

E2SHB 1783 - S AMD 1255

By Senator Saldaña

ADOPTED 03/05/2020

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that the population
4 of Washington state has become increasingly diverse over the last
5 several decades. The legislature also finds that as the demographics
6 of our state change, historically and currently marginalized
7 communities still do not have the same opportunities to meet parity
8 as their nonmarginalized counterparts across nearly every measure
9 including education, poverty, employment, health, and more.
10 Inequities based on race, ethnicity, gender, and other
11 characteristics continue to be deep, pervasive, and persistent, and
12 they come at a great economic and social cost. When individuals face
13 barriers to achieving their full potential, the impact is felt by the
14 individual, their communities, businesses, governments, and the
15 economy as a whole in the form of lost wages, avoidable public
16 expenditures, and more. This includes social ramifications that
17 emerging technology, such as artificial intelligence and facial
18 recognition technology, may have on historically and currently
19 marginalized communities. It is the intent of the legislature to
20 review these emerging technologies either already in use by agencies
21 or before their launch by agencies if not already in use and make
22 recommendations regarding agency use to ensure that the technology is
23 used in a manner that benefits society and does not have disparate
24 negative impacts on historically and currently marginalized
25 communities or violate their civil rights. It is further intended
26 that the office should collaborate with other state efforts in this
27 regard.

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

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

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

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

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

6 (2) "Director" means the director of the Washington state office
7 of equity.

8 (3) "Disaggregated data" means data that has been broken down by
9 appropriate subcategories.

10 (4) "Equity lens" means providing consideration to the
11 characteristics listed in RCW 49.60.030, as well as immigration
12 status and language access, to evaluate the equitable impacts of an
13 agency's policy or program.

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

15 NEW SECTION. **Sec. 3.** (1) The Washington state office of equity
16 is established within the office of the governor for the purpose of
17 promoting access to equitable opportunities and resources that reduce
18 disparities, and improve outcomes statewide across state government.

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

22 (3) The work of the office must:

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

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

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

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

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

35 NEW SECTION. **Sec. 4.** (1) The office is administered by a
36 director, who is appointed by the governor with advice and consent of
37 the senate. The director shall report to the governor. The director

1 must receive a salary as fixed by the governor in accordance with RCW
2 43.03.040.

3 (2) The director shall:

4 (a) Employ and supervise staff as necessary to carry out the
5 purpose of this chapter and the duties of the office; and

6 (b) Oversee the administration, programs, and policies of the
7 office in accordance with the principles in section 3 of this act.

8 NEW SECTION. **Sec. 5.** (1) The office shall work to facilitate
9 policy and systems change to promote equitable policies, practices,
10 and outcomes through:

11 (a) **Agency decision making.** The office shall assist agencies in
12 applying an equity lens in all aspects of agency decision making,
13 including service delivery, program development, policy development,
14 and budgeting. The office shall provide assistance by:

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

17 (ii) Convening work groups as needed;

18 (iii) Developing and providing assessment tools for agencies to
19 use in the development and evaluation of agency programs, services,
20 policies, and budgets;

21 (iv) Training agency staff on how to effectively use the
22 assessment tools developed under (a)(iii) of this subsection,
23 including developing guidance for agencies on how to apply an equity
24 lens to the agency's work when carrying out the agency's duties under
25 this chapter;

26 (v) Developing a form that will serve as each agency's diversity,
27 equity, and inclusion plan, required to be submitted by all agencies
28 under section 7 of this act, for each agency to report on its work in
29 the area of diversity, equity, and inclusion. The office must develop
30 the format and content of the plan and determine the frequency of
31 reporting. The office must post each agency plan on the dashboard
32 referenced in (d) of this subsection;

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

35 (vii) Compiling and creating resources for agencies to use as
36 guidance when carrying out the requirements under section 7 of this
37 act.

38 (b) **Community outreach and engagement.** The office shall staff the
39 community advisory board created under section 6 of this act and may

1 contract with commissions or other entities with expertise in order
2 to identify policy and system barriers, including language access, to
3 meaningful engagement with communities in all aspects of agency
4 decision making.

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

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

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

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

19 (B) Create statewide and agency-specific process and outcome
20 measures to show performance:

21 (I) Using outcome-based methodology to determine the
22 effectiveness of agency programs and services on reducing
23 disparities; and

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

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

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

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

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

37 (i) Publish a report for each agency detailing whether the agency
38 has met the performance measures established pursuant to (d)(i) of
39 this subsection and the effectiveness of agency programs and services
40 on reducing disparities. The report must include the agency's

1 strengths and accomplishments, areas for continued improvement, and
2 areas for corrective action. The office must post each report on the
3 dashboard referenced in (d) of this subsection;

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

10 (iii) Establish procedures to hold agencies accountable, which
11 may include conducting performance reviews related to agency
12 compliance with office performance measures.

13 (2) By October 31, 2022, and every year thereafter, the office
14 shall report to the governor and the legislature. The report must
15 include a summary of the office's work, including strengths and
16 accomplishments, an overview of agency compliance with office
17 standards and performance measures, and an equity analysis of the
18 makeup of the community advisory board established in section 6 of
19 this act to ensure that it accurately reflects historically and
20 currently marginalized groups.

21 (3) The director and the office shall review the final
22 recommendations submitted pursuant to section 221, chapter 415, Laws
23 of 2019, by the task force established under section 221, chapter
24 415, Laws of 2019, and report back to the governor and the
25 legislature with any additional recommendations necessary for the
26 office to carry out the duties prescribed under this chapter.

27 NEW SECTION. **Sec. 6.** (1) A community advisory board is created
28 within the office to advise the office on its priorities and
29 timelines.

30 (2) The director must appoint members to the community advisory
31 board to support diverse representation by geography and identity.
32 The director may collaborate with the commission on African American
33 affairs, the commission on Asian Pacific American affairs, the
34 commission on Hispanic affairs, the governor's office of Indian
35 affairs, the human rights commission, the LGBTQ commission, the
36 women's commission, and any other agency the office deems necessary,
37 to find individuals with diverse representation by geography and
38 identity for the community advisory board.

1 (3) The community advisory board shall, among other duties
2 determined by the director, provide guidance to the office on
3 standards and performance measures.

4 (4) The community advisory board is staffed by the office.

5 (5) Board members shall be entitled to compensation of fifty
6 dollars per day for each day spent conducting official business and
7 to reimbursement for travel expenses as provided by RCW 43.03.050 and
8 43.03.060.

9 (6) The community advisory board may adopt bylaws for the
10 operation of its business for the purposes of this chapter.

11 NEW SECTION. **Sec. 7.** Each agency shall:

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

15 (2) Apply an equity lens, as developed by the office in
16 accordance with section 5 of this act, to assess existing and
17 proposed agency policies, services and service delivery, practices,
18 programs, and budget decisions using the assessment tools developed
19 by the office pursuant to section 5 of this act;

20 (3) Develop and submit a diversity, equity, and inclusion plan to
21 the office, in accordance with section 5 of this act;

22 (4) Develop and maintain written language access policies and
23 plans;

24 (5) Collaborate with the office to establish performance measures
25 in accordance with section 5 of this act;

26 (6) Provide data and information requested by the office in
27 accordance with standards established under section 5 of this act;
28 and

29 (7) Submit a response to the office's report on agency
30 performance under section 5 of this act.

31 NEW SECTION. **Sec. 8.** The office may:

32 (1) Provide technical assistance to agencies;

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

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

4 (4) Develop policy positions and legislative proposals;

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

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

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

19 NEW SECTION. **Sec. 9.** Nothing in this act creates any right or
20 cause of action, nor may it be relied upon to compel the
21 establishment of any program or special entitlement.

22 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act
23 constitute a new chapter in Title 43 RCW.

24 NEW SECTION. **Sec. 11.** Section 3 of this act takes effect July
25 1, 2020."

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

EFFECT: (1) Adds intent language to consider social ramifications
from emerging technologies used by agencies.

(2) Adds intent language to indicate it is not the intent of the legislature to eliminate commissions or reduce funding to the commissions by creating the Office of Equity (Office).

(3) Adds a definition for disaggregated data.

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

(5) Makes the appointment of the director subject to consent of the Senate.

(6) Removes the requirement that the diversity, equity, and inclusion (DEI) plan and accountability procedures be established by rule, and instead requires the Office to develop procedures.

(7) Allows the Office to contract with commissions or other entities in order to identify policy and system barriers to meaningful engagement with communities in all aspects of agency decision making.

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

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

(10) Removes the requirement that the Office process for reporting on agency performance be established by rule.

(11) Requires the Office to establish procedures to hold agencies accountable which may include conducting performance reviews related to agency compliance with Office performance measures, rather than adopting rules to develop accountability and enforcement mechanisms which may include the Office to conduct audits in collaboration with the office of the state auditor.

(12) Requires the office to report to the Governor and the Legislature by October 31, 2022, and every year thereafter, rather than by July 1, 2022, and every two years thereafter.

(13) Requires the director to review the Task Force final report and report back to the Governor and the Legislature with recommendations, rather than requiring the Office to consider the final report when carrying out its duties.

(14) Allows the director to collaborate with the existing commissions, Governor's Office of Indian Affairs, and any other agency the Office deems necessary, to find individuals with diverse representation by geography and identity for the community advisory board.

(15) 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.

(16) Removes general rule-making authority to implement the chapter.

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