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**HOUSE BILL 2009**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** 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

AN ACT Relating to establishing a healthy environment for all by addressing environmental health disparities; adding a new chapter to Title 43 RCW; and creating new sections.

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

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

(2) It is also the continuing policy of the state of Washington to use all practicable means and measures, including financial and technical assistance, in a manner calculated to: (a) Foster and promote the general welfare; (b) create and maintain conditions under which human beings and nature can exist in productive harmony; and (c) fulfill the social, economic, and other requirements of present and future generations of Washington citizens.

(3) The legislature has further established that it is the continuing responsibility of the state of Washington and all agencies of the state to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(b) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(c) Maintain, wherever possible, an environment which supports diversity and variety of individual choice; and

(d) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities.

(4) The legislature has further recognized that all citizens of the state have a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

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

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

(7) Multiple agency actions recognize the need for public participation and outreach including, but not limited to, education, rule making, enforcement, permitting, grant making, planning, and other government actions. However, individuals and organizations representing vulnerable populations often face barriers to participation such as limited time, lack of funds for technical experts and reviews, ability to attend meetings that conflict with work, parenting, child care responsibilities, and language barriers.

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

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

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

(1) "Cumulative impact analyses" refers to analyses required under section 5 of this act.

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

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

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

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

(3) "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, regulations, and policies.

(4) "Equity analyses" refer to analyses that can be used to determine or evaluate environmental justice.

(5) "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.

(6) "Highly impacted communities" are those communities designated by state agencies based on cumulative impact analyses required under section 5 of this act, and census tracts that are fully or partially on Indian country as defined in 18 U.S.C. Sec. 1151.

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

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

(9) "Vulnerable populations" are communities that experience disproportionate cumulative risk from environmental burdens due to:

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

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

NEW SECTION. **Sec.**  To ensure implementation and adherence to state policies of fostering and promoting the general welfare by assuring all people of Washington have a safe and healthful environment and serving as trustee of the environment for succeeding generations, the state agencies represented on the task force created under section 4 of this act shall use all practicable means and measures to promote environmental justice and fair treatment.

NEW SECTION. **Sec.**  (1)(a) A task force on recommending strategies for incorporating environmental justice principles into how the state agencies represented on this task force discharge their responsibilities is established, with members as provided in this subsection.

(i) The director of the department of commerce, or his or her designee;

(ii) The director of the department of ecology, or his or her designee;

(iii) The executive director of the Puget Sound partnership, or his or her designee;

(iv) The secretary of the department of transportation, or his or her designee;

(v) The secretary of the department of health, or his or her designee;

(vi) The secretary of the utilities and transportation commission, or his or her designee;

(vii) The chair of the governor's interagency council on health disparities, or his or her designee;

(viii) The commissioner of public lands, or his or her designee;

(ix) A member from an organization representing statewide environmental justice interests, appointed by the governor;

(x) Three members from an organization, appointed by the cochairs specified under (b) of this subsection, 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.

(b) The representative of statewide environmental justice interests, and the chair of the governor's interagency council on health disparities or his or her designee, shall cochair the task force.

(2) Staff support for the task force must be provided by the governor's interagency council on health disparities. The interagency council may work with other agencies, departments, or offices as necessary to provide staff support to the task force.

(3) The task force shall report its findings and recommendations to the appropriate committees of the legislature and the governor by July 31, 2020, and in compliance with RCW 43.01.036. The report must include:

(a) Model rules for agency adoption regarding the cumulative impact analyses required under section 5 of this act. The model rules must provide guidance on how agencies will identify highly impacted communities, and must be based on best practices and current demographic data. The guidance provided relating to the designation of "highly impacted community" must be based on the analyses of vulnerable populations and environmental burdens conducted by the University of Washington's department of environmental and occupational health sciences, and additional factors as the task force deems appropriate;

(b) 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, chapter 43.21C RCW;

(c) Methods to increase public participation and engagement by providing meaningful opportunities for involvement to all people taking into account barriers to participation that may arise due to race, color, ethnicity, religion, income, or education level;

(d) Best practices for meaningfully consulting vulnerable populations when the applicable state agencies periodically evaluate and update the designation of highly impacted communities and the cumulative impact analysis of vulnerable populations and environmental burdens;

(e) Methods for creating and implementing equity analyses, including but not limited to cumulative impact analyses, into all significant planning, programmatic and policy decision making, and investments. The equity analysis methods may include a process for describing potential risks, benefits, and opportunities to highly impacted communities and vulnerable populations;

(f) Recommendations for how to prioritize highly impacted communities and vulnerable populations by identifying and, where legally and fiscally feasible, implementing procedures, processes, application, and reporting requirements to maximize inspection, enforcement actions, investment of resources, planning and permitting, and public participation for the purpose of reducing environmental health disparities and advancing a healthy environment for all residents;

(g) Methods for cataloging and cross-referencing current research and data collection for programs within all state agencies relating to the health of, and environment of, people of all races, cultures, and income levels, including minority populations and low-income populations of the state;

(h) Methods for establishing a target level of environmental health for each community in Washington state, qualitative at the resolution of the county level or greater and quantitative at the census tract level or greater;

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

(j) Methods for incorporating the precautionary approach to decision making, including permitting, to the extent allowed by law.

(4) Members of the task force who are not state employees must be compensated in accordance with RCW 43.03.240 and are entitled to reimbursement individually for travel expenses incurred in the performance of their duties as members of the task force in accordance with RCW 43.03.050 and 43.03.060. The expenses of the task force must be paid by the governor's interagency council on health disparities. Task force expenditures are subject to approval by the governor's interagency council on health disparities.

(5) The task force shall have regional meetings to present their work plan and proposals to communities throughout the state. At least one meeting must be held in each of the following locations: Northwest Washington, the central Puget Sound region, the south Puget Sound region, southwest Washington, central Washington, and eastern Washington.

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

(7) Upon adoption of rules related to the cumulative impact analyses required under section 5 of this act, each state agency must notify the governor's interagency council on health disparities. The chair of the governor's interagency council on health disparities shall reconvene the task force five years after the last state agency adopts such rules. Once reconvened, the task force must evaluate the findings from each state agency's cumulative impact analyses, and review state agency programs, plans, and policies to determine whether they are promoting the reduction in disproportionate environmental burdens and attainment of the environmental health targets. Records containing the task force's evaluation and findings is available for public inspection and copying through the governor's interagency on health disparities, and must be posted on its web site. The task force must submit a revised report to the appropriate committees of the legislature and the governor that updates its findings and recommendations. The report must be submitted in compliance with RCW 43.01.036.

NEW SECTION. **Sec.**  (1) State agencies shall conduct cumulative impact analyses. State agencies shall adopt rules related to cumulative impact analyses, in accordance with the recommended model rules provided by the task force under section 4 of this act, and for the implementation of the cumulative impact analyses.

(2) The agencies may:

(a) Adopt interim guidelines and practices prior to the adoption of rules; and

(b) Issue policies, guidance, and adopt rules as necessary to identify highly impacted communities, create target environmental health standards, and prioritize highly impacted communities and their vulnerable populations in the development, adoption, implementation, and enforcement of environmental laws, regulations, policies, and funding decisions.

(3) Within sixty days after the issuance of the task force's initial report, the department of ecology shall initiate the rule-making process to adopt rules to implement the task force's recommendations for the purpose of providing uniform rules and guidelines to all state agencies serving on the task force.

(4) Based on the revised task force findings and recommendations, issued pursuant to section 4 of this act, the state agencies shall adopt such rules, policies, guidance, and prioritizations as are needed to reduce disproportionate environmental burdens and promote attainment of environmental health targets.

NEW SECTION. **Sec.**  Sections 2 through 5 of this act constitute a new chapter under Title 43 RCW.

NEW SECTION. **Sec.**  This act may be known and cited as the HEAL act of 2019.

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