

SENATE BILL REPORT

E2SHB 1783

As of March 2, 2020

Title: An act relating to creating the Washington state office of equity.

Brief Description: Creating the Washington state office of equity.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Gregerson, Morgan, Ryu, Lovick, Valdez, Ramos, Thai, Reeves, Slatter, Lekanoff, Peterson, Macri, Entenman, Pettigrew, Bergquist, Callan, Stonier, Orwall, Hudgins, Riccelli, Mead, Senn, Santos, Chapman, Walen, Kloba, Doglio, Tarleton, Pollet, Dolan, Davis, Jinkins, Wylie, Shewmake, Pellicciotti, Fey, Stanford, Sells, Morris, Kilduff, Leavitt, Appleton, Tharinger, Ormsby, Frame and Robinson).

Brief History: Passed House: 1/20/20, 56-41.

Committee Activity: State Government, Tribal Relations & Elections: 2/13/20, 2/26/20
[DPA-WM, w/oRec, DNP].

Ways & Means: 2/28/20.

Brief Summary of Engrossed Second Substitute Bill

- Establishes the Washington State Office of Equity (Equity Office) and the Washington State Office of Equity Governing Board (Governing Board), effective July 1, 2020.
- Requires the Equity Office to submit a report to the Legislature and Governor every year.
- Requires state agencies to designate a diversity, equity, and inclusion liaison; create diversity impact analyses and report annually to the Equity Office on them; develop plans for diversity, equity, and inclusion and for language access; provide data and information to the Equity Office; and collaborate with the Equity Office to develop performance measures.
- Requires the State Auditor conduct a performance audit of the Equity Office by October 31, 2025.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

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.

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Muzzall, Assistant Ranking Member; Hasegawa and Takko.

Minority Report: That it be referred without recommendation.

Signed by Senator Hawkins.

Minority Report: Do not pass.

Signed by Senator Zeiger, Ranking Member.

Staff: Melissa Van Gorkom (786-7491)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Sarian Scott (786-7729)

Background: Various state entities do work around promoting equity and reducing disparities. The Governor's Interagency Coordinating Council on Health Disparities (Council) is one of those entities, established by the Legislature in 2006, which promotes and facilitates communication, coordination, and collaboration among relevant state agencies and communities of color, and the private and public sector, to address health disparities.

In 2019, the Legislature directed the Council to convene and staff an Office of Equity Task Force (Task Force) to develop a proposal for creating the Equity Office. The Task Force members include:

- the chair of the Council, who will serve as the chair of the task force;
- two members from the House of Representatives, appointed by the speaker of the House of Representatives;
- two members from the Senate, appointed by the president of the Senate;
- a representative from Office of the Governor, the Office of Financial Management's (OFM's) Diversity, Equity, and Inclusion Council, and representative of the lesbian, gay, bisexual, transgender, and queer community, each appointed by the Governor;
- a representative from the Office of Minority and Women's Business Enterprise (OMWBE) appointed by the director;
- a representative from each ethnic commission, Human Rights Commission, and the Women's Commission, appointed by the directors of the respective commissions;
- the director of the Governor's Office of Indian Affairs (GOIA), or the director's designee; and
- a member of the disability community, appointed by the chair of the Governor's Committee on Disability Issues and Employment.

The Task Force must submit a preliminary report to the Governor and the Legislature by December 15, 2019, and a final proposal by July 1, 2020. The final proposal must include:

- a mission and vision statement for the Equity Office;
- definition of equity that must be used by the Equity Office to guide its work; the organizational structure of the Equity Office;
- a plan to engage executive level management from all agencies;

- mechanisms for facilitating state policy and systems change to promote equity, community outreach and engagement, and establish standards for collection analysis and reporting of disaggregated data regarding race and ethnicity;
- mechanisms for accountability to ensure that performance measures are being met; and
- the estimated cost to carry out the work of the Equity Office.

Task Force members are entitled to reimbursement for expenses incurred in the performance of their duties.

Summary of Amended Bill: Equity Office and Governing Board Established. The Equity Office and Governing Board are created on July 1, 2020, in the office of the Governor to promote access to equitable opportunities and resources that reduce disparities and improve outcomes statewide across all sectors of government. The work of the Equity Office must complement and not supplant the work of the statutory commissions and be guided by principles of equity as set forth in the bill. The Governor must appoint a director based on recommendations provided by the Governing Board, and subject to the consent of the Senate, who will:

- employ and supervise staff; and
- oversee the administration, programs and policies of the Equity Office.

Governing Board Membership. The voting members of the Governing Board include:

- the chair of the Council;
- the director of OMWBE, or the director's designee;
- a representative from each statutory commission, appointed by the director of each respective statutory commission;
- the director of the GOIA, or the director's designee;
- a member of the disability community, appointed by the chair of the Governor's Committee on Disability Issues and Employment; and
- a representative from the Office of the Governor, the OFM's Diversity, Equity, and Inclusion Council, the Employee-based Business Resource Groups, and state union organizations, appointed by the Governor.

The board also includes five nonvoting members: four legislative members—two members from the House of Representatives appointed by the speaker of the House, and two members from the Senate appointed by the president of the Senate; and one member appointed by the Governor to represent the Governor's Small Agency Cabinet.

The chair of the Governing Board is selected from a majority of the voting members. Members appointed by the Governor will serve a three year term and are eligible for reappointment. Voting members of the Governing Board are compensated.

"Statutory commission" means the Commission on African American Affairs, the Commission on Asian Pacific American Affairs, the Commission on Hispanic Affairs, the Women's Commission, the LGBTQ Commission, and the Human Rights Commission.

Governing Board Duties. The Governing Board shall:

- direct the office on its priorities and timelines;

- review and approve statewide or interagency policies, procedures, forms, standards for data collection and reporting, and the annual report developed by the Equity Office;
- provide guidance to the Equity Office on development of resources, best practice guidelines, and performance measures; and
- review audit findings and recommendations and determine appropriate enforcement action or approve referral to the Governor for further review and action.

The Governing Board may authorize the Equity Office to contract for expertise or capacity needs and advise the Governor on proposed legislation or other issues concerning diversity, equity, and inclusion.

Office Duties. The Equity Office must facilitate state policy and systems change to promote equitable policies, practices, and outcomes through:

- assisting agencies in promoting diversity, equity, and inclusion in all aspects of agency decision making through various means;
- community outreach and engagement through the statutory commissions;
- collaborating with OFM and Department of Enterprise Services to develop policies and provide technical assistance and training for agencies on maintaining a diverse, inclusive, and culturally sensitive workforce;
- collaborating with OFM and agencies to establish certain standards for data, create performance measures, develop an online performance dashboard, and track disparities in public employment;
- coordinating with the Office of Privacy and Data Protection to address cybersecurity and data protection; and
- promoting accountability through agency performance reviews and establishing procedures to hold agencies accountable.

The Equity Office must submit a report to the Legislature and Governor by October 31, 2022, and every year thereafter, that includes a summary of its work, as well as an overview of agency compliance and an equity analysis of the makeup of the Governing Board. The Equity Office must consider review the final recommendations submitted by the Task Force and report any additional recommendations to the Governing Board and Legislature.

Equity Office Powers. The Equity Office may:

- provide technical assistance to agencies;
- conduct research, as needed;
- conduct policy analyses and provide a forum where ideas and issues related to diversity, equity and inclusion plans, policies and standards can be reviewed;
- consider, on an ongoing basis, ways to promote investment in enterprise-level diversity, equity and inclusion projects;
- develop policy positions and legislative proposals;
- fulfill external data requests, as resources allow; and
- receive gifts, grants and endowments from public and private sources; and adopt rules as necessary.

State Agencies. All agencies must:

- designate a diversity, equity, and inclusion liaison, within existing resources;

- create diversity impact analyses to assess existing and proposed policies, service delivery, programs, practices, and budget decisions;
- aggregate its diversity impact analyses into an annual report to the Equity Office by July 31st of each year;
- develop and submit diversity, equity, and inclusion plans; develop and maintain written language access policies and plans;
- collaborate with the Equity Office to establish performance measures;
- provide data and information to the Equity Office as requested; and
- submit a response to the Equity Office's report on agency performance.

Other Provisions. The State Auditor must conduct a comprehensive performance audit of the effectiveness of the Equity Office by October 31, 2025.

EFFECT OF STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS COMMITTEE AMENDMENT(S):

- Makes changes to the intent and definitions sections.
- Requires the Equity Office to complement the work of statutory commissions.
- 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.
- Voting Governing Board members receive compensation and are reimbursed for travel expenses.
- The appointment of the director is based on recommendations made by the Governing Board and is subject to consent of the Senate.
- Removes the Community Advisory Board and instead authorizes the Equity Office to direct the statutory commissions to conduct community outreach and engagement. The Equity Office must ensure that the statutory commissions are adequately resourced to accomplish assigned tasks.
- 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.
- Allows the Governing Board to authorize the Equity Office to contract for expertise and capacity needs and advise the Governor on proposed legislation and other diversity, equity, and inclusion (DEI) issues.
- Reporting requirements are amended to require annual reports by the agencies and the Equity Office. The Equity Office report must be reviewed and approved by the Governing Board prior to submission to the Governor and the Legislature.
- Requires the Office develop a procedure on and provide training for diversity impact analyses, rather than assessment tools.
- Requires the Office to collaborate with the OFM, rather than Results Washington to establish data standards and performance measures.

- Removes the limitations regarding the collection of personally identifiable information of vulnerable populations.
- Removes the requirement that the DEI plan and accountability procedures be established by rule, and instead requires the Equity Office develop procedures.
- Removes the requirement to collaborate with the State Auditor to conduct performance audits, and instead requires the Equity Office to conduct performance reviews.
- Clarifies the authority for accountability may include reporting audit findings to the Governing Board for enforcement action or referral to the Governor.
- Expressly prohibits certain investigation or enforcement functions.
- Requires the director review the Task Force final report and report back to the Governing Board and the Legislature with recommendations.
- Allows the Equity Office to develop legislative proposals, rather than initiatives. The Equity Office is also granted authority to: consider ways to promote investment in DEI projects; and provide a forum where DEI issues can be reviewed.
- Removes rulemaking authority.
- Requires the State Auditor to conduct a performance audit of the Equity Office by October 31, 2025.
- The Office and the Governing Board are both established on July 1, 2020.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 26, 2020.

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

Effective Date: Ninety days after adjournment of session in which bill is passed, except for Sections 3 through 5—relating to the establishment of the Equity Office and Governing Board—which takes effect July 1, 2020.

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill (State Government, Tribal Relations & Elections): *The committee recommended a different version of the bill than what was heard.* PRO: The Task Force has allowed us to connect with communities and listen and collect feedback which is reflected in the language in the bill. The support for this has been overwhelming at the Task Force meetings. Agency directors also want this office as a valuable resource to serve as a diversity, equity and inclusion (DEI) expert and provide resources for agencies. Often times government is in a space which communities may not feel like they are heard and this Office will provide a space for that. Our state has one of the fastest growing economies in the nation but there is a huge divide by the haves and the have nots. Seattle Times reported that Seattle households headed by a white person have a net worth income of \$450,000, a Latino households it is about \$90,000, for black families its \$23,000. The number one strategy identified Governors Poverty Reduction workgroup is to address poverty in the state and to understand and take action to undo structural racism and the effects of historical trauma in state policies, programs and practices. Fairness, equity, and justice are not abstract concepts, they are concepts that affect my community every day in tangible ways. The lack of a centralized approach to equity and diversity has created multiple definitions and approaches, none of which really identify the assets and needs of communities most marginalized by our

government. Nor do any of those approaches have the power to make systemic change. There is a responsibility to address policies and oversight so agencies are held accountable. The proposed legislation to create an Office of Equity would begin a centralized process for embedding equity throughout our government. The Office would remove silos between departments that are usually at odds with one another for funds but have the same goal of a vibrant economy and community living in Washington State.

CON: The spirit of discussion on equity is important but this bill is not the way. This is bureaucracy upon bureaucracy. There are already Commissions, adding more government would make the problems worse and not better. If the government wants to promote reducing disparities it should focus on reforming K-12 education to provide access to all children so that regardless of income they have access to quality education and support. This bill is not productive and is patronizing to families like mine who have overcome many challenges. Outcome based methodology means that you will be using a measurement tool based on what people look like. Last year the people rejected the initiative regarding affirmative action. If you want to make things fair start with the qualifications for a job or GPA to get into college, not looks. We are all Americans and should not be looking at someone's race.

OTHER: Voters passed Initiative 200 (I-200) in 1998 and last year voters reaffirmed I-200. Washington has rejected racial preferences and upheld the principle of equality for all. Basic American value has been cherished by people in all walks of life regardless of party affiliations. Voters in 34 out of 39 counties and 30 out of 49 legislative districts voted to support for the Civil Rights Act and reaffirm I-200. To respect the voters will, we suggest changes to make sure that voters requests will be counted and that there will be accountability in the Office. There should be a requirement that policies and mechanisms developed by the Office are in compliance with the Civil Rights Act, and the director should be jointly selected from the House and Senate and only serve four-year terms.

Persons Testifying (State Government, Tribal Relations & Elections): PRO: Representative Mia Gregerson, Prime Sponsor; Senator Manka Dhingra; Carlos Jimenez, Centro Cultural Mexicano; Angie Hinojos Yusuf, Centro Cultural Mexicano; RaShelle Davis, Governor's Office; Velma Veloria, Equity in Education Coalition.

CON: Sharon Hanek, citizen; Anthony Mixer, citizen; Isaac Yi, citizen.

OTHER: Linda Yang, citizen; Kan Qiu, citizen.

Persons Signed In To Testify But Not Testifying (State Government, Tribal Relations & Elections): PRO: Alex Hur, OneAmerica; David Mendoza, Progreso; Christianna Clinton, Poverty Reduction Workgroup; Allison Spector, Equity Office Task Force LGBTQ+; Lori Pffingst, Senior Director, Department of Social and Health Services; Charles Adkins, citizen.

Staff Summary of Public Testimony on Bill as Amended by State Government, Tribal Relations & Elections (Ways & Means): PRO: We believe that government should be equitable. It will help institutionalize best practices across agencies.

Persons Testifying (Ways & Means): PRO: Alex Hur, OneAmerica.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.