**1783-S2.E AMS SGTE S6985.1 - NOT FOR FLOOR USE**

**E2SHB 1783** - S COMM AMD

By Committee on State Government, Tribal Relations & Elections

**NOT ADOPTED 03/05/2020**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  The legislature finds that the population of Washington state has become increasingly diverse over the last several decades. The legislature also finds that as the demographics of our state change, historically and currently marginalized communities still do not have the same opportunities to meet parity as their nonmarginalized counterparts across nearly every measure including education, poverty, employment, health, and more. Inequities based on race, ethnicity, gender, and other characteristics continue to be deep, pervasive, and persistent, and they come at a great economic and social cost. When individuals face barriers to achieving their full potential, the impact is felt by the individual, their communities, businesses, governments, and the economy as a whole in the form of lost wages, avoidable public expenditures, and more. This includes social ramifications that emerging technology, such as artificial intelligence and facial recognition technology, may have on historically and currently marginalized communities. It is the intent of the legislature to review these emerging technologies either already in use by agencies or before their launch by agencies if not already in use and make recommendations regarding agency use to ensure that the technology is used in a manner that benefits society and does not have disparate negative impacts on historically and currently marginalized communities or violate their civil rights. It is further intended that the office should collaborate with other state efforts in this regard.

The legislature finds that a more inclusive Washington is possible if agencies identify and implement effective strategies to eliminate systemic inequities. The legislature recognizes that different forms of discrimination and oppression are related to each other, and these relationships need to be taken into account.

The legislature finds that over the years, significant strides have been made within agencies to address the disparate outcomes faced by historically and currently marginalized communities. While these efforts have yielded positive work, the legislature finds that the work happening in agencies is fragmented across state government. Additionally, smaller agencies may not have the resources necessary to identify and implement policies to address systemic inequities. Furthermore, the legislature finds that the commission on African American affairs, the commission on Asian Pacific American affairs, the commission on Hispanic affairs, the governor's office of Indian affairs, the LGBTQ commission, the women's commission, and the human rights commission each play an important and integral role by serving as a voice for their respective communities and linking state government to these communities. The office is distinct from the commissions because it will serve as the state's subject matter expert on diversity, equity, and inclusion to state agencies and will provide technical assistance and support to agencies while each agency implements its individual equity plan. The office is not duplicative of the commissions, rather it is the intent of the legislature that the office will work in collaboration with the commissions. It is not the legislature's intent to eliminate the commissions or to reduce funding to the commissions by creating the office. Instead, it is the intent of the legislature that the office and the statutory commissions shall work in a complementary manner with each other, support each other's work, jurisdictions, and missions, and adequately fund the statutory commissions and the office as they take on their new complementary roles.

The legislature finds that state government must identify and coordinate effective strategies that focus on eliminating systemic barriers for historically and currently marginalized groups. To support this objective, an office of equity will provide a unified vision around equity for all state agencies. The office will assist government agencies to promote diversity, equity, and inclusion in all aspects of their decision making, including but not limited to services, programming, policy development, budgeting, and staffing. Doing so will foster a culture of accountability within state government that promotes opportunity for marginalized communities and will help normalize language and concepts around diversity, equity, and inclusion.

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

(1) "Agency" means every state executive office, agency, department, or commission.

(2) "Communities" means a group of people who share some or all of the characteristics listed in RCW 49.60.030, as well as immigration status and language access.

(3) "Determinants of equity" means the social, economic, geographic, and physical environment conditions in which people in the state of Washington are born, grow, live, work, and age, that lead to the creation of a fair and just society. Access to the determinants of equity is necessary to have equity for all people regardless of the communities to which they may belong.

(4) "Director" means the director of the Washington state office of equity.

(5) "Disaggregated data" means data that has been broken down by appropriate subcategories.

(6) "Governing board" means the Washington office of equity governing board.

(7) "Office" means the Washington state office of equity.

(8) "Statutory commission" means the Washington state commission on African American affairs established in chapter 43.113 RCW, the Washington state commission on Asian Pacific American affairs established in chapter 43.117 RCW, the Washington state commission on Hispanic affairs established in chapter 43.115 RCW, the Washington state women's commission established in chapter 43.119 RCW, the Washington state LGBTQ commission established in chapter 43.114 RCW, and the human rights commission established in chapter 49.60 RCW.

NEW SECTION. **Sec.**  (1) The Washington state office of equity is established within the office of the governor, and shall be guided by the governing board, for the purpose of promoting access to equitable opportunities and resources that reduce disparities, and improve outcomes statewide across state government.

(2) The office envisions everyone in Washington having full access to the opportunities and resources they need to flourish and achieve their full potential.

(3) The work of the office must:

(a) Be guided by the following principles of equity:

(i) Equity requires developing, strengthening, and supporting policies and procedures that distribute and prioritize resources to those who have been historically and currently marginalized, including tribes;

(ii) Equity requires the elimination of systemic barriers that have been deeply entrenched in systems of inequality and oppression; and

(iii) Equity achieves procedural and outcome fairness, promoting dignity, honor, and respect for all people;

(b) Complement and not supplant the work of the statutory commissions.

NEW SECTION. **Sec.**  (1) The Washington office of equity governing board is created within the office and shall include the following members:

(a) The chair of the interagency coordinating council on health disparities, or the chair's designee;

(b) The director of the office of minority and women's business enterprises, or the director's designee;

(c) A representative from each statutory commission, appointed by the director of each respective statutory commission;

(d) The director of the governor's office of Indian affairs, or the director's designee;

(e) A member of the disability community, appointed by the chair of the governor's committee on disability issues and employment;

(f) A representative from the office of the governor, appointed by the governor;

(g) A representative from the office of financial management's diversity, equity, and inclusion council, appointed by the governor;

(h) A representative from the employee-based business resource groups, appointed by the governor;

(i) One member representing state union organizations who shall be selected by the governor from a list of three names submitted by state union organizations;

(j) One nonvoting member appointed by the governor to represent the governor's small agency cabinet; and

(k) Four legislative nonvoting members: Two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives; and two members of the senate, one from each major caucus, appointed by the president of the senate.

(2) The initial appointment of members made by the governor under subsection (1)(f) through (j) of this section shall be staggered, one member must be appointed for a one-year term, two members must be appointed for a two-year term, and two members must be appointed for a three-year term. Thereafter, members must be appointed for three-year terms.

(3) Vacancies shall be filled in the same manner that the original appointments were made for the remainder of the member's term.

(4) A member shall be eligible for reappointment.

(5) A vacancy in the governing board shall not impair the right of the remaining members to exercise all of the powers of the governing board, and eight voting members of the governing board shall constitute a quorum of the governing board.

(6) The board chair is selected from among the voting members by the majority vote of the voting members.

NEW SECTION. **Sec.**  (1) Each voting member of the governing board shall be compensated in accordance with RCW 43.03.240.

(2) The director shall be appointed by the governor based on recommendations provided by the governing board, and subject to the consent of the senate. The director will administer the office and provide staff support for the governing board. The annual salary of the director shall be determined under the provisions of RCW 43.03.028. The director shall:

(a) Employ and supervise employees or enter into contracts as necessary for the proper performance of the office's duties, consistent with the provisions of this chapter; and

(b) Oversee the administration, programs, and policies of the office.

(3) Members or employees of the governing board shall be reimbursed for travel expenses incurred in the discharge of their official duties on the same basis as is provided in RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec.**  (1) The governing board shall:

(a) Direct the office on its priorities and timelines;

(b) Review and approve statewide or interagency policies, procedures, or forms developed by the office;

(c) Provide guidance to the office on development of resources, best practice guidelines, and performance measures;

(d) Review audit findings and recommendations and determine appropriate enforcement action or approve referral to the governor for further review and action;

(e) Review and approve standards for the collection, analysis, and reporting of data, including any external data requests;

(f) Review and approve the annual report of the office under section 7(2) of this act; and

(g) Work with statutory commissions in a complementary manner within their responsible jurisdictions.

(2) The governing board may:

(a) Authorize the office to contract for expertise or capacity needs, as necessary; and

(b) Advise the governor on proposed legislation or other issues concerning diversity, equity, and inclusion.

NEW SECTION. **Sec.**  (1) The office shall work to facilitate policy and systems change to promote equitable policies, practices, and outcomes through:

(a) **Agency decision making.** The office shall assist agencies in promoting diversity, equity, and inclusion in all aspects of agency decision making, including service delivery, program development, policy development, and budgeting. The office shall provide assistance by:

(i) Facilitating information sharing between agencies around diversity, equity, and inclusion issues;

(ii) Convening work groups as needed;

(iii) Establishing a procedure for providing a diversity impact analysis on the impact or expected impact, either positive or negative, of any agency program, service, policy, legislation, or budget proposal;

(iv) Training agency staff on how to effectively complete the diversity impact analysis developed under (a)(iii) of this subsection, including developing best practice guidelines for agencies on how to assess determinants of equity when carrying out the agency's duties under this chapter;

(v) Developing a form that will serve as each agency's diversity, equity, and inclusion plan, required to be submitted by all agencies under section 9 of this act, for each agency to report on its work in the area of diversity, equity, and inclusion. The office must develop the format and content of the plan and determine the frequency of reporting. The office must post each agency plan on the dashboard referenced in (d) of this subsection;

(vi) Maintaining an inventory of agency work in the area of diversity, equity, and inclusion; and

(vii) Compiling and creating resources for agencies to use as guidance when carrying out the requirements under section 9 of this act.

(b) **Community outreach and engagement.** The office may direct the statutory commissions to conduct community outreach and engagement in order to identify policy and system barriers, including language access, to meaningful engagement with communities in all aspects of agency decision making. The office shall ensure that the statutory commissions are adequately resourced to accomplish the assigned tasks.

(c) **Training on maintaining a diverse, inclusive, and culturally sensitive workforce.** The office shall collaborate with the office of financial management and the department of enterprise services to develop policies and provide technical assistance and training to agencies on maintaining a diverse, inclusive, and culturally sensitive workforce that delivers culturally sensitive services.

(d) **Data maintenance and establishing performance metrics.** The office shall:

(i) Collaborate with the office of financial management and agencies to:

(A) Establish standards for the collection, analysis, and reporting of disaggregated data as it pertains to tracking population level outcomes of communities, except as provided under (d)(i)(D) of this subsection;

(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 disparities; and

(II) Taking into consideration community feedback from the governing board on whether the performance measures established accurately measure the effectiveness of agency programs and services in the communities served;

(C) Create an online performance dashboard to publish state and agency performance measures and outcomes; and

(D) Identify additional subcategories in workforce data for disaggregation in order to track disparities in public employment; and

(ii) Coordinate with the office of privacy and data protection to address cybersecurity and data protection for all data collected by the office.

(e) **Accountability.** The office shall:

(i) Publish a report for each agency detailing whether the agency has met the performance measures established pursuant to (d)(i) of this subsection and the effectiveness of agency programs and services on reducing disparities. The report must include the agency's strengths and accomplishments, areas for continued improvement, and areas for corrective action. The office must post each report on the dashboard referenced in (d) of this subsection;

(ii) Establish a process for the office to report on agency performance in accordance with (e)(i) of this subsection and a process for agencies to respond to the report. The agency's response must include the agency's progress on performance, the agency's action plan to address areas for improvement and corrective action, and a timeline for the action plan;

(iii) Establish procedures to hold agencies accountable, which may include:

(A) Conducting performance reviews related to agency compliance with office performance measures; and

(B) Reporting audit findings not addressed by the agency within a reasonable time frame to the governing board for corrective or enforcement action or referral to the governor for further review and action; and

(iv) Not conduct investigations or enforcement of:

(A) Unfair practices under the laws against discrimination, chapter 49.60 RCW or noncompliance under chapter 49.74 RCW and must refer any complaint or issue to the human rights commission for further review and action in accordance with those chapters;

(B) Labor relations issues under the authority of the public employment relations commission in chapters 41.56 and 41.58 RCW; and

(C) Procedures for monitoring and enforcing compliance with goals established under chapter 39.19 RCW and must refer any complaint or issue to the office of minority and women's business enterprises for further review and action.

(2) By October 31, 2022, and every year thereafter, the office shall report to the governor and the legislature. The report must:

(a) Be reviewed and approved by the governing board before submission; and

(b) Include a summary of the office's work, including:

(i) Strengths and accomplishments;

(ii) An overview of the staff, budget, and an account of all money the office has disbursed;

(iii) A summary of agency compliance with office standards and performance measures;

(iv) A summary of the audits the office has conducted and their outcome;

(v) Recommendations it has issued;

(vi) An equity analysis of the makeup of the governing board established in section 4 of this act to ensure that it accurately reflects historically and currently marginalized groups; and

(vii) Any other information deemed appropriate by the office.

(3) The director and the office shall review the final recommendations submitted pursuant to section 221, chapter 415, Laws of 2019, by the task force established under section 221, chapter 415, Laws of 2019, and report back to the governing board and the legislature with any additional recommendations necessary for the office to carry out the duties prescribed under this chapter.

NEW SECTION. **Sec.**  The office may:

(1) Provide technical assistance to agencies;

(2) Conduct research projects, as needed, provided that no research project is proposed or authorizes funding without consideration of the business case for the project including a review of the total cost of the project, similar projects conducted in the state, and alternatives analyzed;

(3) Conduct policy analyses and provide a forum where ideas and issues related to diversity, equity, and inclusion plans, policies, and standards can be reviewed;

(4) Develop policy positions and legislative proposals;

(5) Consider, on an ongoing basis, ways to promote investments in enterprise-level diversity, equity, and inclusion projects that will result in service improvements and cost efficiency;

(6) Fulfill external data requests, as resources allow; and

(7) Receive and solicit gifts, grants, and endowments from public or private sources that are made for the use or benefit of the office and to expend the same or any income therefrom according to their terms and the purpose of this chapter. The director must report funds received from private sources to the office of financial management on a regular basis. Such funds received from private sources may not be applied to reduce or substitute the office's budget as appropriated by the legislature, but must be applied and expended toward projects and functions authorized by this chapter that were not funded by the legislature.

NEW SECTION. **Sec.**  Each agency shall:

(1) Designate an agency diversity, equity, and inclusion liaison, within existing resources, to serve as the liaison between the agency and the office;

(2) Create diversity impact analyses, as developed by the office in accordance with section 7 of this act, to assess the determinants of equity for agency programs, services, policies, and budget decisions;

(3) Aggregate its agency diversity impact analyses into an annual report to be submitted to the office by July 31st of each year. Each agency shall include in this report whether the agency took actions to alter a proposed program, service, policy, or budget based on the diversity impact analysis and, if so, what those actions included;

(4) Develop and submit a diversity, equity, and inclusion plan to the office, in accordance with section 7 of this act;

(5) Develop and maintain written language access policies and plans;

(6) Collaborate with the office to establish performance measures in accordance with section 7 of this act;

(7) Provide data and information requested by the office in accordance with standards established under section 7 of this act; and

(8) Submit a response to the office's report on agency performance, under section 7 of this act.

NEW SECTION. **Sec.**  By October 31, 2025, the state auditor shall conduct a comprehensive performance audit in accordance with RCW 43.09.470, of the effectiveness of the Washington state office of equity including, but not limited to, the following factors:

(1) The extent to which the office has complied with legislative intent;

(2) The extent to which the office is operating in an efficient and economical manner which results in optimum performance;

(3) The extent to which the office is operating in the public interest by controlling costs;

(4) The extent to which the office duplicates the activities of, or has a mission that overlaps with, other agencies or of the private sector;

(5) The extent to which the office is receiving diversity, equity, and inclusion plans from agencies;

(6) The effectiveness of its data protection and oversight of agency performance measures; and

(7) Any other factors deemed appropriate by the state auditor's office.

NEW SECTION. **Sec.**  Nothing in this chapter creates any right or cause of action, nor may it be relied upon to compel the establishment of any program or special entitlement.

NEW SECTION. **Sec.**  Sections 1 through 11 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec.**  Sections 3 through 5 of this act take effect July 1, 2020."

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**NOT ADOPTED 03/05/2020**

On page 1, line 2 of the title, after "equity;" strike the remainder of the title and insert "adding a new chapter to Title 43 RCW; and providing an effective date."

EFFECT: (1) Makes changes to the intent and definitions sections.

(2) Requires the Office of Equity (Office) to complement the work of statutory commissions.

(3) Creates a Washington Office of Equity Governing Board (Governing Board) consisting of 14 voting members and 5 nonvoting members. The chair of the Governing Board is selected by a majority vote of the voting members. Eight voting members constitutes a quorum.

(4) Voting Governing Board members receive compensation and are reimbursed for travel expenses.

(5) The appointment of the director is based on recommendations made by the Governing Board and is subject to consent of the Senate.

(6) Removes the Community Advisory Board and instead authorizes the Office to direct the statutory commissions to conduct community outreach and engagement. The Office must ensure that the statutory commissions are adequately resourced to accomplish assigned tasks.

(7) The Governing Board, rather than the Community Advisory Board, advises the Office on its priorities and timelines and provides guidance on standards and performance measures. The Governing Board is also granted authority to: Review and approve policies, procedures, forms, research projects, and standards for the collection, analysis, and reporting of data; review audit findings and determine appropriate enforcement actions; and work with the statutory commissions in a complementary manner within their responsible jurisdictions.

(8) Allows the Governing Board to authorize the Office to contract for expertise and capacity needs and advise the Governor on proposed legislation and other diversity, equity,and inclusion DEI issues.

(9) Reporting requirements are amended to require annual reports by the agencies and the Office. The Office report must be reviewed and approved by the Governing Board prior to submission to the Governor and the Legislature.

(10) Requires the Office develop a procedure on and provide training for diversity impact analyses, rather than assessment tools.

(11) Requires the Office to collaborate with the Office of Financial Management, rather than Results Washington to establish data standards and performance measures.

(12) Removes the limitations regarding the collection of personally identifiable information of vulnerable populations.

(13) Removes the requirement that the DEI plan and accountability procedures be established by rule, and instead requires the Office develop procedures.

(14) Removes the requirement to collaborate with the State Auditor to conduct performance audits, and instead requires the Office to conduct performance reviews.

(15) Clarifies the authority for accountability may include reporting audit findings to the Governing Board for enforcement action or referral to the Governor.

(16) Expressly prohibits certain investigation or enforcement functions.

(17) Requires the director review the Task Force final report and report back to the Governing Board and the Legislature with recommendations.

(18) Allows the Office to develop legislative proposals, rather than initiatives. The Office is also granted authority to: Consider ways to promote investment in DEI projects; and provide a forum where DEI issues can be reviewed.

(19) Removes rulemaking authority.

(20) Requires the State Auditor to conduct a performance audit of the Office by October 31, 2025.

(21) The Office and the Governing Board are both established on July 1, 2020.