

SENATE BILL REPORT

SB 5105

As Reported by Senate Committee On:
State Government & Elections, January 29, 2021

Title: An act relating to implementing the recommendations of the office of equity task force.

Brief Description: Implementing the recommendations of the office of equity task force.

Sponsors: Senators Hasegawa, Nguyen, Darneille, Das, Hunt, Kuderer, Liias, Lovelett, Nobles, Rolfes, Stanford and Wilson, C..

Brief History:

Committee Activity: State Government & Elections: 1/27/21, 1/29/21 [DPS-WM, w/oRec].

Brief Summary of First Substitute Bill

- Requires the Governor appoint the director of the Office of Equity (Office) based on recommendations provided by the Community Advisory Board (Board).
- Requires the Office report on barriers for community participation on boards and commissions in its October 31, 2022 report.
- Provides the Office with certain rulemaking authority.
- Creates the Board to advise the Office on its priorities and timelines.
- Requires state agencies to: designate a diversity, equity, and inclusion liaison; apply an equity lens to agency decision-making; develop plans for diversity, equity, and inclusion and for language access; provide data and information to the Office; and collaborate with the Office to develop performance measures.
- Requires the Washington State Institute for Public Policy evaluate the implementation of the Office and report to the Governor and Legislature by October 31, 2025.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5105 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Hasegawa.

Minority Report: That it be referred without recommendation.

Signed by Senators Wilson, J., Ranking Member; Hawkins.

Staff: Melissa Van Gorkom (786-7491)

Background: Office of Equity Task Force. In 2019, the Legislature directed the Governor's Interagency Coordinating Council on Health Disparities (Council) to convene and staff an Office of Equity Task Force (Task Force) to develop a proposal for the creation of the Washington State Office of Equity (Office).

The Task Force final proposal, submitted to the Legislature in October 2020, recommended that the Office:

- guide enterprise wide efforts through a unified vision of equity;
- serve as a conduit between government and communities;
- build synergy with partners in diversity equity and inclusions;
- serve as a conduit for state institutions;
- provide guidance and technical assistance to foster systems and policy change;
- build a diverse, culturally humble workforce that reflects the communities served;
- set expectations, measure progress, and ensure accountability; and
- reconvene the Task Force to evaluate implementation of the Office.

Office of Equity. In July 2020, the Legislature created the Office to promote access to equitable opportunities and resources that reduce disparities and improve outcomes statewide across all sectors of government. The work of the Office must be guided by principles of equity. The Office must facilitate state policy and systems change to promote equitable policies, practices, and outcomes through:

- assisting agencies in applying an equity lens to agency decision-making through various means;
- community outreach and engagement by staffing a Community Advisory Board (Board);
- collaborating with the Office of Financial Management (OFM) and Department of Enterprise Services to develop policies and provide technical assistance and training for agencies on maintaining a diverse, inclusive, and culturally sensitive workforce;
- collaborating with OFM and agencies to establish certain standards for data, create performance measures, and develop an online performance dashboard;
- coordinating with the Office of Privacy and Data Protection to address cybersecurity and data protection; and
- promoting accountability through agency performance reports and procedures to hold

agencies accountable.

By October 31, 2022, and every year thereafter, the Office must report to the Governor and the Legislature summarizing the work of the Office, agency compliance with Office standards and performance measures, and an equity analysis of the Board.

Washington State Institute for Public Policy. The Washington State Institute for Public Policy (WSIPP) was created by the Legislature in 1983 as a nonpartisan organization that carries out research at the direction of the Legislature or the WSIPP Board of Directors. The board of directors is comprised of 16 members that represent the Legislature, the Executive Branch, and the academic community. Fiscal and administrative services for WSIPP are provided by The Evergreen State College.

Summary of Bill (First Substitute): Office of Equity. The director of the Office must be appointed based on recommendations provided by the Board. The Board must screen applicants and provide a list recommending three or more candidates to the Governor. The Governor may select from the list, ask the Board to add additional names, or reject the entire list and ask the Board to submit three additional candidates.

The Office must include recommendations to reduce barriers for community participation on boards and commissions in the October 31, 2022 report to the Governor and the Legislature.

The Office may adopt rules as necessary to:

- develop and submit agency diversity, equity, and inclusion plans;
- develop and maintain language access plans;
- collect data for the purposes of this chapter;
- establish performance measures;
- establish process for responding to the office of equity report on agency performance;
- and
- establish a process to report noncompliance or lack of improvement.

Community Advisory Board. The Board is created to advise the Office on its priorities and timelines and provide guidance on standards and performance measures. The Director appoints members to the Board. The Board must consist of no more than 20 voting members that support a diverse representation by geography and identity and include, but are not limited to, a representative of:

- the commission on African American affairs,
- the commission on Asian Pacific American affairs,
- the commission on Hispanic affairs,
- the federally recognized tribes,
- the human rights commission,
- the LGBTQ commission,
- the women's commission, and

- a member of the disability community nominated by the chair of the governor's committee on disability issues and employment.

Members of the Board are entitled to compensation and reimbursement for travel expenses.

State Agencies. All agencies must:

- designate diversity, equity, and inclusion liaisons who reports directly to the head of the agency;
- apply an equity lens to assess existing and proposed policies, service delivery, programs, practices, and budget decisions;
- develop and submit diversity, equity, and inclusion plans;
- develop and maintain written language access policies and plans;
- collaborate with the Office to establish performance measures;
- provide data and information to the Office as requested; and
- submit a response to the Office's report on agency performance.

Washington State Institute for Public Policy. The Legislature directs WSIPP to evaluate the implementation of the Office and report to the Governor and appropriate committees of the Legislature by October 31, 2025. The report must include:

- the level of staffing and funding provided to the Office for its operation;
- guidance to the Office from the Board;
- the Office's strategic plan;
- the extent to which the office duplicates the activities of, or has a mission that overlaps with, other agencies or the private sector;
- the broad strategic goals and standards for the enterprise related to diversity, equity, and inclusion;
- agency-specific performance measures and outcomes; and
- the state of diversity, equity, and inclusion efforts across the enterprise.

EFFECT OF CHANGES MADE BY STATE GOVERNMENT & ELECTIONS COMMITTEE (First Substitute):

- Replaces the review done by the task force with a review completed by WSIPP.
- Adds a requirement the report include the extent to which the office duplicates the activities of, or has a mission that overlaps with, other agencies or of the private sector.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill is a trailer bill for the bill that was passed last year and partially vetoed. The establishment of the Office was preemptive of the Task Force work. After last session the Task Force finalized its recommendations which were well rounded. This bill stays, as true as possible, to the recommendations of the Task Force and puts some meat on the bones of the skeleton that was created last year. Funding and tasking the Office is included in the Governor's policy goals and budget. The bill would not go into effect until June and so any current hiring should not be impacted by this legislation.

CON: With I-200 the voters said that they want the government to treat everyone equally and not discriminate against or give preferential treatment to anyone based on race, color, sex, ethnicity or national origin. I-1000 a year or two ago tried to reverse that. One of the provisions in that initiative the voters rejected was the creation of an Office like this. This bill is in direct contradiction to what the voters said they wanted at a cost of \$2.1 million of taxpayer money.

OTHER: The Governor is a strong proponent for creating the Office but has three concerns regarding the bill. The Governor is close to appointing the director for the Office and wants to ensure that the appointment will not be invalidated by the law. This is a cabinet position which traditionally allows for the Governor to have full authority and discretion over the hiring and firing of the individual and is typically not preselected by a community advisory group. The Governor would prefer that the evaluation of the Office be done by an outside entity rather than an agency within the executive branch. Rulemaking is not generally done for establishing requirements for another agency.

Persons Testifying: PRO: Senator Bob Hasegawa, Prime Sponsor.

CON: Tim Eyman, Permanent Offense.

OTHER: RaShelle Davis, Governor's Office.

Persons Signed In To Testify But Not Testifying: No one.