

# HOUSE BILL REPORT

## HB 2009

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**As Reported by House Committee On:**  
State Government & Tribal Relations

**Title:** An act relating to establishing a healthy environment for all by addressing environmental health disparities.

**Brief Description:** Establishing a healthy environment for all by addressing environmental health disparities.

**Sponsors:** Representatives Reeves, Lekanoff, Thai, Gregerson, Jinkins, Ortiz-Self, Ryu, Doglio, Valdez, Stanford, Chapman, Shewmake, Santos, Fitzgibbon, Fey, Appleton, Slatter, Senn, Pettigrew, Pollet, Stonier, Pellicciotti, Tarleton, Frame, Leavitt and Macri.

**Brief History:**

**Committee Activity:**

State Government & Tribal Relations: 2/15/19, 2/19/19 [DP].

**Brief Summary of Bill**

- Creates a task force to recommend various strategies for incorporating environmental justice principles into how specified agencies discharge their responsibilities.
- Requires certain state agencies to conduct a cumulative impact analysis to identify highly impacted communities.
- Requires the Department of Ecology to engage in rulemaking to implement task force recommendations.

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**HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS**

**Majority Report:** Do pass. Signed by 5 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Appleton, Dolan and Hudgins.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Smith.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** Without recommendation. Signed by 1 member: Representative Mosbrucker.

**Staff:** Desiree Omli (786-7105).

**Background:**

The United States Environmental Protection Agency (EPA) defines environmental justice as 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, regulations, and policies. The EPA states that this goal will be achieved when everyone enjoys the same degree of protection from environmental health hazards, and equal access to the decision making process to have a healthy environment in which to live, learn, and work.

In 1994 President Clinton signed Executive Order 12898, which directed federal agencies to make achieving environmental justice part of their agency missions by identifying and addressing disproportionately high or adverse environmental or human health effects of agency programs, policies, and activities on minority and low-income populations. In 2011 the Federal Environmental Justice Interagency Working Group established a Title VI Committee to address the intersection of agencies' environmental justice efforts with their Title VI enforcement and compliance responsibilities. Title VI of the Civil Rights Act of 1964 prohibits discrimination in all federally assisted programs, on the grounds of race, color, or national origin.

At the state level, the Department of Ecology (ECY) has established a full-time environmental justice coordinator role and developed an environmental justice and Title VI review checklist for rulemaking. In addition, the Board of Health works on reducing health disparities, including those related to environmental justice.

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**Summary of Bill:**

Task Force—Created.

A task force is created to recommend strategies for incorporating environmental justice principles into how certain state agencies discharge their responsibilities. The task force includes the following members:

- the Director of the Department of Commerce;
- the Director of the ECY;
- the Executive Director of the Puget Sound Partnership;
- the Secretary of the Department of Transportation;
- the Secretary of the Department of Health;
- the Secretary of the Utilities and Transportation Commission;
- the Chair of the Governor's Interagency Council on Health Disparities (Council);
- the Commissioner of Public Lands;
- a member from an organization representing statewide environmental justice interests, as appointed by the Governor; and

- three members from an organization, appointed by the co-chairs of the task force, the nominations of which are based upon maintaining a balanced and diverse distribution of ethnic, geographic, gender, sexual orientation, age, socioeconomic status, and occupational representation, where practicable.

The Chair of the Council and the appointed member from an organization representing statewide environmental justice interests will serve as co-chairs. The Council must provide staff support for the task force, but the Council may work with other agencies as necessary to provide staff support.

#### Task Force–Duties.

The task force must initially report to the Legislature and the Governor by July 31, 2020, on the following:

- model rules for agency adoption regarding the implementation of cumulative impact analyses to provide guidance on how agencies will identify highly impacted communities;
- recommendations for how to integrate an analysis of the distribution of environmental burdens across population groups into evaluations performed under the State Environmental Policy Act, or SEPA;
- methods to increase public participation and engagement;
- best practices for consulting with vulnerable populations to update the designation of "highly impacted communities;"
- methods for creating and implementing equity analyses into all significant planning, programmatic and policy decision making, and investments;
- recommendations for how to prioritize highly impacted communities and vulnerable populations;
- methods for cataloging and cross-referencing current research and data collection for programs relating to the health and environment of all people in the state;
- methods for establishing a target level of environmental health for each community in the state;
- recommendations for criteria to identify and address gaps in current research and data collection; and
- methods for incorporating the precautionary approach to decision making, including permitting.

The task force must have regional meetings throughout the state and may form work groups or consult with stakeholders as necessary.

#### Task Force–Revised Report.

Each state agency with representation on the task force must notify the Council upon adoption of rules related to the cumulative impact analysis. The Council must reconvene the task force five years after the last state agency adopts such rule. The reconvened task force must evaluate the findings from each state agency's cumulative impact analysis and review agency programs, plans, and policies to determine whether they are promoting the reduction in disproportionate environmental burdens and attaining environmental health targets. The task force must submit a revised report to the Legislature and the Governor with updated findings.

### State Agency Requirements.

State agencies represented on the task force must use all practicable means and measures to promote environmental justice and fair treatment. Environmental justice is 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, regulations, and policies. Fair treatment means that no group of people, including racial, ethnic, or socioeconomic groups, should bear disproportionately high exposure to pollution or adverse human health or environmental impacts and all groups of people have appropriate access to meaningful public participation in decisions that affect their environment.

The agencies must conduct a cumulative impact analysis in accordance with the recommended model rules provided by the task force.

Within 60 days of the task force issuing the initial report, the ECY must initiate the rulemaking process to adopt rules to implement the task force's recommendations. The stated purpose is to provide uniform rules and guidance to agencies on the task force.

Agencies must adopt rules, policies, guidance, and prioritizations as necessary to reduce disproportionate environmental burdens and promote the attainment of environmental health targets, based on the revised task force report.

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**Appropriation:** None.

**Fiscal Note:** Requested on February 14, 2019.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

### **Staff Summary of Public Testimony:**

(In support) A clean environment is critical to the health of our state, counties, and cities. Where you live, your income, race, and language ability should not determine how healthy or safe you are or whether your environment is free from pollution. This is not about how to remodel the SEPA, but how to ensure everyone has a voice at the table in the process of determining how projects will impact them and their communities. This bill is about how to save the communities that are most impacted when environmental justice is not taken into consideration. The Beacon Hill community in Seattle is comprised of nearly 80 percent people of color; nearly 40 percent are immigrants and refugees. On a scale from one to 10, the Washington Environmental Health Disparities Map shows census tracts in the Beacon Hill neighborhood rating nine or 10 on issues from diesel pollution to toxic releases from facilities. In addition, Latino people, like those who work in the orchards, are exposed to pesticides at work and are twice as likely to have cardiovascular disease than those who are not. The presence of pollution and climate change further compounds vulnerabilities that medically sensitive populations already face, therefore hindering academic performance and financial well being.

Projects need to be supported in order for them to be durable and lift up the communities where they are located. The smartest investments are also those that provide multiple benefits, including returns on health well-being. The bill makes fiscal sense by prioritizing areas where communities are suffering most by pollution.

The health disparities mapping analysis tool provided for in the bill provides an easy to use framework for agencies to identify and map out which populations are most vulnerable to environmental threats. The tool will equip agencies with the ability to inform a broad range of agency decision making. The bill begins a process to improve cross-agency collaboration and accountability, and cross-cultural responsiveness, with the goal of reducing environmental health disparities. The bill does not create regulation, but focuses the work of agencies on these disparities and gives the agencies the flexibility of using rules, policies, or guidelines in order to adopt the use of this tool. It will also help agencies to learn from one another.

Regarding costs, we are paying for the cost of health impacts already. For example, we are paying for the cost of lost business opportunities when people cannot work due to health impacts, the cost to take time off work to care for a sick child, and the loss of biodiversity. These costs vastly outweigh any perceived or temporary costs to business as usual, and we must look at the human cost of this impact.

(Opposed) The bill creates an inalienable right to a healthful environment and compounds this with a mandate that each person contribute to the preservation and enhancement of the environment. A bill cannot mandate a balance between population and resource use, which will permit high standards of living and a wide sharing of life's amenities. This requirement violates the Administrative Procedures Act (APA). Our state is a representative republic, and the APA requires public notice and meaningful opportunity to be heard before decisions are made.

The proponents of the bill talk about the need to have every voice at the table, but the task force does not have a business representative as a member of that task force. This is also not strictly a task force bill because it also requires rulemaking.

(Other) The bill includes the use of the Environmental Health Disparities Map, which maps environmental exposures, population characteristics, and health impacts to identify communities that are exposed to a disproportionate amount of environmental exposures. It is good that the bill names this as a data point that agencies will use to inform their agency decision making. The original version of the bill has a large fiscal note and implementation challenges. Environmental justice issues are not easy to solve and require investments that are not considered in the Governor's budget.

To be successful, it is crucial for the task force to resist the temptation to speak for victims of environmental injustice, but rather elevate their voices.

**Persons Testifying:** (In support) Representative Reeves, prime sponsor; Ken Lans, Physicians for Social Responsibility; David Mendoza, Front & Centered; Scott Richards, The Nature Conservancy; Maria Batayola, El Centro de la Raza; Salvador Salazar, Progreso;

Gregory Christopher, Shiloh Baptist Church; Tom Bugert, Department of Natural Resources; Anne Kroeker; and Margo Rolf.

(Opposed) Cindy Alia, Citizens Alliance for Property Rights; and Steve Gano, Building Industry Association of Washington.

(Other) Lauren Jenks, Department of Health; Millie Piazza, Department of Ecology; and Jeff Parsons, Puget Sound Partnership.

**Persons Signed In To Testify But Not Testifying:** None.