
ENGROSSED HOUSE BILL 2009

State of Washington

66th Legislature

2019 Regular Session

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

Read first time 02/11/19. Referred to Committee on State Government & Tribal Relations.

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.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires
7 otherwise.

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

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

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

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

19 (c) Exposure to hazards made worse by changes in the climate,
20 such as water stress and drought, flooding, wildfire, air quality,
21 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 defined in this section and census tracts
15 that are fully or partially on "Indian country" as defined in 18
16 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) "State agency" means a state agency that is represented on
21 the task force created under section 3 of this act.

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

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

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

29 NEW SECTION. **Sec. 2.** To ensure implementation and adherence to
30 state policies of fostering and promoting the general welfare by
31 ensuring that all people of Washington have a safe and healthful
32 environment, state agencies shall use all practicable means and
33 measures to promote environmental justice and fair treatment.

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

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

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

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

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

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

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

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

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

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

19 (i) Two members of the senate, one from each major caucus,
20 appointed by the president of the senate, and two members of the
21 house of representatives, one from each major caucus, appointed by
22 the speaker of the house of representatives;

23 (j) 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 (k) 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, where practicable, of: (i) Representation from
30 census tracts that are ranked at an eight or higher on the cumulative
31 impact analysis; and (ii) ethnic, geographic, gender, sexual
32 orientation, age, socioeconomic status, and occupational
33 representation;

34 (l) A tribal leader, invited by the governor;

35 (m) One member from an association representing business
36 interests, appointed by the governor;

37 (n) One member from a union or other organized labor association
38 in the building trade representing worker interests, appointed by the
39 governor;

1 (o) One member from a minority-owned small business located in,
2 and serving, one or more census tracts that are ranked at an eight or
3 higher on the cumulative impact analysis, appointed by the governor;

4 (p) One member from a midsize economic development organization
5 or a midsize organization representing business interests, appointed
6 by governor who must solicit and consider nominations from economic
7 development organizations and organizations representing business
8 interests; and

9 (q) One member from an organization representing statewide
10 agricultural interests, selected by the commissioner of public lands.

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

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

19 (5) The task force must submit a final report of its findings and
20 recommendations to the appropriate committees of the legislature and
21 the governor by October 31, 2020, and in compliance with RCW
22 43.01.036. State agencies may not adopt rules, policies, or
23 guidelines under section 4 of this act until after the legislature
24 approves the recommendations of the task force through the amendment
25 of this chapter or through specific reference in an appropriations
26 act. The goal of the final report is to provide guidance to agencies,
27 the legislature, and the governor, and at a minimum must include the
28 following:

29 (a) Guidance for state agencies when adopting rules, policies,
30 or guidelines regarding how to use the cumulative impact analysis,
31 defined under section 1 of this act. Guidance must cover how agencies
32 identify highly impacted communities and must be based on best
33 practices and current demographic data. The guidance provided
34 relating to the designation of a highly impacted community must
35 utilize as a basis for this determination the cumulative impact
36 analysis, and may use exposure scenarios developed by tribes for use
37 in remediation decisions at, or to mitigate and address natural
38 resource damage from, national priority list sites pursuant to the
39 federal comprehensive environment response, compensation, and
40 liability act, 42 U.S.C. 9601 et seq., or sites regulated under

1 chapter 70.105D RCW, and additional factors as the task force deems
2 appropriate;

3 (b) Best practices for increasing public participation and
4 engagement by providing meaningful opportunities for involvement for
5 all people, taking into account barriers to participation that may
6 arise due to race, color, ethnicity, religion, income, or education
7 level. In addition, a specific recommendation on how to best
8 meaningfully consult vulnerable populations, including how to
9 consider exposure scenarios developed by tribes as described in (a)
10 of this subsection, when periodically evaluating and updating the
11 cumulative impact analysis;

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

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

23 (e) Best practices for how local governments that plan under RCW
24 36.70A.040 may incorporate environmental justice principles into the
25 development of comprehensive plans to evaluate the ways in which the
26 plans they propose or adopt disproportionately contribute to or
27 threaten displacement of low-income communities and people of color
28 particularly in urban areas, or exacerbate environmental burdens to
29 vulnerable populations; and

30 (f) Recommendations for how to address the equity implications of
31 historical applications of environmental and land use laws with
32 respect to rural communities, including any disproportionate economic
33 burdens placed on rural communities attributable to or correlated
34 with the implementation of federal and state environmental or land
35 use laws.

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

38 (a) Recommendations for creating and implementing equity analysis
39 into all significant planning, programmatic and policy decision
40 making, and investments. The equity analysis methods may include a

1 process for describing potential risks to, benefits to, and
2 opportunities for highly impacted communities and vulnerable
3 populations;

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

9 (c) Recommendations for criteria for identifying and addressing
10 gaps in current research and data collection to inform agency
11 actions, to refine the common cumulative impact methodology, and to
12 identify factors that may impede the achievement of environmental
13 justice.

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

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

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

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

25 (8)(a) For attendance at meetings of the task force or in
26 attending to such other business of the task force as may be
27 authorized, legislative members of the task force shall be reimbursed
28 and receive allowances in accordance with RCW 44.04.120.

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

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

39 (10) The task force must hold four regional meetings to seek
40 input from, present their work plan and proposals to, and receive

1 feedback from communities throughout the state. The following
2 locations must be considered for these meetings: Northwest
3 Washington, central Puget Sound region, south Puget Sound region,
4 southwest Washington, central Washington, and eastern Washington.

5 (11)(a) Upon adoption of rules, policies, or guidelines related
6 to the cumulative impact analysis, as required under section 4 of
7 this act, each state agency must notify the governor's interagency
8 council on health disparities and submit a report to the appropriate
9 committees of the legislature.

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

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

20 NEW SECTION. **Sec. 4.** (1) Upon the legislature's approval of the
21 task force's recommendations pursuant to section 3 of this act:

22 (a) State agencies, through rules, policies, or guidelines, shall
23 adopt the use of the cumulative impact analysis to identify highly
24 impacted communities and vulnerable populations and reduce
25 environmental health disparities in identified areas and populations.
26 If the task force created under section 3 of this act issues guidance
27 on how to use the cumulative impact analysis, the rules, policies, or
28 guidelines adopted pursuant to this subsection must be consistent
29 with the task force's guidance, unless a state agency provides a
30 compelling reason to deviate from the task force's guidance. A state
31 agency that deviates from the task force's guidance when adopting a
32 rule, policy, or guideline pursuant to this subsection must report
33 such deviation in writing to the governor's interagency council on
34 health disparities and the appropriate committees of the legislature;

35 (b) State agencies may issue policies, guidance, or adopt
36 practices, guidelines, or rules as necessary to identify highly
37 impacted communities, establish measurable goals for reducing
38 environmental health disparities, and prioritize highly impacted
39 communities and their vulnerable populations in the development,

1 adoption, implementation, and enforcement of environmental laws,
2 regulations, policies, and funding decisions; and

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

10 (2) To the extent that the recommendations, guidelines, or best
11 practices of the task force conflict with standards or requirements
12 established under other state statutes or federal law, those
13 standards and requirements supersede, preempt, and take precedence
14 over the recommendations of the task force.

15 NEW SECTION. **Sec. 5.** Sections 1 through 4 and 6 of this act
16 constitute a new chapter in Title 43 RCW.

17 NEW SECTION. **Sec. 6.** This act may be known and cited as the
18 HEAL act.

19 NEW SECTION. **Sec. 7.** Nothing in this act creates an entitlement
20 to services or a private right of action or claim on the part of any
21 individual, entity, or agency against the state or any state agency,
22 officer, employee, or agent.

23 NEW SECTION. **Sec. 8.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 9.** If specific funding for the purposes of
28 this act, referencing this act by bill or chapter number, is not
29 provided by June 30, 2019, in the omnibus appropriations act, this
30 act is null and void.

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