

# HOUSE BILL REPORT

## ESSB 5405

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**As Passed House:**

April 7, 2021

**Title:** An act relating to racial equity analysis for the joint legislative audit and review committee work.

**Brief Description:** Instructing the joint legislative audit and review committee to perform racial equity analyses.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Hasegawa, Conway, Lias, Nguyen, Saldaña and Wilson, C.).

**Brief History:**

**Committee Activity:**

State Government & Tribal Relations: 3/18/21, 3/22/21 [DP];

Appropriations: 4/1/21 [DP].

**Floor Activity:**

Passed House: 4/7/21, 56-41.

**Brief Summary of Engrossed Substitute Bill**

- Requires the Joint Legislative Audit and Review Committee (JLARC) to incorporate a racial equity analysis into its performance audits, sunset reviews, and other evaluations conducted by the JLARC, with exceptions.
- Requires the JLARC to provide a racial equity analysis by December 21, 2021, on the impact of in-person restrictions within the K-12 education system since the proclaimed state of emergency issued in response to COVID-19.

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

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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 part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** Do pass. Signed by 4 members: Representatives Valdez, Chair; Lekanoff, Vice Chair; Dolan and Gregerson.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives Volz, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Graham.

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

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Johnson, J., Lekanoff, Pollet, Ryu, Senn, Springer, Stonier, Sullivan and Tharinger.

**Minority Report:** Without recommendation. Signed by 14 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Dye, Harris, Hoff, Jacobsen, Rude, Schmick and Steele.

**Staff:** Heidi Cao (786-7157).

### **Background:**

#### The Joint Legislative Audit and Review Committee.

The Joint Legislative Audit and Review Committee (JLARC) is a statutorily created body consisting of eight members from the Senate and eight members from the House of Representatives, with not more than four members from each house from the same political party. The JLARC conducts a variety of analyses including performance audits, program evaluations, and sunset reviews.

The members of the JLARC must form an executive committee consisting of one member from each of the four major political caucuses, and must select a chair and vice chair that are from different political caucuses. The executive committee performs all general administrative and personnel duties assigned to it in rules adopted by the JLARC and recommends applicants for the position of Legislative Auditor to the entire membership of the JLARC.

The Legislative Auditor is responsible for establishing and managing the Office of the Joint Legislative Audit and Review Committee to conduct its statutory audit and review duties and ensure that the audits are performed in accordance with the Government Auditing Standards. The nonpartisan staff auditors work under the direction of the Legislative Auditor to conduct independent audits and issue recommendations to improve

performance. The JLARC is assigned audits and other types of evaluations through statute or by the JLARC.

#### Racial Equity Impact Analysis.

A racial equity impact analysis is a tool that provides a set of questions to determine the racial impact of existing and proposed policies, programs, and practices, and to guide the development of policies, programs, and practices to address racial disparities.

#### COVID-19 Proclamation.

On January 30, 2020, the World Health Organization declared the outbreak of COVID-19 to be a public health emergency of international concern. On January 31, 2020, the federal Department of Health and Human Services declared a public health emergency for the United States. On February 29, 2020, Governor Inslee declared a state of emergency in all counties of Washington and directed state agencies to take all reasonable measures to assist affected local governments to respond to and recover from the COVID-19 outbreak.

On March 13, 2020, Governor Inslee announced the closure of all public and private kindergarten through grade 12 school facilities in the state until April 24, 2020. The closure directive was subsequently extended through the remainder of the 2019-20 school year. Although school facilities were closed to in-person instruction during the final months of the school year, the provision of education remained mandatory and was provided through the implementation of remote instruction practices. With few exceptions, school districts in Washington began the 2020-21 school year with the continuation and modification of remote instruction practices that were employed in the prior school year. The Office of the Superintendent of Public Instruction (OSPI) tracks school reopening data for the state. According to the OSPI survey data from the week of January 18, 2021, 22 percent of public school students received in-person instruction at any point during the week. The OSPI survey for the same week also indicated that 38 of 295 school districts were providing traditional, in-person instruction to all district students.

#### **Summary of Bill:**

The JLARC must incorporate a racial equity analysis into performance audits, sunset reviews, and other audits or reports conducted by the JLARC. If a racial equity analysis is not necessary or appropriate for a given project, the JLARC must note this in its audit, review, or report.

By December 31, 2021, the JLARC must complete a racial equity analysis on the impact of restrictions placed on in-person K-12 education since the proclaimed state of emergency was issued in direct response to COVID-19.

The JLARC may work with the following state entities to design the racial equity analysis that will be incorporated into its performance audits, sunset reviews, and other reports:

- Office of Equity;

- Governor's Office of Indian Affairs;
- Washington State LGBTQ Commission;
- Washington State Women's Commission;
- Washington State Commission on African American Affairs;
- Washington State Commission on Asian Pacific American Affairs; and
- Washington State Commission on Hispanic Affairs.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony (State Government & Tribal Relations):**

(In support) The JLARC is a nationally regarded bipartisan institution that conducts performance audits and looks into every corner of government. It is not in the JLARC's statutory mission to look into racial impacts of governmental programs or policies. However, it is important to do so because historically, state spending has been disproportionate. Before Initiative 200 (I-200), over 13 percent of state spending went towards contracts with minority-owned businesses, and the state held over 5,000 contracts with minority-owned businesses. After I-200, that dropped to 1.66 percent in state spending towards contracts with minority-owned businesses, and the number of contracts was cut in half. This information was not reported in the JLARC's review because it was not part of their statutory mission to do so. This bill presents an opportunity to find issues within state government to address, but without reporting on what those issues are, the problems cannot be fixed. Progress around equity will be seen if there is intentional action to narrow the opportunity gap. Racial equity analyses should be added to the list of items the JLARC must assess when completing an audit, review, or other evaluation.

(Opposed) None.

**Staff Summary of Public Testimony (Appropriations):**

(In support) None.

(Opposed) None.

**Persons Testifying (State Government & Tribal Relations):** Rose Gundersen, Washington Retail Association.

**Persons Testifying (Appropriations):** None.

**Persons Signed In To Testify But Not Testifying (State Government & Tribal Relations):** None.

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