include information on: (a) Tasks that could not be completed as a result of insufficient funds appropriated; (b) the status of the task force's activities; and (c) additional resources the task force needs to complete all of the requirements reflected under the bill.

(4) Modifies language pertaining to an agency's requirement to adopt the cumulative impact analysis to clarify that state agencies must adopt the use of the cumulative impact analysis, and if the task force issues guidance on how to use it, then the agencies must adopt it consistent with the task force's guidance.

(5) Modifies the requirement that the DOH initiate a process to provide uniform rules, policies, or guidelines within 60 days after the issue of the task force's guidance related to the cumulative impact analysis to specify that the DOH is only required to do so if the task force issues guidance on how to use the cumulative impact analysis.

(6) Requires the task force to also report on best practices for how local governments, planning under the Growth Management Act, may incorporate environmental justice principles into the development of comprehensive plans to evaluate how the plans proposed or adopted disproportionately contribute to or threaten displacement of low-income communities and people of color particularly in urban areas, or exacerbate environmental burdens to vulnerable populations.

(7) Requires that the guidance provided by the task force related to the designation of highly impacted communities include, as a factor used as the basis of such designation, exposure scenarios developed by tribes for use in remediation decisions at, or to mitigate and address natural resource damage from, national priority list sites pursuant to the federal Comprehensive Environment Response, Compensation, and Liability Act, or sites regulated under the state statute relating to hazardous waste cleanup.

(8) Requires that recommendations provided by the task force on how to meaningfully consult vulnerable populations when periodically evaluating and updating the cumulative impact analysis include how to consider exposure scenarios developed by tribes.

(9) Includes a null and void clause.

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