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**SUBSTITUTE SENATE BILL 5141**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senate Environment, Energy & Technology (originally sponsored by Senators Saldaña, Lovelett, Carlyle, Das, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Lias, Nobles, Pedersen, Rolfes, Stanford, and Wilson, C.)

READ FIRST TIME 02/10/21.

1 AN ACT Relating to reducing environmental and health disparities  
2 and improving the health of all Washington state residents by  
3 implementing the recommendations of the environmental justice task  
4 force; adding new sections to chapter 43.70 RCW; adding a new section  
5 to chapter 43.21A RCW; adding a new section to chapter 43.23 RCW;  
6 adding a new section to chapter 43.30 RCW; adding a new section to  
7 chapter 43.31 RCW; adding a new section to chapter 47.01 RCW; adding  
8 a new section to chapter 90.71 RCW; adding a new chapter to Title 70A  
9 RCW; and creating a new section.

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

11 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The purpose of  
12 this chapter is to reduce environmental and health disparities in  
13 Washington state and improve the health of all Washington state  
14 residents. This chapter implements the recommendations of the  
15 environmental justice task force established in section 221(48),  
16 chapter 415, Laws of 2019 entitled "Report to the Washington state  
17 governor and legislature, *Environmental Justice Task Force:  
18 Recommendations for Prioritizing EJ in Washington State Government*  
19 (October 2020)."

20 (2) As conveyed in the task force report, Washington state  
21 studies and national studies found that people of color and low-

1 income people continue to be disproportionately exposed to  
2 environmental hazards in their communities. As a result, there is a  
3 higher risk of adverse health outcomes for those communities. This  
4 risk is amplified when overlaid on communities with preexisting  
5 social and economic barriers and environmental risks, and creates  
6 cumulative environmental health impacts, which this act seeks to  
7 prevent and mitigate.

8 (3) Accordingly, the state has a compelling interest in ensuring  
9 that such environmental health disparities are prevented and  
10 addressed in the administration of ongoing and new environmental  
11 programs, including allocation of funds, and that these programs  
12 should be administered so as to remedy the effects of past disparate  
13 treatment of overburdened communities and vulnerable populations.

14 (4) The task force provided recommendations to state agencies for  
15 measurable goals and model policies to reduce environmental health  
16 inequities in Washington, equitable practices for meaningful  
17 community involvement, and how to use the environmental health  
18 disparities map to identify and promote the equitable distribution of  
19 environmental benefits to overburdened communities. In order for all  
20 communities in Washington state to be healthy and thriving, state  
21 government must concentrate on communities that currently have the  
22 greatest environmental and health burdens.

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

26 (1) "Agency" includes the departments of ecology, health, natural  
27 resources, commerce, agriculture, and transportation, the Puget Sound  
28 partnership, and any agency that opts to assume the obligations of  
29 this act pursuant to section 11 of this act.

30 (2) "Council" means the environmental justice council established  
31 in section 20 of this act.

32 (3) "Cumulative environmental health impact" means the combined,  
33 multiple environmental harms and health impacts on a vulnerable  
34 population or overburdened community.

35 (4) "Department" means the department of health.

36 (5) "Environmental benefits" means activities that:

37 (a) Prevent or reduce existing environmental harms or associated  
38 risks that contribute significantly to cumulative environmental  
39 health impacts;

1 (b) Prevent or mitigate impacts to overburdened communities and  
2 vulnerable populations from, or support community response to, the  
3 impacts of environmental harm; or

4 (c) Meet a community need identified by an overburdened community  
5 or vulnerable population that is consistent with the intent of this  
6 chapter.

7 (6) "Environmental harm" means the individual or cumulative  
8 environmental health impacts and risks to communities caused by  
9 historic, current, and projected:

10 (a) Exposure to pollution, conventional or toxic pollutants,  
11 environmental hazards, or other contamination in the air, water, and  
12 land;

13 (b) Adverse environmental effects, including exposure to  
14 contamination, hazardous substances, or pollution that increase the  
15 risk of adverse environmental health outcomes or create  
16 vulnerabilities to climate impacts; and

17 (c) Health and economic impacts from climate change.

18 (7) "Environmental health disparities map" means the data and  
19 information developed pursuant to section 19 of this act.

20 (8) "Environmental impacts" means environmental benefits or  
21 environmental harms, or the combination of environmental benefits and  
22 harms resulting from a proposed action.

23 (9) "Environmental justice" means the fair treatment and  
24 meaningful involvement of all people regardless of race, color,  
25 national origin, or income with respect to the development,  
26 implementation, and enforcement of environmental laws, rules, and  
27 policies. This includes addressing disproportionate environmental and  
28 health impacts in all laws, rules, and policies with environmental  
29 impacts by prioritizing vulnerable populations and overburdened  
30 communities, equitably distributing resources and benefits, and  
31 eliminating harm.

32 (10) "Equitable distribution" means a fair and just, but not  
33 necessarily equal, allocation intended to mitigate disparities in  
34 benefits and burdens, and based on current conditions, including  
35 existing legacy and cumulative impacts, that are informed by  
36 cumulative environmental health impact analysis.

37 (11) "Overburdened community" means a geographic area where  
38 vulnerable populations face combined, multiple environmental harms  
39 and health impacts, and includes, but is not limited to, highly  
40 impacted communities as defined in RCW 19.405.020.

1 (12) "Significant agency action" refers to actions determined by  
2 the council, in consultation with the interagency work group, as  
3 having the potential to cause environmental harm or benefit to an  
4 overburdened community or a vulnerable population. This may include  
5 agency actions such as major capital projects; rule making; proposing  
6 legislation concerning the duties of the agency; and any decision or  
7 activity with probable environmental impacts to overburdened  
8 communities or vulnerable populations.

9 (13) "Significant impact" means probable changes to critical  
10 determinants of health, such as legal rights, finances, housing, and  
11 safety.

12 (14) "Tribal lands" has the same meaning as "Indian country" as  
13 provided in 18 U.S.C. Sec. 1151, and also includes sacred sites,  
14 traditional cultural properties, burial grounds, and other tribal  
15 sites protected by federal or state law. This definition is not meant  
16 to direct agencies to collect, maintain, or provide such data, but  
17 rather to assist agencies in consulting with tribes on impacts to  
18 tribal lands.

19 (15)(a) "Vulnerable populations" means population groups that may  
20 be more likely to have adverse health outcomes in response to  
21 environmental harms, due to: (i) Adverse socioeconomic factors, such  
22 as unemployment, high housing and transportation costs relative to  
23 income, limited access to nutritious food and adequate health care,  
24 linguistic isolation, and other factors that negatively affect health  
25 outcomes and increase vulnerability to the effects of environmental  
26 harms; and (ii) sensitivity factors, such as low birth weight and  
27 higher rates of hospitalization.

28 (b) "Vulnerable populations" includes racial or ethnic minority,  
29 low-income, tribal, indigenous populations, and populations of  
30 workers experiencing environmental risks.

31 NEW SECTION. **Sec. 3.** ENVIRONMENTAL JUSTICE OBLIGATIONS FOR ALL  
32 AGENCIES. The departments of agriculture, commerce, ecology, health,  
33 natural resources, transportation, and the Puget Sound partnership  
34 are required to comply with all provisions of this chapter. All other  
35 state agencies should strive to apply the laws of the state of  
36 Washington, and the rules and policies of the agency, in accordance  
37 with the policies of this chapter including, to the extent feasible,  
38 the incorporation into agency decisions of the principles of

1 environmental justice assessment processes set forth in section 15 of  
2 this act.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.70  
4 RCW to read as follows:

5 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF HEALTH.  
6 The department must apply and comply with the substantive and  
7 procedural requirements of chapter 70A.--- RCW (the new chapter  
8 created in section 22 of this act).

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.21A  
10 RCW to read as follows:

11 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF ECOLOGY.  
12 The department must apply and comply with the substantive and  
13 procedural requirements of chapter 70A.--- RCW (the new chapter  
14 created in section 22 of this act).

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.23  
16 RCW to read as follows:

17 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF  
18 AGRICULTURE. The department must apply and comply with the  
19 substantive and procedural requirements of chapter 70A.--- RCW (the  
20 new chapter created in section 22 of this act).

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.30  
22 RCW to read as follows:

23 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF NATURAL  
24 RESOURCES. The department must apply and comply with the substantive  
25 and procedural requirements of chapter 70A.--- RCW (the new chapter  
26 created in section 22 of this act).

27 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.31  
28 RCW to read as follows:

29 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF COMMERCE.  
30 The department must apply and comply with the substantive and  
31 procedural requirements of chapter 70A.--- RCW (the new chapter  
32 created in section 22 of this act).

33 NEW SECTION. **Sec. 9.** A new section is added to chapter 47.01  
34 RCW to read as follows:

1 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF  
2 TRANSPORTATION. The department must apply and comply with the  
3 substantive and procedural requirements of chapter 70A.--- RCW (the  
4 new chapter created in section 22 of this act).

5 NEW SECTION. **Sec. 10.** A new section is added to chapter 90.71  
6 RCW to read as follows:

7 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE PUGET SOUND PARTNERSHIP.  
8 The partnership must apply and comply with the substantive and  
9 procedural requirements of chapter 70A.--- RCW (the new chapter  
10 created in section 22 of this act).

11 NEW SECTION. **Sec. 11.** AUTHORITY OF OTHER AGENCIES TO OPT IN TO  
12 ENVIRONMENTAL JUSTICE OBLIGATIONS. Any state agency, as the term  
13 "agency" is defined in RCW 34.05.010, including the governor's office  
14 and the office of the attorney general, may opt in to assume the  
15 substantive and procedural requirements of chapter 70A.--- RCW (the  
16 new chapter created in section 22 of this act).

17 NEW SECTION. **Sec. 12.** INCORPORATING ENVIRONMENTAL JUSTICE INTO  
18 AGENCY STRATEGIC PLANS. (1) By January 1, 2023, each agency shall  
19 include an environmental justice implementation plan within its  
20 strategic plan or other planning document. The plan must describe how  
21 the agency will apply the principles of environmental justice to the  
22 agency's activities and guide the agency in its implementation of its  
23 obligations under this chapter.

24 (2) The environmental justice implementation plan must include:

25 (a) Agency-specific goals and deliverables to reduce  
26 environmental and health disparities and for otherwise achieving  
27 environmental justice in the agency's programs;

28 (b) Metrics to track and measure accomplishments of the agency  
29 goals and deliverables;

30 (c) Methods to provide equitable access and ensure  
31 nondiscrimination in agency practices to solicit and receive  
32 information and opinions from members of the public;

33 (d) Strategies to ensure compliance with existing federal and  
34 state laws and policies relating to environmental justice, including  
35 Title VI of the civil rights act of 1964 and other nondiscrimination  
36 requirements; and

1 (e) A plan for community engagement as described in section 13 of  
2 this act.

3 (3) In developing its plan, the agency must consider any  
4 guidelines developed by the council pursuant to section 20 of this  
5 act.

6 NEW SECTION. **Sec. 13.** **EQUITABLE COMMUNITY ENGAGEMENT AND PUBLIC**  
7 **PARTICIPATION.** (1) An agency must create and adopt a community  
8 engagement plan that describes how it will engage with overburdened  
9 communities and vulnerable populations as it evaluates new and  
10 existing activities and programs. This plan should describe how the  
11 agency will facilitate equitable participation and support meaningful  
12 and direct involvement of vulnerable populations and overburdened  
13 communities. The plan must include:

14 (a) Best practices for outreach and communication to overcome  
15 barriers to engagement with overburdened communities and vulnerable  
16 populations;

17 (b) Use of special screening tools that integrate environmental,  
18 demographic, and health disparities data, such as the environmental  
19 health disparities map, to evaluate and understand the nature and  
20 needs of the people who may be impacted by agency decisions;

21 (c) Processes that facilitate and support the inclusion of  
22 members of communities affected by agency decision making including,  
23 but not limited to, child care, and reimbursement for travel and  
24 other expenses; and

25 (d) Methods for outreach and communication with those who face  
26 barriers, language or otherwise, to participation.

27 (2) Agencies must regularly conduct compliance reviews of  
28 existing laws and policies that guide community engagement, and where  
29 gaps exist, ensure compliance for the following:

30 (a) Title VI of the civil rights act, prohibiting discrimination  
31 based on race, color, or national origin and requiring meaningful  
32 access to people with limited English proficiency, and disability;

33 (b) Executive Order 05-03, requiring plain talk when  
34 communicating with the public; and

35 (c) Executive Order 13166, requiring meaningful access to agency  
36 programs and services for people with limited English proficiency.

37 (3) In developing its plan, the agency must consider any  
38 guidelines developed by the council pursuant to section 20 of this  
39 act.

1           NEW SECTION.       **Sec. 14.**   ENVIRONMENTAL JUSTICE ASSESSMENT. (1)

2   When considering a significant agency action, an agency must conduct  
3   an environmental justice assessment as described in this section to  
4   inform and support the agency considering overburdened and vulnerable  
5   populations when making decisions and to assist the agency with the  
6   equitable distribution of environmental benefits, reduction of  
7   environmental harms, and the identification and reduction of  
8   environmental and health disparities.

9           (2) Beginning July 1, 2023, and subject to the considerations of  
10   subsections (3) through (7) of this section and the identification  
11   and prioritization of significant agency actions by the council and  
12   the interagency work group, each agency must develop a process for  
13   conducting environmental justice assessments, determining what  
14   actions prompt an assessment, and determining any other relevant  
15   factors for assessment based on the unique mission, authorities, and  
16   priorities of each agency.

17           (3) At a minimum, environmental justice assessments must:

18           (a) Consider guidelines prepared by the council relating to best  
19   practices on environmental justice assessments and when and how to  
20   use cumulative environmental health impact analysis;

21           (b) Utilize cumulative environmental health impact analysis, such  
22   as the environmental health disparities map or other data that  
23   considers the effects of a proposed action on overburdened  
24   communities, in conjunction with other qualitative assessments and  
25   evaluation of other factors, including both environmental and  
26   socioeconomic stressors that may cumulatively affect health and the  
27   environment and reduce environmental benefits or contribute to  
28   persistent environmental health disparities;

29           (c) Identify overburdened communities and vulnerable populations  
30   who may be affected by the proposed action and the potential  
31   environmental and health impacts;

32           (d) Identify any local and regional impacts to tribal treaty  
33   reserved rights and resources;

34           (e) Summarize community input and describe how overburdened  
35   communities, vulnerable populations, affected tribes, and indigenous  
36   populations may be further involved in development of the proposed  
37   action; and

38           (f) Describe options for the agency to reduce, mitigate, or  
39   eliminate any impacts on overburdened communities, or provide a  
40   reasonable justification for not doing so.



1 (4) To obtain information for the purposes of assessments, an  
2 agency should consult with members of overburdened communities and  
3 vulnerable populations to assist in the accurate assessment of the  
4 potential impact of the action and in developing the means to reduce  
5 or eliminate the impact on overburdened communities and vulnerable  
6 populations.

7 (5) Based on the environmental justice assessment, the agency  
8 must seek to reduce or eliminate the negative impacts and maximize  
9 the benefits created by the action on overburdened communities and  
10 vulnerable populations. Consistent with agency authority, mission,  
11 and mandates, the agency must consider each of the following methods  
12 for reducing such an impact or equitably distributing benefit:

13 (a) Eliminating disparities and the unequal effect of  
14 environmental harms on overburdened communities and vulnerable  
15 populations;

16 (b) Reducing or ensuring the action does not add to the  
17 cumulative environmental health impacts on overburdened communities  
18 or vulnerable populations;

19 (c) Ensuring the action contributes to reducing the cumulative  
20 environmental health impacts on overburdened communities or  
21 vulnerable populations;

22 (d) Providing equitable participation and meaningful engagement  
23 of vulnerable populations and overburdened communities in the  
24 development of the agency action;

25 (e) Prioritizing equitable distribution of resources and benefits  
26 to overburdened communities;

27 (f) Ensuring positive workforce and job outcomes for overburdened  
28 communities;

29 (g) Meeting a community need identified by the affected  
30 overburdened community;

31 (h) Modifying substantive regulatory or policy requirements; and

32 (i) Any other mitigation techniques, including those suggested by  
33 the council, the office of equity, or representatives of overburdened  
34 communities and vulnerable populations.

35 (6) If the agency determines it cannot avoid or reduce the  
36 harmful impact of the action on overburdened communities and  
37 vulnerable populations or address the distribution of environmental  
38 and health benefits, the agency must provide a clear explanation of  
39 why it has made that determination, make that explanation part of the

1 record of the decision, and provide notice of that explanation to  
2 members of the public who participated in the process.

3 (7) In developing a process for conducting environmental justice  
4 assessments, the agency must consider any guidelines developed by the  
5 council pursuant to section 20 of this act.

6 NEW SECTION. **Sec. 15.** The obligation of an agency to conduct an  
7 environmental justice assessment pursuant to section 14 of this act  
8 for significant agency actions does not, by itself, trigger  
9 requirements in chapter 43.21C RCW.

10 NEW SECTION. **Sec. 16.** ENVIRONMENTAL JUSTICE OBLIGATIONS OF  
11 AGENCIES RELATING TO BUDGETS AND FUNDING. (1) An agency must  
12 incorporate environmental justice principles into its decision  
13 processes for budget development, making expenditures, granting or  
14 withholding benefits, and equitably distribute funding and  
15 expenditures towards overburdened communities and vulnerable  
16 populations, where able and in accordance with the schedule  
17 determined by the environmental justice council in section 20 of this  
18 act.

19 (2) Within the scope of an agency's discretion and an agency's  
20 authority and timelines set forth in section 20 of this act the  
21 agency must:

22 (a) Focus expenditures on creating environmental benefits,  
23 including eliminating health burdens, creating community and  
24 population resilience, and improving the quality of life of  
25 overburdened communities and vulnerable populations;

26 (b) Create opportunities for overburdened communities and  
27 vulnerable populations to meaningfully participate in agency spending  
28 and expenditure decisions;

29 (c) Clearly articulate environmental justice goals and assessment  
30 metrics to communicate where, why, and how funds are to be  
31 distributed;

32 (d) Consider a broad scope of grants and contracting  
33 opportunities that effectuate environmental justice principles,  
34 including:

35 (i) Community grants to monitor pollution;

36 (ii) Grants focused on building capacity and providing training  
37 for community scientists and other staff;

1 (iii) Technical assistance for communities that may be new to  
2 receiving agency grant funding; and

3 (iv) Education and work readiness youth programs focused on  
4 infrastructure or utility-related internships to develop career paths  
5 for youth and, eventually, community leaders; and

6 (e) Establish a goal of 40 percent of expenditures that create  
7 environmental benefits that are directed to vulnerable populations  
8 and overburdened communities.

9 (3) An agency may develop rules for criteria and procedures  
10 applicable to incorporating environmental justice principles in  
11 expenditure decisions under this section.

12 (4) In incorporating environmental justice principles into its  
13 decision processes for budget development, making expenditures,  
14 granting or withholding benefits, and distributing funding, the  
15 agency must consider any guidelines developed by the council pursuant  
16 to section 20 of this act.

17 NEW SECTION. **Sec. 17.** REPORTING REQUIREMENTS. (1) By September  
18 1st of each year, an agency must annually update the environmental  
19 justice council on the development and implementation of  
20 environmental justice implementation in agency strategic plans  
21 pursuant to section 12 of this act, budgeting and funding criteria  
22 for making budgeting and funding decisions pursuant to section 16 of  
23 this act, and community engagement plans pursuant to section 13 of  
24 this act.

25 (2) (a) Beginning in 2024, agencies must include updates on  
26 environmental justice assessments pursuant to section 14 of this act;  
27 and

28 (b) By September 1st of each year beginning in 2024, publish a  
29 dashboard report or an updated dashboard report, in a uniform  
30 dashboard format on the office of financial management's website,  
31 describing its progress on implementing environmental justice in its  
32 strategic plan and its environmental justice assessments of proposed  
33 significant agency actions.

34 NEW SECTION. **Sec. 18.** TRIBAL CONSULTATION. Agencies must offer  
35 consultation with Indian tribes on decisions that affect Indian  
36 tribes' rights and interests in their tribal lands. The consultation  
37 must occur pursuant to chapter 43.376 RCW and must be independent of  
38 any public participation process required by state law, or by a state

1 agency, and regardless of whether the agency receives a request for  
2 consultation from an Indian tribe. Agencies must develop a  
3 consultation framework in coordination with tribal governments that  
4 includes best practices, protocols for communication, and  
5 collaboration with Indian tribes.

6 NEW SECTION. **Sec. 19.** A new section is added to chapter 43.70  
7 RCW to read as follows:

8 ENVIRONMENTAL HEALTH DISPARITIES MAP. (1) In consultation with  
9 the environmental justice council established in section 20 of this  
10 act, the department must continue to develop and maintain an  
11 environmental health disparities map with the most current available  
12 information necessary to identify cumulative environmental health  
13 impacts and overburdened communities. The department may also consult  
14 with other interested partners, such as the University of Washington  
15 department of environmental and occupational health sciences, other  
16 academic partners, members of overburdened communities and vulnerable  
17 populations, and other agencies. The environmental health disparities  
18 map must include tools to:

19 (a) Track changes in environmental health disparities over time  
20 in an interactive, regularly updated display; and

21 (b) Measure the link between overall environmental health  
22 disparity map ranks, environmental data, vulnerable population  
23 characteristics, such as race and income, and human health data.

24 (2) In further developing and maintaining the environmental  
25 health disparities map, the department must encourage participation  
26 by representatives from overburdened communities and vulnerable  
27 populations through community engagement and listening sessions in  
28 all regions of the state and provide opportunities for public  
29 comment.

30 (3) The department may request assistance from:

31 (a) The University of Washington;

32 (b) Other academic researchers to perform modeling and create  
33 evidence-based indicators and with conducting sensitivity analyses to  
34 assess the impact of new indicators on communities and determination  
35 of an overburdened community; and

36 (c) Other state agencies to provide applicable statewide  
37 environmental and sampling data for air, water, soil, polluted sites,  
38 toxic waste, pesticides, toxic chemicals, and other applicable media.

39 (4) The department must:

1 (a) Document and publish a summary of the regular updates and  
2 revisions to the environmental health disparities map that happen  
3 over time as the new data becomes available, in order to help the  
4 public, describe and understand different versions of the map as they  
5 are published;

6 (b) At least every three years, perform a comprehensive  
7 evaluation of the map to ensure that the most current modeling and  
8 methods available to evaluate cumulative environmental health impacts  
9 are being utilized to develop and update the environmental health  
10 disparities map's indicators;

11 (c) Develop technical guidance for agencies that includes an  
12 online training video detailing a description of how to utilize the  
13 environmental health disparities map's features, access source data,  
14 and explanation of map and indicator limitations; and

15 (d) Provide support and consultation to agencies on use of the  
16 environmental health disparities map by Washington tracking network  
17 staff.

18 NEW SECTION. **Sec. 20.** ENVIRONMENTAL JUSTICE COUNCIL. (1) The  
19 environmental justice council is established to advise agencies on  
20 incorporating environmental justice into agency activities.

21 (2) The council consists of 12 members appointed by the governor,  
22 except for the appointments in (b) of this subsection. The  
23 councilmembers must be persons who are well-informed regarding and  
24 committed to the principles of environmental justice and who, to the  
25 greatest extent practicable, represent diversity in race, ethnicity,  
26 age, and gender, urban and rural areas, and different regions of the  
27 state. The youth representative serves a two-year term. All other  
28 representatives serve four-year terms, with six representatives  
29 initially being appointed to four-year terms and five being initially  
30 appointed to two-year terms, after which they will be appointed to  
31 four-year terms. The members of the council shall elect two members  
32 to serve as cochairs for the length of their term. The council must  
33 include:

34 (a) (i) Seven community representatives, including one youth  
35 representative, the nominations of which are based upon applied and  
36 demonstrated work and focus on environmental justice or a related  
37 field, such as racial or economic justice, and accountability to  
38 vulnerable populations in overburdened communities;

1 (ii) The youth representative serves two-year terms and must be  
2 between the ages of 18 and 25 at the time of appointment;

3 (b) Two members representing tribal communities, one from eastern  
4 Washington and one from western Washington, appointed by the  
5 governor's office of Indian affairs in consultation with all  
6 federally recognized tribes in Washington state, including all tribes  
7 with treaty reserved rights in Washington state. The tribal  
8 representatives serve four-year terms. One representative must be  
9 initially appointed for a four-year term. The other representative  
10 must be initially appointed for a two-year term, after which, that  
11 representative must be appointed for a four-year term;

12 (c) Two representatives who are environmental justice  
13 practitioners or academics to serve as environmental justice experts,  
14 the nominations of which are based upon applied and demonstrated work  
15 and focus on environmental justice; and

16 (d) (i) One representative at large, the nomination of which is  
17 based upon applied and demonstrated work and focus on environmental  
18 justice;

19 (ii) Agencies specified in section 3 of this act shall serve as  
20 nonvoting, ex officio liaisons to the council and each agency must  
21 identify an executive team level staff person to participate on  
22 behalf of the agency.

23 (3) Nongovernmental members of the council must be compensated  
24 and reimbursed in accordance with RCW 43.03.050, 43.03.060, and  
25 43.03.250.

26 (4) The department must:

27 (a) Hire a manager who is responsible for overseeing all staffing  
28 and administrative duties of the council; and

29 (b) Provide all administrative and staff support for the council.

30 (5) In collaboration with the office of equity, the office of  
31 financial management, the environmental justice council, and  
32 agencies, the department must:

33 (a) Establish standards for the collection, analysis, and  
34 reporting of disaggregated data as it pertains to tracking population  
35 level outcomes of communities;

36 (b) Create statewide and agency-specific process and outcome  
37 measures to show performance:

38 (i) Using outcome-based methodology to determine the  
39 effectiveness of agency programs and services on reducing  
40 environmental disparities;

1 (ii) Taking into consideration community feedback from the  
2 environmental justice council on whether the performance measures  
3 established accurately measure the effectiveness of agency programs  
4 and services in the communities served; and

5 (c) Create an online performance dashboard to publish state and  
6 agency performance measures and outcomes as referenced in section 17  
7 of this act.

8 (6) The department must coordinate with the office of privacy and  
9 data protection to address cybersecurity and data protection for all  
10 data collected by the department.

11 (7)(a) With input and assistance from the environmental justice  
12 council, the department must establish an interagency work group to  
13 assist agencies in incorporating environmental justice into agency  
14 decision making. The work group must include staff from each agency  
15 directed to implement environmental justice provisions under this  
16 chapter and may include members from the council. The department  
17 shall provide assistance by:

18 (i) Facilitating information sharing among agencies on  
19 environmental justice issues and between agencies and the council;

20 (ii) Developing and providing assessment tools for agencies to  
21 use in the development and evaluation of agency programs, services,  
22 policies, and budgets;

23 (iii) Providing technical assistance and compiling and creating  
24 resources for agencies to use; and

25 (iv) Training agency staff on effectively using data and tools  
26 for environmental justice assessments.

27 (b) The duties of the interagency work group include:

28 (i) Providing technical assistance to support agency compliance  
29 with the implementation of environmental justice into their strategic  
30 plans, environmental justice obligations for budgeting and funding  
31 criteria and decisions, environmental justice assessments, and  
32 community engagement plans;

33 (ii) Assisting the council in developing a schedule and timeline  
34 for sequencing the types of:

35 (A) Significant agency actions subject to environmental  
36 assessments, guidance, and best practices; and

37 (B) Funding and expenditure decisions subject to rules and  
38 criteria incorporating environmental justice principles;

39 (iii) Identifying other policies, priorities, and projects for  
40 the council's review and guidance development;

1 (iv) Identifying goals and metrics that the council may use to  
2 assess agency performance in meeting the requirements of this act for  
3 purposes of communicating progress to the public, the governor, and  
4 legislature; and

5 (v) Developing the guidelines under subsection (8)(c) of this  
6 section in coordination with the council.

7 (8) The council has the following powers and duties:

8 (a) To provide a forum for the public to:

9 (i) Provide written or oral testimony on their environmental  
10 justice concerns;

11 (ii) Assist the council in understanding environmental justice  
12 priorities across the state in order to develop council  
13 recommendations to agencies for issues to prioritize; and

14 (iii) Identify which agencies to contact with their specific  
15 environmental justice concerns and questions;

16 (b) In consultation with the interagency work group, the council  
17 shall determine which of the obligations of this act, environmental  
18 justice implementation into agency strategic plans, budgeting and  
19 funding criteria, or community engagement plans, agencies shall  
20 pursue first;

21 (c)(i) The council shall work in an iterative fashion with the  
22 interagency work group to develop guidance for environmental justice  
23 implementation into agency strategic plans pursuant to section 12 of  
24 this act, environmental justice assessments pursuant to section 14 of  
25 this act, budgeting and funding criteria for making budgeting and  
26 funding decisions pursuant to section 16 of this act, and community  
27 engagement plans pursuant to section 13 of this act;

28 (ii) The council and interagency work group shall regularly  
29 update its guidance;

30 (d) In consultation with the interagency work group, the council:

31 (i) Shall identify and prioritize significant agency actions  
32 requiring an environmental justice assessment under section 14 of  
33 this act;

34 (ii) May make recommendations to an agency on the timing and  
35 sequencing of the agency's effort to implement sections 12 through 14  
36 of this act; and

37 (iii) May make recommendations to the governor and the  
38 legislature regarding ways to improve agency compliance;

39 (e) Beginning December 1, 2023, and biennially thereafter,  
40 leveraging the information shared on September 1st each year in



1 agencies' annual updates to the council and additional information  
2 they identify, the council will:

3 (i) Evaluate progress of agencies on applying council guidance,  
4 and update guidance as needed; and

5 (ii) Communicate agencies' progress to the public, the governor,  
6 and the legislature. This communication is not required to be a  
7 report and may take the form of a presentation or other format that  
8 communicates the progress of the state and its agencies in meeting  
9 the state's environmental justice goals in compliance with this act,  
10 and summarizing the work of the council pursuant to (a) through (d)  
11 of this subsection, and subsection (9) of this section.

12 (9) The council may:

13 (a) Request to review environmental justice implementation plans  
14 into agency strategic plans pursuant to section 12 of this act,  
15 environmental justice assessments pursuant to section 15 of this act,  
16 budgeting and funding criteria for making budgeting and funding  
17 decisions pursuant to section 16 of this act, and community  
18 engagement plans pursuant to section 13 of this act;

19 (b) Make recommendations for additional legislation to further  
20 the environmental justice goals of the state;

21 (c) Review existing environmental laws and make recommendations  
22 for amendments that will further environmental justice;

23 (d) Recommend to specific agencies that they create environmental  
24 justice-focused, agency-requested legislation; and

25 (e) Recommend funding strategies and allocations to build  
26 capacity in vulnerable populations and overburdened communities to  
27 address environmental justice.

28 (10) The council must convene by January 1, 2022.

29 (11) All council meetings are subject to the open public meetings  
30 requirements of chapter 42.30 RCW and a public comment period must be  
31 provided at every meeting of the council.

32 NEW SECTION. **Sec. 21.** LEGAL OBLIGATIONS. Nothing in this act  
33 prevents other state agencies from adopting environmental justice  
34 policies and processes consistent with this act. Nothing in this act  
35 may be construed to override other existing legal obligations of an  
36 agency.

37 NEW SECTION. **Sec. 22.** Sections 1 through 3, 11 through 18, and  
38 20 of this act constitute a new chapter in Title 70A RCW.

1        NEW SECTION.    **Sec. 23.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

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