

HOUSE BILL REPORT

E2SSB 5838

As Reported by House Committee On:
Consumer Protection & Business

Title: An act relating to establishing an artificial intelligence task force.

Brief Description: Establishing an artificial intelligence task force.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Nguyen, Conway, Dhingra, Frame, Hasegawa, Hunt, Keiser, Kuderer, Lias, Lovelett, Lovick, Muzzall, Nobles, Saldaña, Salomon, Stanford, Torres, Valdez and Wellman; by request of Attorney General).

Brief History:

Committee Activity:

Consumer Protection & Business: 2/20/24, 2/21/24 [DPA].

Brief Summary of Engrossed Second Substitute Bill
(As Amended by Committee)

- Establishes a task force administered by the Office of the Attorney General to assess uses and trends, and make recommendations regarding the use and regulation of artificial intelligence systems.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: Do pass as amended. Signed by 7 members: Representatives Walen, Chair; Reeves, Vice Chair; Robertson, Ranking Minority Member; Donaghy, Hackney, Ryu and Santos.

Minority Report: Do not pass. Signed by 2 members: Representatives Sandlin and Volz.

Minority Report: Without recommendation. Signed by 4 members: Representatives McClintock, Assistant Ranking Minority Member; Chapman, Connors and Corry.

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.

Staff: Michelle Rusk (786-7153).

Background:

Artificial Intelligence.

Artificial intelligence (AI) is defined and understood in different ways. The National Artificial Intelligence Initiative Act of 2020 (Act) defines AI as a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments. The Act further describes AI systems as systems using machine- and human-based inputs to: (1) perceive real and virtual environments; (2) abstract such perceptions into models through analysis in an automated manner; and (3) use model inference to formulate options for information or action.

The Act established the National Artificial Intelligence Initiative, implemented by the United States President and tasked with ensuring continued United States leadership in AI research and development, leading the world in the development and use of trustworthy AI systems in the public and private sectors, preparing the United States workforce for integration of AI systems across all sectors, and coordinating ongoing AI research and development among government agencies.

By Executive Order, the White House adopted the Act's definition of AI, and defined related concepts including "generative AI," as the class of AI models that emulate the structure and characteristics of input data in order to generate derived synthetic content, which may include images, videos, audio, text, and other digital content. State law does not define AI, or expressly regulate its use.

Summary of Amended Bill:

Task Force Established.

Subject to the availability of amounts appropriated, a task force is established to assess uses and trends, and make recommendations to the Legislature regarding guidelines and potential legislation for the use and regulation of AI systems to protect the safety, privacy, and civil and intellectual property rights of Washington residents.

The Office of the Attorney General (AGO) must administer and provide staff support for the task force, and may retain consultants when deemed necessary to support the task force's work.

Membership.

Executive Committee.

The task force is composed of an executive committee, which must include one member from each of the two largest caucuses in the Senate and the House of Representatives. The Attorney General must also appoint representatives to the executive committee with

experience in technology policy from the following:

- the Office of the Governor;
- the Office of the Attorney General;
- Washington Technology Solutions;
- the state auditor;
- universities or research institutions who are experts in the design and effect of an algorithmic system;
- private technology industry groups;
- business associations;
- community advocate organizations that represent communities disproportionately vulnerable to algorithmic bias;
- the LGBTQ+ community;
- statewide labor organizations; and
- law enforcement.

Subcommittees.

The executive committee may convene subcommittees comprised of industry participants, subject matter experts, federally recognized tribe representatives, and other relevant stakeholders to advise the task force on designated topics on an ongoing, recurring, or one-time basis. Subcommittees must contain at least one member from an advocacy organization that represents communities that are disproportionately vulnerable to being harmed by algorithmic bias, and at least one member with relevant industry expertise.

Taskforce members whose participation may be hampered by financial hardship may be compensated if they are low-income or have lived experience to support their participation.

Recommendations and Reporting.

The task force findings and recommendations must cover several enumerated areas, including but not limited to:

- identification of high-risk uses of AI, racial equity issues posed by AI systems and ways to mitigate concerns, and civil liberties issues posed by AI systems; and
- recommendations on appropriate uses and limitations on the use of AI by state and local governments and the private sector, how the state should educate the public on development and use of AI, and guiding principles for AI use informed by standards established by relevant bodies.

The executive committee must hold its first meeting within 45 days of final appointments to the task force and must meet at least twice each year thereafter. A preliminary report from the task force must be delivered to the Governor and Legislature by December 31, 2024; an interim report by December 1, 2025; and a final report by July 1, 2026. Meeting summaries must be posted to the AGO's website within 30 days of any task force meeting.

Definitions.

The following definitions are established:

- "Artificial intelligence" means the use of machine learning and related technologies that use data to train statistical models for the purpose of enabling computer systems to perform tasks normally associated with human intelligence or perception, such as computer vision, speech or natural language processing, and content generation.
- "Generative artificial intelligence" means an artificial intelligence system that generates novel data or content based on a foundation model.
- "Machine learning" means the process by which artificial intelligence is developed using data and algorithms to draw inferences therefrom to automatically adapt or improve its accuracy without explicit programming.
- "Training data" means labeled data that is used to teach artificial intelligence models or machine learning algorithms to make proper decisions. Training data may include, but is not limited to, annotated text, images, video, or audio.

Amended Bill Compared to Engrossed Second Substitute Bill:

The amended bill:

- modifies the membership of the task force to require one member representing private technology industry groups and one member representing business associations;
- modifies the membership of the task force to require one member representing the LGBTQ+ community; and
- directs the executive committee of the task force to include in its recommendations and findings recommendations relating to the use of training data and establishes a definition for "training data."

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 22, 2024.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) In the wake of rapid AI advancements, Washington is at a pivotal juncture to navigate this new era because the state has heavy hitters working in this space. This task force is a critical step forward toward figuring out how AI fits within our society, policies, economic development, and review of bias. To encourage innovation and protect Washingtonians, this bill convenes a bipartisan task force of those with wide-ranging experiences.

Thoughtfulness is required for innovation in technology. The membership includes experts from diverse fields, though the membership has been slimmed down considerably since the original bill version in the Senate. The goal is to make sure the membership is not unruly,

which is why there is an executive committee to guide conversations and subcommittees to review other topics.

Additional reporting requirements have been added and the timelines for the task force's work have been updated to make sure that the first meeting is held as soon as possible.

There are some suggestions for this bill. An amendment should be considered relating to the appropriate and legal use of training data. There should be two representatives from advocacy organizations that represent communities disproportionately harmed by AI. And, there should be at least one public hearing on the task force's work so that the public can weigh in.

(Opposed) Setting up the task force to be overseen by the AGO as the gatekeeper creates a path for censorship. It is the fox guarding the henhouse. Artificial intelligence should not be governed by a politically partisan office like the AGO. This task force may be used to safeguard some civil rights but end up decimating others. The AGO has interests and biases that will compromise fairness and accountability. An amendment should be considered requiring any task force to guarantee equal political and ideological representation, regardless of the political majority or minority.

(Other) Retail is a leading adopter of AI and should be identified as a key participant on the task force. The short timeline for the task force's work and lack of voices is concerning. Hospitality is also supportive of the task force, but takes the position "other" because hospitality wants to make sure that the business sector is adequately represented. There should be a guaranteed business presence on the task force. There should be more voices at the table generally.

Persons Testifying: (In support) Senator Joe Nguyen, prime sponsor; Rosa Mai, Attorney General's Office; Veda Nayar; Jai Jaisimha, Transparency Coalition; Paula Sardinas, FMS Global Strategies and Washington Build Back Black Alliance; and Tee Sannon, American Civil Liberties Union of Washington.

(Opposed) Julie Barrett, Conservative Ladies of Washington; Laurie Layne; and Teo Morca.

(Other) Kevin Schilling, Washington State Dental Association; Robert Battles, Association of Washington Business; Crystal Leatherman, Washington Retail Association; Kelly Fukai, Washington Technology Industry Association; and Montana Miranda, Washington Hospitality Association.

Persons Signed In To Testify But Not Testifying: None.