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**HOUSE BILL 1347**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Pollet, Lekanoff, Berry, Ramel, Kloba, Slatter, Ryu, Taylor, and Doglio

AN ACT Relating to integrating community-based health assessments into foundational environmental policies to improve environmental justice; amending RCW 70A.65.260; reenacting and amending RCW 70A.65.230; adding a new section to chapter 70A.02 RCW; adding a new section to chapter 43.21C RCW; and creating a new section.

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

NEW SECTION. **Sec.**  (1) To reduce serious health disparities that reduce lifespans and years of living without disabilities due to environmental exposures suffered by the residents of highly impacted and overburdened communities, the legislature intends to invest in community-based health assessments. These assessments have been utilized by tribal nations and highly impacted communities in other states to identify the most serious health conditions, local environmental risk factors, and prioritize evidence-based investments to improve health and reduce disparities. The legislature intends that the use of community-based health assessments will empower the residents of the communities to participate in identifying the harms, causes, and solutions to build healthier communities throughout Washington.

(2) The legislature recognizes that the environmental justice assessments authorized by the 2021 HEAL act (chapter 314, Laws of 2021) will require significant additional community-based health information to inform and support the agency's consideration of overburdened communities and vulnerable populations when making decisions. The legislature intends to ensure that the residents of those overburdened communities and members of vulnerable populations are involved in identification of both the conditions of their communities and identification and development of solutions that consider the unique characteristics of their communities.

(3) The legislature finds that the state environmental policy act checklist utilized by agencies pursuant to chapter 43.21C RCW does not include meaningful measures related to environmental justice and is not designed to identify health disparities that arise from exposures and other environmental conditions in overburdened communities in comparison to other, healthier communities in Washington. Therefore, it is the intent of the legislature to ensure that a range of tools developed by state and federal agencies to identify overburdened, highly impacted, or disadvantaged communities are utilized when assessing if a project will have a probable significant environmental impact through the state environmental policy act checklist.

NEW SECTION. **Sec.**  A new section is added to chapter 70A.02 RCW to read as follows:

(1)(a) The department of health shall annually initiate no fewer than 10 community-based health assessments in collaboration with organizations and residents of overburdened communities and federally recognized tribal nations. The council must develop and annually adopt a prioritized list of community-based health assessments for the department of health to initiate.

(b) For purposes of this section, a community-based health assessment is a comprehensive report that documents the current health status of a community in order to make plans for improving it in the future. Assessments should document health risks, exposures, and social determinants of health that influence the health of a community and specific vulnerable populations. Data used for analysis may include both primary data collected as part of the assessment and secondary data from existing databases and studies. Community-based health assessments should be carried out in a manner that values cross-sector collaboration and community engagement to form strong networks and partnerships working towards sustainable solutions, common goals, and funding streams. Community-based health assessments may be used to inform community health improvement plans that outline the community's evidence-based plans to lessen health disparities. Community-based health assessments are intended to inform policy changes, including funding evidence-based interventions addressing community health needs.

(2) Covered agencies shall submit to the council a list of all communities identified by the covered agency as overburdened, and the purposes for which the covered agency's identification of an overburdened community is applicable. To accompany this list, each covered agency must submit adequate information to assess if the program or action triggering an environmental justice assessment and other related proposals or cumulative impacts should result in the council recommending that a community-based health assessment should be conducted in collaboration with the overburdened community. Covered agencies shall update the list of actions and overburdened communities provided to the council no less than once per quarter until the council adopts its recommendations for funding community-based health assessments, and annually thereafter.

(3) The department of health shall seek to enter into cooperative agreements with federally recognized tribal governments requesting community-based health assessments and recommended by the council in order to fund and provide support for the tribal governments to conduct an assessment or for the department of health to contract for an assessment with tribal participation.

(4) Funds for the community-based health assessments may be from the climate commitment account in RCW 70A.65.260 or the air quality and health disparities improvement account in RCW 70A.65.280. Subject to the availability of amounts appropriated for this specific purpose, the department of health must fund no fewer than 10 community-based health assessments each year unless the total number of communities or tribal nations identified as overburdened that have not had community-based health assessments conducted is under 10.

(5) By December 31, 2023, if covered or opt-in agencies have identified 10 overburdened communities, the department of health shall conduct or contract for initiation of 10 community-based health assessments to serve the residents of 10 overburdened communities, of which at least five shall be tribal nations, if five or more federally recognized tribal nations have requested assessments. If fewer than 10 overburdened communities have been identified by December 31, 2023, the department of health shall initiate community-based health assessments for up to 10 Indian tribes and communities.

(6) In meeting its obligation pursuant to RCW 70A.02.060(6) to reduce or eliminate environmental harms, including those that contribute to health disparities, a covered agency shall utilize the results and findings of any community-based health assessment conducted on behalf of the community in assessing if additional environmental exposures or risks may cause significant harm to vulnerable populations and in prioritizing actions to mitigate or reduce such harm or actions to improve health in the community.

(7) A covered agency must engage with residents and organizations in overburdened communities to incorporate the findings and recommendations of a community-based health assessment conducted pursuant to this section when fulfilling the agencies' environmental justice assessment obligations pursuant to RCW 70A.02.060.

(a) In addition to community-based health assessments carried out by the department of health under this section, when a covered agency action triggers an environmental justice assessment relating to one or more overburdened communities pursuant to the requirements of RCW 70A.02.060 and the potentially affected communities have not had a community-based health assessment conducted within 12 years, the agency shall notify the council, which has 90 days to request that a community-based health assessment be conducted with one or more of the overburdened communities potentially impacted by the program, project, or action. The council may recommend that funding for such a community-based health assessment be included in its next round of funding recommendations pursuant to this chapter, or that the covered agency proposing the action fund one or more representative community-based health assessments prior to completing the required environmental justice assessment.

(b) If a covered agency declines to fund a community-based health assessment requested by the council and the council has not included the community in its recommendations for the upcoming year, the covered agency proposing the action shall issue an explanation in writing as to why it believes a community-based health assessment will not provide information to assist the agency in meeting its environmental justice and health obligations, and conduct at least one public meeting in the community upon request of a tribal government, a local government, or an organization or petition representing 10 or more community members.

(c) Organizations or governmental entities representing residents of a community that has not been designated as an overburdened community by a covered agency, but which believe, based on community health and environmental data, that they should be considered overburdened, may submit a request to the council with documentation as required by the council. The council may review the applications and include recommendations for funding a community-based health assessment in its upcoming annual prioritized list. The results of such a community-based health assessment must be in the council's upcoming annual prioritized list. The results of such a community-based health assessment must be considered in all future determinations of whether the community or vulnerable populations are overburdened and in meeting the environmental justice obligations of covered agencies.

(d) The council shall designate council-designated priority overburdened communities for purposes of covered agencies fulfilling their duties to conduct environmental justice assessments and reduce or mitigate environmental and health harms. The council may designate council-designated priority overburdened communities based upon factors including, but not limited to:

(i) The community being identified by more than one covered agency or by the same covered agency multiple times as being an overburdened community under this chapter; and

(ii) The results of community-based health assessments under this section.

(e) Upon the designation of a council-designated priority overburdened community, the council must provide a brief explanation of key reasons for the designation and links to resources on the dashboard specified in RCW 70A.02.090.

(f) Any project or program that has a significant potential impact perpetuating or increasing health or environmental disparities in a community designated by the council as overburdened is presumed to require an environmental justice assessment that must consider any community-based health assessment and other documentation referred to by the council. Any project subject to review under chapter 43.21C RCW in a community designated by the council as an overburdened community shall specifically address environmental and health disparities in any state environmental policy act checklist prepared by an agency. If probable significant impacts would increase adverse health outcomes or increase environmental and health disparities in the community compared to statewide or regional baselines, then those impacts, potential actions for mitigation of impacts, and alternatives to the project must be addressed in an environmental impact statement and avoided or mitigated consistent with the authority provided under chapter 43.21C RCW.

(8) For purposes of this section, "council-designated priority overburdened communities" means the communities designated by the council consistent with subsection (7) of this section.

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

Any project subject to review under this chapter in a community designated by the environmental justice council established in RCW 70A.02.110 as an overburdened community under section 2 of this act shall specifically address environmental and health disparities in any checklist prepared by an agency under this chapter. If probable significant impacts include an increase in adverse health outcomes or increased environmental and health disparities in the overburdened community compared to statewide or regional baselines, then those impacts, potential actions for mitigation of impacts, and alternatives to the project must be addressed in an environmental impact statement and avoided or mitigated consistent with the authority provided to lead agencies under this chapter.

**Sec.**  RCW 70A.65.230 and 2022 c 182 s 426 and 2022 c 181 s 8 are each reenacted and amended to read as follows:

(1) It is the intent of the legislature that each year the total investments made through the carbon emissions reduction account created in RCW 70A.65.240, the climate commitment account created in RCW 70A.65.260, the natural climate solutions account created in RCW 70A.65.270, the air quality and health disparities improvement account created in RCW 70A.65.280, the climate transit programs account created in RCW 46.68.500, and the climate active transportation account created in RCW 46.68.490, achieve the following:

(a) A minimum of not less than 35 percent and a goal of 40 percent of total investments that provide direct and meaningful benefits to vulnerable populations within the boundaries of overburdened communities identified under chapter 70A.02 RCW; and

(b) In addition to the requirements of (a) of this subsection, a minimum of not less than 10 percent of total investments that are used for programs, activities, or projects formally supported by a resolution of an Indian tribe, with priority given to otherwise qualifying projects directly administered or proposed by an Indian tribe. An investment that meets the requirements of both this subsection (1)(b) and (a) of this subsection may count toward the minimum percentage targets for both subsections.

(2) The expenditure of moneys under this chapter must be consistent with applicable federal, state, and local laws, and treaty rights including, but not limited to, prohibitions on uses of funds imposed by the state Constitution.

(3) For the purposes of this section, "benefits" means investments or activities that:

(a) Reduce vulnerable population characteristics, environmental burdens, or associated risks that contribute significantly to the cumulative impact designation of overburdened communities;

(b) Meaningfully protect an overburdened community from, or support community response to, the impacts of air pollution or climate change; or

(c) Meet a community need identified by vulnerable members of the overburdened community that is consistent with the intent of this chapter.

(4) The state must develop a process by which to evaluate the impacts of the investments made under this chapter, work across state agencies to develop and track priorities across the different eligible funding categories, and work with the environmental justice council pursuant to RCW 70A.65.040.

(5) As a supplement to the analysis required under this section, the department, in consultation with the department of health, must recommend how to allocate funding to reduce health disparities and environmental harms in overburdened communities, as defined in RCW 70A.02.010, with revenues from the auction of allowances under this chapter. In doing so, the department, in consultation with the department of health, must document how the funding recommendations:

(a) Consider the results of community-based health assessments;

(b) Are directed to efforts to reduce the greatest risks to health in overburdened communities as defined in RCW 70A.02.010 as identified through a combination of credible data sources with specifics for individual communities or vulnerable populations identified through community-based health assessments. Risks to health include consideration of prevalence of conditions, disease or adverse health effects, incidence, relative risk, and potential for harm if a potential environmental exposure occurs;

(c) Are based on community prioritized solutions or interventions documented in community-based health assessments;

(d) Are based on strong evidence that the proposed action will result in improved health and reduced health disparities; and

(e) Have considered alternative interventions that may have stronger evidence in support of improved health outcomes and reduced disparities.

**Sec.**  RCW 70A.65.260 and 2022 c 179 s 17 are each amended to read as follows:

(1) The climate commitment account is created in the state treasury. The account must receive moneys distributed to the account from the climate investment account created in RCW 70A.65.250. Moneys in the account may be spent only after appropriation. Projects, activities, and programs eligible for funding from the account must be physically located in Washington state and include, but are not limited to, the following:

(a) Implementing the working ((~~families tax rebate~~)) families' tax credit in RCW 82.08.0206;

(b) Supplementing the growth management planning and environmental review fund established in RCW 36.70A.490 for the purpose of making grants or loans to local governments for the purposes set forth in RCW 43.21C.240, 43.21C.031, 36.70A.500, and 36.70A.600, for costs associated with RCW 36.70A.610, and to cover costs associated with the adoption of optional elements of comprehensive plans consistent with RCW 43.21C.420;

(c) Programs, activities, or projects that reduce and mitigate impacts from greenhouse gases and copollutants in overburdened communities, including strengthening the air quality monitoring network to measure, track, and better understand air pollution levels and trends, performing community-based health assessments as specified in section 2 of this act, and to inform the analysis, monitoring, and pollution reduction measures required in RCW 70A.65.020;

(d) Programs, activities, or projects that deploy renewable energy resources, such as solar and wind power, and projects to deploy distributed generation, energy storage, demand-side technologies and strategies, and other grid modernization projects;

(e) Programs, activities, or projects that increase the energy efficiency or reduce greenhouse gas emissions of industrial facilities including, but not limited to, proposals to implement combined heat and power, district energy, or on-site renewables, such as solar and wind power, to upgrade the energy efficiency of existing equipment, to reduce process emissions, and to switch to less emissions intensive fuel sources;

(f) Programs, activities, or projects that achieve energy efficiency or emissions reductions in the agricultural sector including:

(i) Fertilizer management;

(ii) Soil management;

(iii) Bioenergy;

(iv) Biofuels;

(v) Grants, rebates, and other financial incentives for agricultural harvesting equipment, heavy-duty trucks, agricultural pump engines, tractors, and other equipment used in agricultural operations;

(vi) Grants, loans, or any financial incentives to food processors to implement projects that reduce greenhouse gas emissions;

(vii) Renewable energy projects;

(viii) Farmworker housing weatherization programs;

(ix) Dairy digester research and development;

(x) Alternative manure management; and

(xi) Eligible fund uses under RCW 89.08.615;

(g) Programs, activities, or projects that increase energy efficiency in new and existing buildings, or that promote low carbon architecture, including use of newly emerging alternative building materials that result in a lower carbon footprint in the built environment over the life cycle of the building and component building materials;

(h) Programs, activities, or projects that promote the electrification and decarbonization of new and existing buildings, including residential, commercial, and industrial buildings;

(i) Programs, activities, or projects that improve energy efficiency, including district energy, and investments in market transformation of high efficiency electric appliances and equipment for space and water heating;

(j) Clean energy transition and assistance programs, activities, or projects that assist affected workers or people with lower incomes during the transition to a clean energy economy, or grow and expand clean manufacturing capacity in communities across Washington state including, but not limited to:

(i) Programs, activities, or projects that directly improve energy affordability and reduce the energy burden of people with lower incomes, as well as the higher transportation fuel burden of rural residents, such as bill assistance, energy efficiency, and weatherization programs;

(ii) Community renewable energy projects that allow qualifying participants to own or receive the benefits of those projects at reduced or no cost;

(iii) Programs, activities, or other worker-support projects for bargaining unit and nonsupervisory fossil fuel workers who are affected by the transition away from fossil fuels to a clean energy economy. Worker support may include, but is not limited to: (A) Full wage replacement, health benefits, and pension contributions for every worker within five years of retirement; (B) full wage replacement, health benefits, and pension contributions for every worker with at least one year of service for each year of service up to five years of service; (C) wage insurance for up to five years for workers reemployed who have more than five years of service; (D) up to two years of retraining costs, including tuition and related costs, based on in-state community and technical college costs; (E) peer counseling services during transition; (F) employment placement services, prioritizing employment in the clean energy sector; and (G) relocation expenses;

(iv) Direct investment in workforce development, via technical education, community college, institutions of higher education, apprenticeships, and other programs including, but not limited to:

(A) Initiatives to develop a forest health workforce established under RCW 76.04.521; and

(B) Initiatives to develop new education programs, emerging fields, or jobs pertaining to the clean energy economy;

(v) Transportation, municipal service delivery, and technology investments that increase a community's capacity for clean manufacturing, with an emphasis on communities in greatest need of job creation and economic development and potential for commute reduction;

(k) Programs, activities, or projects that reduce emissions from landfills and waste-to-energy facilities through diversion of organic materials, methane capture or conversion strategies, installation of gas collection devices and gas control systems, monitoring and reporting of methane emissions, or other means, prioritizing funding needed for any activities by local governments to comply with chapter 70A.540 RCW;

(l) Carbon dioxide removal projects, programs, and activities; and

(m) Activities to support efforts to mitigate and adapt to the effects of climate change affecting Indian tribes, including capital investments in support of the relocation of Indian tribes located in areas at heightened risk due to anticipated sea level rise, flooding, or other disturbances caused by climate change. The legislature intends to dedicate at least $50,000,000 per biennium from the account for purposes of this subsection.

(2) Moneys in the account may not be used for projects or activities that would violate tribal treaty rights or result in significant long-term damage to critical habitat or ecological functions. Investments from this account must result in long-term environmental benefits and increased resilience to the impacts of climate change.

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

**--- END ---**