

SENATE BILL REPORT

SB 5990

As of January 29, 2024

Title: An act relating to integrating environmental justice considerations into certain project decisions.

Brief Description: Integrating environmental justice considerations into certain project decisions.

Sponsors: Senators Lovelett, Saldaña, Dhingra, Frame, Hasegawa, Keiser, Kuderer, Nobles, Salomon, Stanford, Trudeau, Valdez and Wilson, C..

Brief History:

Committee Activity: Environment, Energy & Technology: 1/30/24.

Brief Summary of Bill

- Requires lead agencies to carry out environmental justice impact statements as a supplement to review under the State Environmental Policy Act (SEPA) for government actions related to certain potentially impactful projects.
- Specifies the contents of environmental justice impact statements, the process, including public notification and input processes, that must be followed when a SEPA lead agency is carrying out an environmental justice impact statement, and the means by which a lead agency must determine whether a project will have disproportionate impacts on pollution burdened communities.
- Requires lead agencies, after the completion of an environmental justice impact statement and using substantive SEPA authority, to deny or mitigate proposed actions that would cause or contribute to adverse environmental or public health stressors in a pollution burdened community.
- Authorizes SEPA lead agencies to require project proponents to

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reimburse the agency for demonstrated costs associated with environmental justice impact statements.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

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Background: State Environmental Policy Act. The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. The review process requires a project proponent or lead agency to identify and evaluate probable environmental impacts.

If an initial review results in a threshold determination that the decision has a probable significant adverse environmental impact, an Environmental Impact Statement (EIS) must be performed. If significant adverse environmental impacts are identified, the lead agency may deny a government decision or may require mitigation for identified environmental impacts.

Healthy Environment for All Act. The Healthy Environment for All Act establishes requirements governing how state agencies consider environmental justice in their decision-making. The act applies to seven named agencies and allows for others to opt in voluntarily.

Covered agencies are required to integrate environmental justice into agency decision-making and activities, including through:

- adoption of a community engagement plan that describes planned engagement with overburdened communities and vulnerable populations; and
- conducting an environmental justice assessment to evaluate the impact of significant agency action on overburdened and vulnerable populations.

Four categories of significant agency actions are established for which environmental justice assessments are required, including significant legislative rule adoption.

Health Disparities Maps. The Health Disparities Map (map) is an interactive mapping tool that compares communities across Washington for environmental health disparities. The map includes 19 specific indicators of health disparities, which are divided into four themes: environmental exposures, environmental effects, sensitive populations, and socioeconomic factors. It can be used by government agencies to identify overburdened and vulnerable populations for purposes of environmental justice assessments and environmental impact statements.

Summary of Bill: Environmental Justice Impact Statement. An environmental justice impact statement (EJIS) must be prepared as a component of SEPA analysis for potentially impactful projects in pollution burdened communities. Lead agencies preparing the statement must assess:

- potential environmental and public health stressors associated with the project;
- adverse environmental or public health stressors that cannot be avoided if the permit is granted; and
- the environmental or public health stressors already borne by the pollution burdened community as a result of existing conditions.

The lead agency must complete the statement at or before the time a threshold determination has been made on the potential environmental impacts of the proposed project. Upon completion it must be delivered to the Office of Financial Management (OFM) to be published on their website alongside information describing the project and methods for public comment.

Statements must be published at least 30 days in advance of public hearing. A public hearing must be held no sooner than 60 days after publication where the lead agency must present clear, accurate, and complete information about the project and accept oral and written comments from the public.

Environmental Justice Impact Statement—Contents. The EJIS must include:

- a description of current and proposed operations;
- a listing of existing environmental and public health stressors, and an analysis of those stressors;
- an assessment of positive or negative impacts of the potentially impactful project on each environmental and public health stressor; and
- a demonstration that the potentially impactful project will avoid a disproportionate impact that would occur by creating adverse cumulative stressors.

Additional information must be included if the pollution burdened community is subject to adverse cumulative stressors or the project will cause a disproportionate impact:

- a site map, including specified topographic, biological, hydrological features, and scenic or recreational attributes;
- information related to contamination, air quality, and subsurface hydrology;
- localized climate and flooding impacts on the project;
- a traffic study; and
- several other descriptions and analyses.

Proposals and Determinations. A project proponent must analyze and propose all control measures necessary to avoid contributions to all environmental and public health stressors in the community. Project proponents for the renewal of an existing permit must propose feasible control measures necessary to avoid contributions to adverse stressors in the community.

Where proposed control measures will prevent disproportionate adverse impacts to pollution burdened communities, proposed actions may be approved by the lead agency.

An action must be denied or mitigated if it would cause environmental impacts to a pollution burdened community that are higher than those borne by other communities in the geographic point of comparison, unless the lead agency determines that the action would serve a compelling public interest in the community where it is located. A compelling public interest may be found where:

- the proposed project will primarily serve the environmental, health, or safety needs of the overburdened community;
- the proposed project is necessary to serve such interests; and
- there are no reasonable alternatives that can be sited outside to satisfy the needs the pollution burdened community.

EJIS requirements are in addition to the Healthy Environment for All Act environmental justice review requirements that may also apply to a proposed action.

Lead agencies may require a proponent of a proposed action to reimburse the agency for demonstrated costs associated with an EJIS.

The Department of Ecology may update, by rule, the definition of pollution burdened community to maintain consistency with a similar successor to the United States Council on Environmental Quality's Climate and Economic Justice Screening Tool.

Appropriation: None.

Fiscal Note: Requested on January 23, 2024

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.