

2SSB 5489 - H COMM AMD

By Committee on State Government & Tribal Relations

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

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

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

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

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

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

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

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

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

37 (c) Exposure to hazards made worse by changes in the climate,
38 such as water stress and drought, flooding, wildfire, air quality,
39 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 and additional factors as the task force deems appropriate;

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

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

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

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

39 (a) Recommendations for approaches to integrate an analysis of
40 the distribution of environmental burdens across population groups

1 into evaluations performed under the state environmental policy act,
2 chapter 43.21C RCW;

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

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

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

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

21 (7) By December 1, 2019, and in compliance with RCW 43.01.036,
22 the task force must submit a preliminary report to the appropriate
23 committees of the legislature and the governor if the task force is
24 not able to complete the tasks required under this section because of
25 insufficient funds appropriated to implement this section. The
26 preliminary report must include the following information:

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

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

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

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

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

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

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

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

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

24 NEW SECTION. **Sec. 5.** (1) State agencies, through rules,
25 policies, or guidelines, shall adopt the use of the cumulative impact
26 analysis to identify highly impacted communities and vulnerable
27 populations and reduce environmental health disparities in identified
28 areas and populations. If the task force created under section 4 of
29 this act issues guidance on how to use the cumulative impact
30 analysis, the rules, policies, or guidelines adopted pursuant to this
31 subsection must be consistent with the task force's guidance.

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

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

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

10 NEW SECTION. **Sec. 7.** This chapter may be known and cited as the
11 HEAL act."

12 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.

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