

**2SSB 5489** - H COMM AMD

By Committee on State Government & Tribal Relations

**NOT CONSIDERED 12/23/2019**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature recognizes that it is  
4 state policy to encourage productive and enjoyable harmony between  
5 humankind and the environment, to promote efforts that will prevent  
6 or eliminate damage to the environment and the biosphere, and to  
7 stimulate the health and welfare of human beings.

8 (2) The legislature declares it is the public policy of the state  
9 to ensure for all people of Washington a safe, healthful, productive,  
10 and aesthetically and culturally pleasing surroundings and an  
11 environment that supports diversity and variety of individual choice.  
12 It is also the continuing policy of the state of Washington to use  
13 all practicable means and measures, including financial and technical  
14 assistance, in a manner calculated to: (a) Foster and promote the  
15 general welfare; (b) create and maintain conditions under which human  
16 beings and nature can exist in productive harmony; and (c) fulfill  
17 the social, economic, and other requirements of present and future  
18 generations of Washington residents.

19 (3) The legislature finds that there are communities and  
20 residents that face greater barriers to a healthy environment because  
21 of cumulative environmental hazards and population vulnerabilities.

22 (4) The legislature further finds that a fundamental principle of  
23 environmental justice and our democracy is that people most impacted  
24 by government actions should have, to the extent practicable, advance  
25 notice of government decisions that could impact them, a clear  
26 understanding of the options and their impacts, and a meaningful  
27 opportunity to provide input and be heard before decisions are made.

28 (5) Multiple agency actions recognize the need for public  
29 participation and outreach including, but not limited to, education,  
30 rule making, enforcement, permitting, grant making, planning, and  
31 other government actions. However, individuals and organizations

1 representing vulnerable populations often face barriers to  
2 participation, such as limited time, lack of funds for technical  
3 experts and reviews, the ability to attend meetings that conflict  
4 with work, parenting, child care responsibilities, and language  
5 barriers.

6 (6) While state agencies have identified a need to more  
7 effectively target their implementation and enforcement actions and  
8 funding opportunities to those areas and populations in the state  
9 that face greater exposure and susceptibility to environmental  
10 burdens, there is limited understanding of which communities across  
11 the state are most likely highly impacted.

12 (7) Therefore, the legislature finds that it is necessary to  
13 incorporate environmental justice principles into the operations and  
14 activities of state agencies in order to achieve state policies of  
15 ensuring all people of Washington safe, healthful, productive, and  
16 aesthetically and culturally pleasing surroundings, ensuring the  
17 right of all Washington residents to a healthful environment, and  
18 achieving a balance between population and resource use that will  
19 permit high standards of living and wide sharing of life's amenities,  
20 including through a task force on environmental justice, and agency  
21 analysis and consideration of environmental justice in decision  
22 making.

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

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

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

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

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

37 (c) Exposure to hazards made worse by changes in the climate,  
38 such as water stress and drought, flooding, wildfire, air quality,  
39 ocean acidification, and infectious disease.

1 (3) "Environmental justice" means the fair treatment and  
2 meaningful involvement of all people regardless of race, color,  
3 national origin, or income with respect to the development,  
4 implementation, and enforcement of environmental laws, regulations,  
5 and policies.

6 (4) "Equity analysis" means an analysis used to determine or  
7 evaluate environmental justice considerations.

8 (5) "Fair treatment" means that no group of people, including  
9 racial, ethnic, or socioeconomic groups, should bear  
10 disproportionately high exposure to pollution or adverse human health  
11 or environmental impacts.

12 (6) "Highly impacted communities" means communities designated by  
13 state agencies based on their findings from implementing the  
14 cumulative impact analysis required under section 5 of this act and  
15 census tracts that are fully or partially on "Indian country" as  
16 defined in 18 U.S.C. Sec. 1151.

17 (7) "Meaningful involvement" means all groups of people have  
18 appropriate access to meaningful public participation in decisions  
19 that affect their environment.

20 (8) "Precautionary approach" means where there are threats of  
21 serious or irreversible damage, lack of full scientific certainty is  
22 not used as a reason for postponing measures to prevent environmental  
23 degradation.

24 (9) "State agency" means a state agency that is represented on  
25 the task force created under section 4 of this act.

26 (10) "Vulnerable populations" means communities that experience  
27 disproportionate cumulative risk from environmental burdens due to:

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

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

33 NEW SECTION. **Sec. 3.** To ensure implementation and adherence to  
34 state policies of fostering and promoting the general welfare by  
35 ensuring that all people of Washington have a safe and healthful  
36 environment, state agencies shall use all practicable means and  
37 measures to promote environmental justice and fair treatment.

1        NEW SECTION.    **Sec. 4.**    (1) Subject to the availability of amounts  
2 appropriated for this specific purpose, a task force is established  
3 to recommend strategies for incorporating environmental justice  
4 principles into how state agencies discharge their responsibilities.

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

7        (a) The director of the department of commerce, or the director's  
8 designee;

9        (b) The director of the department of ecology, or the director's  
10 designee;

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

13       (d) The secretary of the department of transportation, or the  
14 secretary's designee;

15       (e) The secretary of the department of health, or the secretary's  
16 designee;

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

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

21       (h) The commissioner of public lands, or the commissioner's  
22 designee;

23       (i) A member who is well-informed on the principles of  
24 environmental justice and with expertise in statewide environmental  
25 justice issues, appointed by the governor;

26       (j) Three members from community-based organizations, appointed  
27 by the cochairs specified under subsection (3) of this section, the  
28 nominations of which are based upon maintaining a balanced and  
29 diverse distribution of ethnic, geographic, gender, sexual  
30 orientation, age, socioeconomic status, and occupational  
31 representation, where practicable;

32       (k) A tribal leader, appointed by the governor;

33       (l) One member from an association representing business  
34 interests, appointed by the governor; and

35       (m) One member from a union or other organized labor association  
36 representing worker interests, appointed by the governor.

37       (3) The representative of statewide environmental justice  
38 interests, and the chair of the governor's interagency council on  
39 health disparities, or the chair's designee, must cochair the task  
40 force.

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

5 (5) The task force must submit a final report of its findings and  
6 recommendations to the appropriate committees of the legislature and  
7 the governor by October 31, 2020, and in compliance with RCW  
8 43.01.036. The goal of the final report is to provide guidance to  
9 agencies, the legislature, and the governor, and at a minimum must  
10 include the following:

11 (a) Guidance for state agencies when adopting rules, policies, or  
12 guidelines regarding how to use the cumulative impact analysis,  
13 defined under section 2 of this act. Guidance must cover how agencies  
14 identify highly impacted communities and must be based on best  
15 practices and current demographic data. The guidance provided  
16 relating to the designation of a highly impacted community must  
17 utilize as a basis for this determination the cumulative impact  
18 analysis and additional factors as the task force deems appropriate;

19 (b) Best practices for increasing public participation and  
20 engagement by providing meaningful opportunities for involvement for  
21 all people, taking into account barriers to participation that may  
22 arise due to race, color, ethnicity, religion, income, or education  
23 level. In addition, a specific recommendation on how to best  
24 meaningfully consult vulnerable populations when periodically  
25 evaluating and updating the cumulative impact analysis;

26 (c) Recommendations for establishing measurable goals for  
27 reducing environmental health disparities for each community in  
28 Washington state and ways in which state agencies may focus their  
29 work towards meeting those goals; and

30 (d) Guidelines for prioritizing highly impacted communities and  
31 vulnerable populations by identifying and implementing, where  
32 practicable, procedures, processes, applications, and reporting  
33 requirements so that inspections, enforcement actions, investment of  
34 resources, planning and permitting, and public participation are  
35 maximized for the purpose of reducing environmental health  
36 disparities and advancing a healthy environment for all residents.

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

39 (a) Recommendations for approaches to integrate an analysis of  
40 the distribution of environmental burdens across population groups

1 into evaluations performed under the state environmental policy act,  
2 chapter 43.21C RCW;

3 (b) Recommendations for creating and implementing equity analysis  
4 into all significant planning, programmatic and policy decision  
5 making, and investments. The equity analysis methods may include a  
6 process for describing potential risks to, benefits to, and  
7 opportunities for highly impacted communities and vulnerable  
8 populations;

9 (c) Best practices and needed resources for cataloging and cross-  
10 referencing current research and data collection for programs within  
11 all state agencies relating to the health and environment of people  
12 of all races, cultures, and income levels, including minority  
13 populations and low-income populations of the state;

14 (d) Recommendations for criteria for identifying and addressing  
15 gaps in current research and data collection to inform agency  
16 actions, to refine the common cumulative impact methodology, and to  
17 identify factors that may impede the achievement of environmental  
18 justice; and

19 (e) Methods for incorporating the precautionary approach into  
20 decision making, including permitting, to the extent allowed by law.

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

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

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

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

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

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

4 (10) The task force must hold four regional meetings to seek  
5 input from, present their work plan and proposals to, and receive  
6 feedback from communities throughout the state. The following  
7 locations must be considered for these meetings: Northwest  
8 Washington, central Puget Sound region, south Puget Sound region,  
9 southwest Washington, central Washington, and eastern Washington.

10 (11)(a) Upon adoption of rules, policies, or guidelines related  
11 to the cumulative impact analysis, as required under section 5 of  
12 this act, each state agency must notify the governor's interagency  
13 council on health disparities.

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

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

24 NEW SECTION. **Sec. 5.** (1) State agencies, through rules,  
25 policies, or guidelines, shall adopt the use of the cumulative impact  
26 analysis to identify highly impacted communities and vulnerable  
27 populations and reduce environmental health disparities in identified  
28 areas and populations. If the task force created under section 4 of  
29 this act issues guidance on how to use the cumulative impact  
30 analysis, the rules, policies, or guidelines adopted pursuant to this  
31 subsection must be consistent with the task force's guidance.

32 (2) State agencies may issue policies, guidance, or adopt  
33 practices, guidelines, or rules as necessary to identify highly  
34 impacted communities, establish measurable goals for reducing  
35 environmental health disparities, and prioritize highly impacted  
36 communities and their vulnerable populations in the development,  
37 adoption, implementation, and enforcement of environmental laws,  
38 regulations, policies, and funding decisions.

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

8 NEW SECTION. **Sec. 6.** Sections 2 through 5 and 7 of this act  
9 constitute a new chapter in Title 43 RCW.

10 NEW SECTION. **Sec. 7.** This chapter may be known and cited as the  
11 HEAL act."

12 Correct the title.

EFFECT: (1) Modifies the definition of "cumulative impact analysis" to mean the analysis tool used by the Department of Health's (DOH) Washington Tracking Network to identify certain populations, rather than the analysis identifying certain populations.

(2) Requires the task force to submit a preliminary report to the Legislature and Governor by December 1, 2019, if the task force is not able to complete the tasks required under the bill as a result of insufficient funds appropriated.

(3) Requires the preliminary report to include information on: (a) Tasks that could not be completed as a result of insufficient funds appropriated; (b) the status of the task force's activities; and (c) additional resources the task force needs to complete all of the requirements reflected under the bill.

(4) Modifies language pertaining to an agency's requirement to adopt the cumulative impact analysis to clarify that state agencies must adopt the use of the cumulative impact analysis, and if the task force issues guidance on how to use it, then the agencies must adopt it consistent with the task force's guidance.

(5) Modifies the requirement that the DOH initiate a process to provide uniform rules, policies, or guidelines within 60 days after the issue of the task force's guidance related to the cumulative impact analysis to specify that the DOH is only required to do so if the task force issues guidance on how to use the cumulative impact analysis.

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