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**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5141**

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**State of Washington 67th Legislature 2021 Regular Session**

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

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

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

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

(2) As conveyed in the task force report, Washington state studies and national studies found that people of color and low-income people continue to be disproportionately exposed to environmental hazards in their communities. As a result, there is a higher risk of adverse health outcomes for those communities. This risk is amplified when overlaid on communities with preexisting social and economic barriers and environmental risks, and creates cumulative environmental health impacts, which this act seeks to prevent and mitigate.

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

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

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

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

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

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

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

(5) "Environmental benefits" means activities that:

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

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

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

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

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

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

(c) Health and economic impacts from climate change.

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

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

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

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

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

(12) "Significant agency action" means an agency action that may cause environmental harm or may affect the equitable distribution of environmental benefits to an overburdened community or a vulnerable population, in consideration with guidance issued by the environmental justice council, in consultation with the interagency work group. Significant agency actions may include, but are not limited to, major capital projects, rule making, and proposing legislation concerning the duties of the agency.

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

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

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

(b) "Vulnerable populations" includes, but is not limited to, racial or ethnic minority, low-income populations disproportionately impacted by environmental harms or pollution, and populations of workers experiencing environmental risks.

NEW SECTION. **Sec.**  ENVIRONMENTAL JUSTICE OBLIGATIONS FOR ALL AGENCIES. The departments of agriculture, commerce, ecology, health, natural resources, transportation, and the Puget Sound partnership are required to comply with all provisions of this chapter. All other state agencies should strive to apply the laws of the state of Washington, and the rules and policies of the agency, in accordance with the policies of this chapter including, to the extent feasible, the incorporation into agency decisions of the principles of environmental justice assessment processes set forth in section 15 of this act.

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

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF HEALTH.

The department must apply and comply with the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 22 of this act).

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

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF ECOLOGY.

The department must apply and comply with the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 22 of this act).

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

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF AGRICULTURE.

The department must apply and comply with the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 22 of this act).

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

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF NATURAL RESOURCES.

The department must apply and comply with the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 22 of this act).

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

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF COMMERCE.

The department must apply and comply with the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 22 of this act).

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

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF TRANSPORTATION.

The department must apply and comply with the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 22 of this act).

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

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE PUGET SOUND PARTNERSHIP.

The partnership must apply and comply with the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 22 of this act).

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

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

(2) The environmental justice implementation plan must include:

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

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

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

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

(e) A plan for community engagement as described in section 13 of this act; and

(f) Specific plans and timelines for incorporating environmental justice considerations into agency activities as required under this chapter.

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

NEW SECTION. **Sec.**  EQUITABLE COMMUNITY ENGAGEMENT AND PUBLIC PARTICIPATION. (1) By July 1, 2022, an agency must create and adopt a community engagement plan that describes how it will engage with overburdened communities and vulnerable populations as it evaluates new and existing activities and programs. This plan should describe how the agency will facilitate equitable participation and support meaningful and direct involvement of vulnerable populations and overburdened communities. The plan must include:

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

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

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

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

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

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

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

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

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

(4) An agency may coordinate with the office of equity to identify policy and system barriers to meaningful engagement with communities as conducted by the office under RCW 43.06D.040(1)(b).

NEW SECTION. **Sec.**  ENVIRONMENTAL JUSTICE ASSESSMENT. (1) When considering a significant agency action, an agency must conduct an environmental justice assessment as described in this section to inform and support the agency considering overburdened and vulnerable populations when making decisions and to assist the agency with the equitable distribution of environmental benefits, reduction of environmental harms, and the identification and reduction of environmental and health disparities.

(2) By July 1, 2023, and subject to the considerations of subsections (3) through (7) of this section, and while considering the suggested identification and prioritization of significant agency actions by the council and the interagency work group, each agency considering the guidance from and in iterative consultation with the council must develop a process for conducting environmental justice assessments, determining what additional actions prompt an assessment, and determining any other relevant factors for assessment based on the unique mission, authorities, and priorities of each agency.

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

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

(b) Utilize cumulative environmental health impact analysis, such as the environmental health disparities map or other data that considers the effects of a proposed action on overburdened communities and vulnerable populations;

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

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

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

(f) Describe options and readily available cost projections for the agency to reduce, mitigate, or eliminate any impacts on overburdened communities, or provide a reasonable justification for not doing so.

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

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

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

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

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

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

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

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

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

(h) Modifying substantive regulatory or policy requirements; and

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

(6) If the agency determines it cannot avoid or reduce the harmful impact of the action on overburdened communities and vulnerable populations or address the distribution of environmental and health benefits, the agency must provide a clear explanation of why it has made that determination, make that explanation part of the record of the decision, and provide notice of that explanation to members of the public who participated in the process.

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

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

NEW SECTION. **Sec.**  ENVIRONMENTAL JUSTICE OBLIGATIONS OF AGENCIES RELATING TO BUDGETS AND FUNDING. (1) An agency must incorporate environmental justice principles into its decision processes for budget development, making expenditures, granting or withholding benefits, and equitably distribute funding and expenditures towards overburdened communities and vulnerable populations, while considering the guidelines issued by and in iterative consultation with the environmental justice council in section 20 of this act.

(2) By July 1, 2023, the agency must:

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

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

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

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

(i) Community grants to monitor pollution;

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

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

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

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

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

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

(5) Expenditure and funding decisions made under this section by state transportation agencies funded in the omnibus transportation appropriations act must be restricted solely to the agency's discretionary spending authority and must be made consistent with the appropriations provided in that act.

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

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

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

NEW SECTION. **Sec.**  TRIBAL CONSULTATION. Agencies must offer consultation with Indian tribes on decisions that affect Indian tribes' rights and interests in their tribal lands. The consultation must occur pursuant to chapter 43.376 RCW and must be independent of any public participation process required by state law, or by a state agency, and regardless of whether the agency receives a request for consultation from an Indian tribe. Agencies must develop a consultation framework in coordination with tribal governments that includes best practices, protocols for communication, and collaboration with Indian tribes.

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

ENVIRONMENTAL HEALTH DISPARITIES MAP.

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

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

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

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

(3) The department may request assistance from:

(a) The University of Washington;

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

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

(4) The department must:

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

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

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

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

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

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

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

(ii) The youth representative must be between the ages of 18 and 25 at the time of appointment;

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

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

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

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

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

(4) The department must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Between the effective date of this section and July 1, 2023, and in consultation with the interagency work group, the council shall prioritize and make recommendations to agencies on which of the obligations of this act, environmental justice implementation into agency strategic plans or budgeting and funding criteria, agencies should pursue first, and which significant agency actions agencies should conduct an environmental justice assessment for first;

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

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

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

(i) Shall make recommendations to agencies on the identification of significant agency actions requiring an environmental justice assessment under section 14 of this act;

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

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

(e) Beginning December 1, 2023, and biennially thereafter, considering the information shared on September 1st each year in agencies' annual updates to the council and additional information they identify, the council will:

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

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

(9) By November 30, 2022, the council must submit a report to the governor and the appropriate committees of the house of representatives and the senate on:

(a) The council's recommendations to agencies on the identification of significant agency actions requiring an environmental justice assessment under subsection (8)(d)(i) of this section;

(b) The summary of agency progress reports provided to the council under section 17(1) of this act, including status of agency plans for performing environmental justice assessments required by section 14 of this act; and

(c) Guidance for environmental justice implementation into agency strategic plans, environmental justice assessments, budgeting and funding criteria, and community engagement plans under subsection (8)(c)(i) of this section.

(10) The council may:

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

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

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

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

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

(11) Notwithstanding any other provision of this act, the role of the council is purely advisory and council decisions are not binding on an agency, individual, or organization.

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

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

NEW SECTION. **Sec.**  LEGAL OBLIGATIONS. (1) Nothing in this act prevents other state agencies from adopting environmental justice policies and processes consistent with this act.

(2) Exceptions to the requirements of sections 14 and 16 of this act may be made for any of the following reasons:

(a) The agency head determines that any delay in the significant agency action poses a potentially significant threat to human health or the environment, or causes serious harm to the public interest;

(b) An assessment or consultation would delay a significant agency decision concerning the assessment, collection, or administration of any tax, tax program, debt, revenue, receipt, a regulated entity's financial filings, or insurance rate or form filing;

(c) The requirements of the sections are in conflict with federal law or federal program requirements, federal requirements that are a prescribed condition to the allocation of federal funds to the state, or the requirements for eligibility of employers in this state for federal unemployment tax credits, as determined by the agency head; or

(d) The requirements of the sections are in conflict with constitutional limitations, including those applicable to the management of state-owned trust lands.

NEW SECTION. **Sec.**  Sections 1 through 3, 11 through 18, 20, and 21 of this act constitute a new chapter in Title 70A RCW.

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

**--- END ---**