
SECOND SUBSTITUTE SENATE BILL 5141

State of Washington

67th Legislature

2021 Regular Session

By Senate Ways & Means (originally sponsored by Senators Saldaña, Lovelett, Carlyle, Das, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Nobles, Pedersen, Rolfes, Stanford, and Wilson, C.)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to reducing environmental and health disparities
2 and improving the health of all Washington state residents by
3 implementing the recommendations of the environmental justice task
4 force; adding new sections to chapter 43.70 RCW; adding a new section
5 to chapter 43.21A RCW; adding a new section to chapter 43.23 RCW;
6 adding a new section to chapter 43.30 RCW; adding a new section to
7 chapter 43.31 RCW; adding a new section to chapter 47.01 RCW; adding
8 a new section to chapter 90.71 RCW; and adding a new chapter to Title
9 70A RCW.

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

11 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The purpose of
12 this chapter is to reduce environmental and health disparities in
13 Washington state and improve the health of all Washington state
14 residents. This chapter implements the recommendations of the
15 environmental justice task force established in section 221(48),
16 chapter 415, Laws of 2019 entitled "Report to the Washington state
17 governor and legislature, *Environmental Justice Task Force:
18 Recommendations for Prioritizing EJ in Washington State Government*
19 (October 2020)."

20 (2) As conveyed in the task force report, Washington state
21 studies and national studies found that people of color and low-

1 income people continue to be disproportionately exposed to
2 environmental hazards in their communities. As a result, there is a
3 higher risk of adverse health outcomes for those communities. This
4 risk is amplified when overlaid on communities with preexisting
5 social and economic barriers and environmental risks, and creates
6 cumulative environmental health impacts, which this act seeks to
7 prevent and mitigate.

8 (3) Accordingly, the state has a compelling interest in ensuring
9 that such environmental health disparities are prevented and
10 addressed in the administration of ongoing and new environmental
11 programs, including allocation of funds, and that these programs
12 should be administered so as to remedy the effects of past disparate
13 treatment of overburdened communities and vulnerable populations.

14 (4) The task force provided recommendations to state agencies for
15 measurable goals and model policies to reduce environmental health
16 inequities in Washington, equitable practices for meaningful
17 community involvement, and how to use the environmental health
18 disparities map to identify and promote the equitable distribution of
19 environmental benefits to overburdened communities. In order for all
20 communities in Washington state to be healthy and thriving, state
21 government must concentrate on communities that currently have the
22 greatest environmental and health burdens.

23 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
24 section apply throughout this chapter unless the context clearly
25 requires otherwise.

26 (1) "Agency" includes the departments of ecology, health, natural
27 resources, commerce, agriculture, and transportation, the Puget Sound
28 partnership, and any agency that opts to assume the obligations of
29 this act pursuant to section 11 of this act.

30 (2) "Council" means the environmental justice council established
31 in section 20 of this act.

32 (3) "Cumulative environmental health impact" means the combined,
33 multiple environmental harms and health impacts on a vulnerable
34 population or overburdened community.

35 (4) "Department" means the department of health.

36 (5) "Environmental benefits" means activities that:

37 (a) Prevent or reduce existing environmental harms or associated
38 risks that contribute significantly to cumulative environmental
39 health impacts;

1 (b) Prevent or mitigate impacts to overburdened communities and
2 vulnerable populations from, or support community response to, the
3 impacts of environmental harm; or

4 (c) Meet a community need identified by an overburdened community
5 or vulnerable population that is consistent with the intent of this
6 chapter.

7 (6) "Environmental harm" means the individual or cumulative
8 environmental health impacts and risks to communities caused by
9 historic, current, and projected:

10 (a) Exposure to pollution, conventional or toxic pollutants,
11 environmental hazards, or other contamination in the air, water, and
12 land;

13 (b) Adverse environmental effects, including exposure to
14 contamination, hazardous substances, or pollution that increase the
15 risk of adverse environmental health outcomes or create
16 vulnerabilities to climate impacts; and

17 (c) Health and economic impacts from climate change.

18 (7) "Environmental health disparities map" means the data and
19 information developed pursuant to section 19 of this act.

20 (8) "Environmental impacts" means environmental benefits or
21 environmental harms, or the combination of environmental benefits and
22 harms resulting from a proposed action.

23 (9) "Environmental justice" means the fair treatment and
24 meaningful involvement of all people regardless of race, color,
25 national origin, or income with respect to the development,
26 implementation, and enforcement of environmental laws, rules, and
27 policies. This includes addressing disproportionate environmental and
28 health impacts in all laws, rules, and policies with environmental
29 impacts by prioritizing vulnerable populations and overburdened
30 communities, equitably distributing resources and benefits, and
31 eliminating harm.

32 (10) "Equitable distribution" means a fair and just, but not
33 necessarily equal, allocation intended to mitigate disparities in
34 benefits and burdens, and based on current conditions, including
35 existing legacy and cumulative impacts, that are informed by
36 cumulative environmental health impact analysis.

37 (11) "Overburdened community" means a geographic area where
38 vulnerable populations face combined, multiple environmental harms
39 and health impacts, and includes, but is not limited to, highly
40 impacted communities as defined in RCW 19.405.020.

1 (12) "Significant agency action" means an agency action that may
2 cause environmental harm or may affect the equitable distribution of
3 environmental benefits to an overburdened community or a vulnerable
4 population, consistent with guidance issued by the environmental
5 justice council, in consultation with the interagency work group.
6 Significant agency actions may include, but are not limited to, major
7 capital projects, rule making, and proposing legislation concerning
8 the duties of the agency.

9 (13) "Significant impact" means probable changes to critical
10 determinants of health, such as legal rights, finances, housing, and
11 safety.

12 (14) "Tribal lands" has the same meaning as "Indian country" as
13 provided in 18 U.S.C. Sec. 1151, and also includes sacred sites,
14 traditional cultural properties, burial grounds, and other tribal
15 sites protected by federal or state law. This definition is not meant
16 to direct agencies to collect, maintain, or provide such data, but
17 rather to assist agencies in consulting with tribes on impacts to
18 tribal lands.

19 (15)(a) "Vulnerable populations" means population groups that may
20 be more likely to have adverse health outcomes in response to
21 environmental harms, due to: (i) Adverse socioeconomic factors, such
22 as unemployment, high housing and transportation costs relative to
23 income, limited access to nutritious food and adequate health care,
24 linguistic isolation, and other factors that negatively affect health
25 outcomes and increase vulnerability to the effects of environmental
26 harms; and (ii) sensitivity factors, such as low birth weight and
27 higher rates of hospitalization.

28 (b) "Vulnerable populations" includes racial or ethnic minority,
29 low-income, tribal, indigenous populations, and populations of
30 workers experiencing environmental risks.

31 NEW SECTION. **Sec. 3.** ENVIRONMENTAL JUSTICE OBLIGATIONS FOR ALL
32 AGENCIES. The departments of agriculture, commerce, ecology, health,
33 natural resources, transportation, and the Puget Sound partnership
34 are required to comply with all provisions of this chapter. All other
35 state agencies should strive to apply the laws of the state of
36 Washington, and the rules and policies of the agency, in accordance
37 with the policies of this chapter including, to the extent feasible,
38 the incorporation into agency decisions of the principles of

1 environmental justice assessment processes set forth in section 15 of
2 this act.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.70
4 RCW to read as follows:

5 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF HEALTH.
6 The department must apply and comply with the substantive and
7 procedural requirements of chapter 70A.--- RCW (the new chapter
8 created in section 22 of this act).

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.21A
10 RCW to read as follows:

11 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF ECOLOGY.
12 The department must apply and comply with the substantive and
13 procedural requirements of chapter 70A.--- RCW (the new chapter
14 created in section 22 of this act).

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.23
16 RCW to read as follows:

17 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF
18 AGRICULTURE. The department must apply and comply with the
19 substantive and procedural requirements of chapter 70A.--- RCW (the
20 new chapter created in section 22 of this act).

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.30
22 RCW to read as follows:

23 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF NATURAL
24 RESOURCES. The department must apply and comply with the substantive
25 and procedural requirements of chapter 70A.--- RCW (the new chapter
26 created in section 22 of this act).

27 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.31
28 RCW to read as follows:

29 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF COMMERCE.
30 The department must apply and comply with the substantive and
31 procedural requirements of chapter 70A.--- RCW (the new chapter
32 created in section 22 of this act).

33 NEW SECTION. **Sec. 9.** A new section is added to chapter 47.01
34 RCW to read as follows:

1 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF
2 TRANSPORTATION. The department must apply and comply with the
3 substantive and procedural requirements of chapter 70A.--- RCW (the
4 new chapter created in section 22 of this act).

5 NEW SECTION. **Sec. 10.** A new section is added to chapter 90.71
6 RCW to read as follows:

7 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE PUGET SOUND PARTNERSHIP.
8 The partnership must apply and comply with the substantive and
9 procedural requirements of chapter 70A.--- RCW (the new chapter
10 created in section 22 of this act).

11 NEW SECTION. **Sec. 11.** AUTHORITY OF OTHER AGENCIES TO OPT IN TO
12 ENVIRONMENTAL JUSTICE OBLIGATIONS. Any state agency, as the term
13 "agency" is defined in RCW 34.05.010, including the governor's office
14 and the office of the attorney general, may opt in to assume the
15 substantive and procedural requirements of chapter 70A.--- RCW (the
16 new chapter created in section 22 of this act).

17 NEW SECTION. **Sec. 12.** INCORPORATING ENVIRONMENTAL JUSTICE INTO
18 AGENCY STRATEGIC PLANS. (1) By January 1, 2023, each agency shall
19 include an environmental justice implementation plan within its
20 strategic plan or other planning document. The plan must describe how
21 the agency will apply the principles of environmental justice to the
22 agency's activities and guide the agency in its implementation of its
23 obligations under this chapter.

24 (2) The environmental justice implementation plan must include:

25 (a) Agency-specific goals and deliverables to reduce
26 environmental and health disparities and for otherwise achieving
27 environmental justice in the agency's programs;

28 (b) Metrics to track and measure accomplishments of the agency
29 goals and deliverables;

30 (c) Methods to provide equitable access and ensure
31 nondiscrimination in agency practices to solicit and receive
32 information and opinions from members of the public;

33 (d) Strategies to ensure compliance with existing federal and
34 state laws and policies relating to environmental justice, including
35 Title VI of the civil rights act of 1964 and other nondiscrimination
36 requirements;

1 (e) A plan for community engagement as described in section 13 of
2 this act; and

3 (f) Specific plans and timelines for incorporating environmental
4 justice considerations into agency activities as required under this
5 chapter.

6 (3) In developing its plan, the agency must consider any
7 guidelines developed by the council pursuant to section 20 of this
8 act.

9 NEW SECTION. **Sec. 13.** EQUITABLE COMMUNITY ENGAGEMENT AND PUBLIC
10 PARTICIPATION. (1) By July 1, 2022, an agency must create and adopt a
11 community engagement plan that describes how it will engage with
12 overburdened communities and vulnerable populations as it evaluates
13 new and existing activities and programs. This plan should describe
14 how the agency will facilitate equitable participation and support
15 meaningful and direct involvement of vulnerable populations and
16 overburdened communities. The plan must include:

17 (a) Best practices for outreach and communication to overcome
18 barriers to engagement with overburdened communities and vulnerable
19 populations;

20 (b) Use of special screening tools that integrate environmental,
21 demographic, and health disparities data, such as the environmental
22 health disparities map, to evaluate and understand the nature and
23 needs of the people who may be impacted by agency decisions;

24 (c) Processes that facilitate and support the inclusion of
25 members of communities affected by agency decision making including,
26 but not limited to, child care, and reimbursement for travel and
27 other expenses; and

28 (d) Methods for outreach and communication with those who face
29 barriers, language or otherwise, to participation.

30 (2) Agencies must regularly conduct compliance reviews of
31 existing laws and policies that guide community engagement, and where
32 gaps exist, ensure compliance for the following:

33 (a) Title VI of the civil rights act, prohibiting discrimination
34 based on race, color, or national origin and requiring meaningful
35 access to people with limited English proficiency, and disability;

36 (b) Executive Order 05-03, requiring plain talk when
37 communicating with the public; and

38 (c) Executive Order 13166, requiring meaningful access to agency
39 programs and services for people with limited English proficiency.

1 (3) In developing its plan, the agency must consider any
2 guidelines developed by the council pursuant to section 20 of this
3 act.

4 (4) An agency may coordinate with the office of equity to
5 identify policy and system barriers to meaningful engagement with
6 communities as conducted by the office under RCW 43.06D.040(1)(b).

7 NEW SECTION. **Sec. 14.** ENVIRONMENTAL JUSTICE ASSESSMENT. (1)
8 When considering a significant agency action, an agency must conduct
9 an environmental justice assessment as described in this section to
10 inform and support the agency considering overburdened and vulnerable
11 populations when making decisions and to assist the agency with the
12 equitable distribution of environmental benefits, reduction of
13 environmental harms, and the identification and reduction of
14 environmental and health disparities.

15 (2) By July 1, 2023, and subject to the considerations of
16 subsections (3) through (7) of this section and the identification
17 and prioritization of significant agency actions by the council and
18 the interagency work group, each agency following the guidance from
19 and in iterative consultation with the council must develop a process
20 for conducting environmental justice assessments, determining what
21 additional actions prompt an assessment, and determining any other
22 relevant factors for assessment based on the unique mission,
23 authorities, and priorities of each agency.

24 (3) At a minimum, environmental justice assessments must:

25 (a) Consider guidelines prepared by the council relating to best
26 practices on environmental justice assessments and when and how to
27 use cumulative environmental health impact analysis;

28 (b) Utilize cumulative environmental health impact analysis, such
29 as the environmental health disparities map or other data that
30 considers the effects of a proposed action on overburdened
31 communities and vulnerable populations;

32 (c) Identify overburdened communities and vulnerable populations
33 who may be affected by the proposed action and the potential
34 environmental and health impacts;

35 (d) Identify any local and regional impacts to tribal treaty
36 reserved rights and resources;

37 (e) Summarize community input and describe how overburdened
38 communities, vulnerable populations, affected tribes, and indigenous

1 populations may be further involved in development of the proposed
2 action; and

3 (f) Describe options and readily available cost projections for
4 the agency to reduce, mitigate, or eliminate any impacts on
5 overburdened communities, or provide a reasonable justification for
6 not doing so.

7 (4) To obtain information for the purposes of assessments, an
8 agency should consult with members of overburdened communities and
9 vulnerable populations to assist in the accurate assessment of the
10 potential impact of the action and in developing the means to reduce
11 or eliminate the impact on overburdened communities and vulnerable
12 populations.

13 (5) Based on the environmental justice assessment, the agency
14 must seek to reduce or eliminate the negative impacts and maximize
15 the benefits created by the action on overburdened communities and
16 vulnerable populations. Consistent with agency authority, mission,
17 and mandates, the agency must consider each of the following methods
18 for reducing such an impact or equitably distributing benefit:

19 (a) Eliminating disparities and the unequal effect of
20 environmental harms on overburdened communities and vulnerable
21 populations;

22 (b) Reducing or ensuring the action does not add to the
23 cumulative environmental health impacts on overburdened communities
24 or vulnerable populations;

25 (c) Ensuring the action contributes to reducing the cumulative
26 environmental health impacts on overburdened communities or
27 vulnerable populations;

28 (d) Providing equitable participation and meaningful engagement
29 of vulnerable populations and overburdened communities in the
30 development of the agency action;

31 (e) Prioritizing equitable distribution of resources and benefits
32 to overburdened communities;

33 (f) Ensuring positive workforce and job outcomes for overburdened
34 communities;

35 (g) Meeting a community need identified by the affected
36 overburdened community;

37 (h) Modifying substantive regulatory or policy requirements; and

38 (i) Any other mitigation techniques, including those suggested by
39 the council, the office of equity, or representatives of overburdened
40 communities and vulnerable populations.

1 (6) If the agency determines it cannot avoid or reduce the
2 harmful impact of the action on overburdened communities and
3 vulnerable populations or address the distribution of environmental
4 and health benefits, the agency must provide a clear explanation of
5 why it has made that determination, make that explanation part of the
6 record of the decision, and provide notice of that explanation to
7 members of the public who participated in the process.

8 (7) In developing a process for conducting environmental justice
9 assessments, the agency must consider any guidelines developed by the
10 council pursuant to section 20 of this act.

11 NEW SECTION. **Sec. 15.** The obligation of an agency to conduct an
12 environmental justice assessment pursuant to section 14 of this act
13 for significant agency actions does not, by itself, trigger
14 requirements in chapter 43.21C RCW.

15 NEW SECTION. **Sec. 16.** ENVIRONMENTAL JUSTICE OBLIGATIONS OF
16 AGENCIES RELATING TO BUDGETS AND FUNDING. (1) An agency must
17 incorporate environmental justice principles into its decision
18 processes for budget development, making expenditures, granting or
19 withholding benefits, and equitably distribute funding and
20 expenditures towards overburdened communities and vulnerable
21 populations, consistent with the guidelines issued by and in
22 iterative consultation with the environmental justice council in
23 section 20 of this act.

24 (2) By July 1, 2023, the agency must:

25 (a) Focus expenditures on creating environmental benefits,
26 including eliminating health burdens, creating community and
27 population resilience, and improving the quality of life of
28 overburdened communities and vulnerable populations;

29 (b) Create opportunities for overburdened communities and
30 vulnerable populations to meaningfully participate in agency spending
31 and expenditure decisions;

32 (c) Clearly articulate environmental justice goals and assessment
33 metrics to communicate where, why, and how funds are to be
34 distributed;

35 (d) Consider a broad scope of grants and contracting
36 opportunities that effectuate environmental justice principles,
37 including:

38 (i) Community grants to monitor pollution;

1 (ii) Grants focused on building capacity and providing training
2 for community scientists and other staff;

3 (iii) Technical assistance for communities that may be new to
4 receiving agency grant funding; and

5 (iv) Education and work readiness youth programs focused on
6 infrastructure or utility-related internships to develop career paths
7 for youth and, eventually, community leaders; and

8 (e) Establish a goal of 40 percent of expenditures that create
9 environmental benefits that are directed to vulnerable populations
10 and overburdened communities.

11 (3) An agency may develop rules for criteria and procedures
12 applicable to incorporating environmental justice principles in
13 expenditure decisions under this section.

14 (4) In incorporating environmental justice principles into its
15 decision processes for budget development, making expenditures,
16 granting or withholding benefits, and distributing funding, the
17 agency must consider any guidelines developed by the council pursuant
18 to section 20 of this act.

19 NEW SECTION. **Sec. 17.** REPORTING REQUIREMENTS. (1) By September
20 1st of each year, an agency must annually update the environmental
21 justice council on the development and implementation of
22 environmental justice implementation in agency strategic plans
23 pursuant to section 12 of this act, budgeting and funding criteria
24 for making budgeting and funding decisions pursuant to section 16 of
25 this act, and community engagement plans pursuant to section 13 of
26 this act.

27 (2) (a) Beginning in 2024, agencies must include updates on
28 environmental justice assessments pursuant to section 14 of this act;
29 and

30 (b) By September 1st of each year beginning in 2024, publish a
31 dashboard report or an updated dashboard report, in a uniform
32 dashboard format on the office of financial management's website,
33 describing its progress on implementing environmental justice in its
34 strategic plan and its environmental justice assessments of proposed
35 significant agency actions.

36 NEW SECTION. **Sec. 18.** TRIBAL CONSULTATION. Agencies must offer
37 consultation with Indian tribes on decisions that affect Indian
38 tribes' rights and interests in their tribal lands. The consultation

1 must occur pursuant to chapter 43.376 RCW and must be independent of
2 any public participation process required by state law, or by a state
3 agency, and regardless of whether the agency receives a request for
4 consultation from an Indian tribe. Agencies must develop a
5 consultation framework in coordination with tribal governments that
6 includes best practices, protocols for communication, and
7 collaboration with Indian tribes.

8 NEW SECTION. **Sec. 19.** A new section is added to chapter 43.70
9 RCW to read as follows:

10 ENVIRONMENTAL HEALTH DISPARITIES MAP. (1) In consultation with
11 the environmental justice council established in section 20 of this
12 act, the department must continue to develop and maintain an
13 environmental health disparities map with the most current available
14 information necessary to identify cumulative environmental health
15 impacts and overburdened communities. The department may also consult
16 with other interested partners, such as the University of Washington
17 department of environmental and occupational health sciences, other
18 academic partners, members of overburdened communities and vulnerable
19 populations, and other agencies. The environmental health disparities
20 map must include tools to:

21 (a) Track changes in environmental health disparities over time
22 in an interactive, regularly updated display; and

23 (b) Measure the link between overall environmental health
24 disparity map ranks, environmental data, vulnerable population
25 characteristics, such as race and income, and human health data.

26 (2) In further developing and maintaining the environmental
27 health disparities map, the department must encourage participation
28 by representatives from overburdened communities and vulnerable
29 populations through community engagement and listening sessions in
30 all regions of the state and provide opportunities for public
31 comment.

32 (3) The department may request assistance from:

33 (a) The University of Washington;

34 (b) Other academic researchers to perform modeling and create
35 evidence-based indicators and with conducting sensitivity analyses to
36 assess the impact of new indicators on communities and determination
37 of an overburdened community; and

1 (c) Other state agencies to provide applicable statewide
2 environmental and sampling data for air, water, soil, polluted sites,
3 toxic waste, pesticides, toxic chemicals, and other applicable media.

4 (4) The department must:

5 (a) Document and publish a summary of the regular updates and
6 revisions to the environmental health disparities map that happen
7 over time as the new data becomes available, in order to help the
8 public, describe and understand different versions of the map as they
9 are published;

10 (b) At least every three years, perform a comprehensive
11 evaluation of the map to ensure that the most current modeling and
12 methods available to evaluate cumulative environmental health impacts
13 are being utilized to develop and update the environmental health
14 disparities map's indicators;

15 (c) Develop technical guidance for agencies that includes an
16 online training video detailing a description of how to utilize the
17 environmental health disparities map's features, access source data,
18 and explanation of map and indicator limitations; and

19 (d) Provide support and consultation to agencies on use of the
20 environmental health disparities map by Washington tracking network
21 staff.

22 NEW SECTION. **Sec. 20.** ENVIRONMENTAL JUSTICE COUNCIL. (1) The
23 environmental justice council is established to advise agencies on
24 incorporating environmental justice into agency activities.

25 (2) The council consists of 12 members appointed by the governor
26 and subject to confirmation by the senate, except for the
27 appointments in (b) of this subsection. The councilmembers must be
28 persons who are well-informed regarding and committed to the
29 principles of environmental justice and who, to the greatest extent
30 practicable, represent diversity in race, ethnicity, age, and gender,
31 urban and rural areas, and different regions of the state. The youth
32 representative serves a two-year term. All other representatives
33 serve four-year terms, with six representatives initially being
34 appointed to four-year terms and five being initially appointed to
35 two-year terms, after which they will be appointed to four-year
36 terms. The members of the council shall elect two members to serve as
37 cochairs for the length of their term. The council must include:

38 (a) (i) Seven community representatives, including one youth
39 representative, the nominations of which are based upon applied and

1 demonstrated work and focus on environmental justice or a related
2 field, such as racial or economic justice, and accountability to
3 vulnerable populations in overburdened communities;

4 (ii) The youth representative must be between the ages of 18 and
5 25 at the time of appointment;

6 (b) Two members representing tribal communities, one from eastern
7 Washington and one from western Washington, appointed by the
8 governor's office of Indian affairs in consultation with all
9 federally recognized tribes in Washington state, including all tribes
10 with treaty reserved rights in Washington state. The tribal
11 representatives serve four-year terms. One representative must be
12 initially appointed for a four-year term. The other representative
13 must be initially appointed for a two-year term, after which, that
14 representative must be appointed for a four-year term;

15 (c) Two representatives who are environmental justice
16 practitioners or academics to serve as environmental justice experts,
17 the nominations of which are based upon applied and demonstrated work
18 and focus on environmental justice; and

19 (d) (i) One representative at large, the nomination of which is
20 based upon applied and demonstrated work and focus on environmental
21 justice;

22 (ii) Agencies specified in section 3 of this act shall serve as
23 nonvoting, ex officio liaisons to the council and each agency must
24 identify an executive team level staff person to participate on
25 behalf of the agency.

26 (3) Nongovernmental members of the council must be compensated
27 and reimbursed in accordance with RCW 43.03.050, 43.03.060, and
28 43.03.250.

29 (4) The department must:

30 (a) Hire a manager who is responsible for overseeing all staffing
31 and administrative duties of the council; and

32 (b) Provide all administrative and staff support for the council.

33 (5) In collaboration with the office of equity, the office of
34 financial management, the environmental justice council, and
35 agencies, the department must:

36 (a) Establish standards for the collection, analysis, and
37 reporting of disaggregated data as it pertains to tracking population
38 level outcomes of communities;

39 (b) Create statewide and agency-specific process and outcome
40 measures to show performance:

1 (i) Using outcome-based methodology to determine the
2 effectiveness of agency programs and services on reducing
3 environmental disparities;

4 (ii) Taking into consideration community feedback from the
5 environmental justice council on whether the performance measures
6 established accurately measure the effectiveness of agency programs
7 and services in the communities served; and

8 (c) Create an online performance dashboard to publish state and
9 agency performance measures and outcomes as referenced in section 17
10 of this act.

11 (6) The department must coordinate with the office of privacy and
12 data protection to address cybersecurity and data protection for all
13 data collected by the department.

14 (7)(a) With input and assistance from the environmental justice
15 council, the department must establish an interagency work group to
16 assist agencies in incorporating environmental justice into agency
17 decision making. The work group must include staff from each agency
18 directed to implement environmental justice provisions under this
19 chapter and may include members from the council. The department
20 shall provide assistance by:

21 (i) Facilitating information sharing among agencies on
22 environmental justice issues and between agencies and the council;

23 (ii) Developing and providing assessment tools for agencies to
24 use in the development and evaluation of agency programs, services,
25 policies, and budgets;

26 (iii) Providing technical assistance and compiling and creating
27 resources for agencies to use; and

28 (iv) Training agency staff on effectively using data and tools
29 for environmental justice assessments.

30 (b) The duties of the interagency work group include:

31 (i) Providing technical assistance to support agency compliance
32 with the implementation of environmental justice into their strategic
33 plans, environmental justice obligations for budgeting and funding
34 criteria and decisions, environmental justice assessments, and
35 community engagement plans;

36 (ii) Assisting the council in developing a schedule and timeline
37 for sequencing the types of:

38 (A) Significant agency actions subject to environmental
39 assessments, guidance, and best practices; and

1 (B) Funding and expenditure decisions subject to rules and
2 criteria incorporating environmental justice principles;

3 (iii) Identifying other policies, priorities, and projects for
4 the council's review and guidance development;

5 (iv) Identifying goals and metrics that the council may use to
6 assess agency performance in meeting the requirements of this act for
7 purposes of communicating progress to the public, the governor, and
8 legislature; and

9 (v) Developing the guidelines under subsection (8)(c) of this
10 section in coordination with the council.

11 (8) The council has the following powers and duties:

12 (a) To provide a forum for the public to:

13 (i) Provide written or oral testimony on their environmental
14 justice concerns;

15 (ii) Assist the council in understanding environmental justice
16 priorities across the state in order to develop council
17 recommendations to agencies for issues to prioritize; and

18 (iii) Identify which agencies to contact with their specific
19 environmental justice concerns and questions;

20 (b) Between the effective date of this section and July 1, 2023,
21 and in consultation with the interagency work group, the council
22 shall prioritize and make recommendations to agencies on which of the
23 obligations of this act, environmental justice implementation into
24 agency strategic plans or budgeting and funding criteria, agencies
25 should pursue first, and which significant agency actions agencies
26 should conduct an environmental justice assessment for first;

27 (c)(i) The council shall work in an iterative fashion with the
28 interagency work group to develop guidance for environmental justice
29 implementation into agency strategic plans pursuant to section 12 of
30 this act, environmental justice assessments pursuant to section 14 of
31 this act, budgeting and funding criteria for making budgeting and
32 funding decisions pursuant to section 16 of this act, and community
33 engagement plans pursuant to section 13 of this act;

34 (ii) The council and interagency work group shall regularly
35 update its guidance;

36 (d) In consultation with the interagency work group, the council:

37 (i) Shall make recommendations to agencies on the identification
38 of significant agency actions requiring an environmental justice
39 assessment under section 14 of this act;

1 (ii) May make recommendations to an agency on the timing and
2 sequencing of the agency's effort to implement sections 12 through 14
3 of this act; and

4 (iii) May make recommendations to the governor and the
5 legislature regarding ways to improve agency compliance;

6 (e) Beginning December 1, 2023, and biennially thereafter,
7 considering the information shared on September 1st each year in
8 agencies' annual updates to the council and additional information
9 they identify, the council will:

10 (i) Evaluate progress of agencies on applying council guidance,
11 and update guidance as needed; and

12 (ii) Communicate agencies' progress to the public, the governor,
13 and the legislature. This communication is not required to be a
14 report and may take the form of a presentation or other format that
15 communicates the progress of the state and its agencies in meeting
16 the state's environmental justice goals in compliance with this act,
17 and summarizing the work of the council pursuant to (a) through (d)
18 of this subsection, and subsection (9) of this section.

19 (9) The council may:

20 (a) Review incorporation of environmental justice implementation
21 plans into agency strategic plans pursuant to section 12 of this act,
22 environmental justice assessments pursuant to section 15 of this act,
23 budgeting and funding criteria for making budgeting and funding
24 decisions pursuant to section 16 of this act, and community
25 engagement plans pursuant to section 13 of this act;

26 (b) Make recommendations for additional legislation to further
27 the environmental justice goals of the state;

28 (c) Review existing environmental laws and make recommendations
29 for amendments that will further environmental justice;

30 (d) Recommend to specific agencies that they create environmental
31 justice-focused, agency-requested legislation; and

32 (e) Recommend funding strategies and allocations to build
33 capacity in vulnerable populations and overburdened communities to
34 address environmental justice.

35 (10) The council must convene by January 1, 2022.

36 (11) All council meetings are subject to the open public meetings
37 requirements of chapter 42.30 RCW and a public comment period must be
38 provided at every meeting of the council.

1 NEW SECTION. **Sec. 21.** LEGAL OBLIGATIONS. (1) Nothing in this
2 act prevents other state agencies from adopting environmental justice
3 policies and processes consistent with this act.

4 (2) Exceptions to the requirements of sections 14 and 16 of this
5 act may be made for any of the following reasons:

6 (a) The agency head determines that any delay in the significant
7 agency action poses a potentially significant threat to human health
8 or the environment, or causes serious harm to the public interest;

9 (b) An assessment or consultation would delay a significant
10 agency decision concerning the assessment, collection, or
11 administration of any tax, tax program, debt, revenue, receipt, a
12 regulated entity's financial filings, or insurance rate or form
13 filing;

14 (c) The requirements of the sections are in conflict with federal
15 law or federal program requirements, federal requirements that are a
16 prescribed condition to the allocation of federal funds to the state,
17 or the requirements for eligibility of employers in this state for
18 federal unemployment tax credits, as determined by the agency head;
19 or

20 (d) The requirements of the sections are in conflict with
21 constitutional limitations, including those applicable to the
22 management of state-owned trust lands.

23 NEW SECTION. **Sec. 22.** Sections 1 through 3, 11 through 18, 20,
24 and 21 of this act constitute a new chapter in Title 70A RCW.

25 NEW SECTION. **Sec. 23.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

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