

HOUSE BILL REPORT

HB 1303

As Reported by House Committee On:

Environment & Energy
Appropriations

Title: An act relating to increasing environmental justice by improving government decisions.

Brief Description: Increasing environmental justice by improving government decisions.

Sponsors: Representatives Mena, Berry, Reeves, Reed, Ormsby, Salahuddin, Ramel, Pollet, Nance, Doglio and Scott.

Brief History:

Committee Activity:

Environment & Energy: 1/23/25, 2/11/25 [DPS];
Appropriations: 2/19/25, 2/28/25 [DP2S(w/o sub ENVI)].

Brief Summary of Second Substitute Bill

- Adds environmental justice to the State Environmental Policy Act (SEPA) review process, including the elements of the environment considered under SEPA and the SEPA checklist.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Doglio, Chair; Hunt, Vice Chair; Berry, Duerr, Fey, Fitzgibbon, Kloba, Mena, Ramel, Stearns, Street and Wylie.

Minority Report: Do not pass. Signed by 7 members: Representatives Dye, Ranking Minority Member; Klicker, Assistant Ranking Member; Abbarno, Abell, Barnard, Ley and Stuebe.

Staff: Jacob Lipson (786-7196).

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.

Background:

State Environmental Policy Act.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. The SEPA environmental review process involves a project proponent, or the lead agency, completing an environmental checklist to identify and evaluate probable environmental impacts. The Department of Ecology (Ecology) has adopted rules that spell out the elements of the environment whose impacts must be considered in a SEPA checklist and any subsequent SEPA environmental review. If an initial review of the checklist and supporting documents results in a determination that the government decision has a probable significant adverse environmental impact, known as a threshold determination, the proposal must undergo a more comprehensive environmental analysis in the form of an environmental impact statement (EIS). If the SEPA review process identifies significant adverse environmental impacts, the lead agency may deny a government decision or may require mitigation for identified environmental impacts.

2021 Healthy Environment for All Act.

In 2021 legislation known as the Healthy Environment for All Act (HEAL Act) established several requirements applicable to how state agencies consider environmental justice in their decision-making. Environmental justice means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, rules, and policies. This also includes addressing disproportionate environmental and health impacts by prioritizing vulnerable populations and overburdened communities, the equitable distribution of resources and benefits, and eliminating harm.

The Departments of Agriculture, Commerce, Ecology, Health, Natural Resources, and Transportation and the Puget Sound Partnership (covered agencies) must apply and comply with specified environmental justice requirements, and other state agencies are eligible to opt-in to the requirements.

Covered agencies are required to integrate environmental justice into agency decision-making and activities, including through:

- conducting an environmental justice assessment when considering a significant agency action initiated after July 1, 2023, to inform and support agency consideration of overburdened and vulnerable populations and to assist with the equitable distribution of benefits, the reduction of environmental harms, and the identification and reduction of environmental and health disparities; and
- the creation and adoption of a community engagement plan by July 1, 2022, that describes planned engagement with overburdened communities and vulnerable populations, and that identifies and prioritizes overburdened communities for the purposes of implementing the agency's environmental justice responsibilities.

Overburdened communities must be identified by covered agencies in such a way that allows for the measurement of the performance effectiveness of the new environmental justice duties of covered agencies.

Four categories of significant agency actions are established for which environmental justice assessments by covered agencies are required, including significant legislative rule adoption and Department of Transportation projects of more than \$15 million. Covered agencies must also consider their agency's activities and identify additional significant actions that should be subject to environmental justice assessments by July 1, 2025.

Summary of Substitute Bill:

State Environmental Policy Act.

Ecology must add environmental justice, as defined in the HEAL Act, as an element of the environment under SEPA and as a component of the SEPA checklist. Environmental justice must be considered in a manner consistent with other elements of the environment under SEPA. Ecology must identify standardized mitigation, which may include best management practices, for environmental justice impacts identified under SEPA review. When implemented, the standardized mitigation must be considered in SEPA threshold determination.

In addition to the HEAL Act environmental justice review requirements, the requirement to consider environmental justice under SEPA may also apply to a proposed action. A lead agency under SEPA that is also a covered agency under the HEAL Act may adopt an environmental justice assessment or other analyses under the HEAL Act to satisfy SEPA requirements, to the extent that a HEAL Act environmental justice assessment analysis is sufficient to satisfy the requirements applicable to SEPA requirements pertaining to environmental justice.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill; the bill:

- eliminates provisions addressing environmental justice impact statements for certain government actions in pollution-burdened communities;
- eliminates provisions amending the state Clean Air Act to prohibit certain types of facilities from receiving permits in specified communities; and
- directs Ecology, in adding environmental justice to SEPA, to identify standardized mitigation for potential adverse environmental impacts to environmental justice.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Some communities face disproportionate exposure to pollution as a result of the compounding of historical permitting decisions. These communities have reduced life expectancies, an increase in certain medical conditions, and a lower quality of life as a result. The government should consider the cumulative impacts of pollution when making decisions that affect the public, and should mitigate the harm from those decisions. Airports are significant sources of pollution for neighboring communities, but decisions about airport operations do not consider the impacts on those communities. Consideration of cumulative impacts should account for pollution, socioeconomic, and population characteristics. This increased consideration will lead to a more equitable environmental review process. Disproportionate impacts occur in urban and rural communities, and can result from different types of industry and activities. Other states have enacted environmental justice laws that require similar consideration of cumulative impacts of government decisions.

(Opposed) Housing in mixed residential developments, as opposed to housing-only developments, should be excluded from the environmental justice impact statement (EJIS) process. Adding duplicative and burdensome layers to the environmental review processes will be harmful to Washington's trade-dependent economy. Additional review will lead to longer permitting processes, and uncertainty regarding the outcomes of permitting decisions. This proposal contains vague terms that make its impact unclear, and which could affect all types of development, and not merely industrial facilities. Requiring an EJIS prior to a SEPA threshold determination will require significant environmental review to occur for many types of projects that will not be determined to have significant impacts. The Climate Commitment Act, which requires minimum expenditures in specified communities, serves as a reparations payment. Shipping emissions cause significant pollution. Economic factors should be allowed to be considered in government decision-making, including in environmental review processes.

(Other) Environmental laws have traditionally not been effective at addressing concentrations of pollutants or the cumulative impacts of pollutants. Transportation facilities should be exempt. Permits should not be required to be denied in certain communities. Ports are interested in furthering environmental justice, but this proposal has concerning elements that will be challenging to implement. Aspects of the proposal conflict with established SEPA timelines.

Persons Testifying: (In support) Representative Sharlett Mena, prime sponsor; JC Harris, Sea-Tac Noise.Info; Charlee Thompson, NW Energy Coalition; Guillermo Rogel, Front and

Centered; Nico Wedekind, Front and Centered; Mia Ayala-Marshall, Duwamish River Community Coalition; Ione Jones, KHIMSTONIK; Elizabeth Dickinson, Staff, Faith Action Network; Eric Gonzalez, Earthjustice; and Claire Richards, Washington Physicians for Social Responsibility.

(Opposed) John Worthington; Scott Hazlegrove, Master Builders Association of King and Snohomish Counties; Drew Zaborowski; Ian Morrison; Carly Michiels, Washington Public Ports Association; Peter Godlewski, Association of Washington Business; and Kelsey Hulse, Washington State Association of Counties.

(Other) Todd Wildermuth; Salina Lyons, City of Covington; Isaac Kastama, Clean and Prosperous Washington; John Flanagan, Port of Seattle; and Carrie Sessions, WA State Dept of Ecology.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Environment & Energy. Signed by 17 members: Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Bergquist, Callan, Cortes, Doglio, Fitzgibbon, Peterson, Pollet, Ryu, Springer, Stonier, Street, Thai and Tharinger.

Minority Report: Do not pass. Signed by 12 members: Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett, Caldier, Corry, Dye, Keaton, Manjarrez, Marshall and Rude.

Minority Report: Without recommendation. Signed by 1 member: Representative Leavitt.

Staff: Dan Jones (786-7118).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Environment & Energy:

The second substitute bill directs the Department of Ecology to identify mitigation guidance, rather than standardized mitigation, for potential adverse impacts to environmental justice as part of their State Environmental Policy Act (SEPA) rules, and eliminates the requirement that lead agencies consider standardized mitigation in making a SEPA threshold determination.

The second substitute bill is also null and void if specific funding is not provided in the operating budget by June 30, 2025.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) This bill is a follow-up to the HEAL Act, which defined environmental justice and changed how climate policy is approached. There is currently no way to capture the community and health impacts of different projects and facilities. Some populations disproportionately bear the effects of pollution.

(Opposed) The SEPA checklists already include impacts to surrounding neighborhoods and communities. This bill would increase permitting timelines and increase the cost to do business. There is currently no mitigation or compensation required for projects such as airport renovations. The bill does not address the pollution impacts of the jet stream. Making additions to the SEPA checklist will make projects more expensive and make it harder to build housing. The nature of environmental justice, in the context of SEPA, is too open-ended.

(Other) Requiring an environmental justice impact statement prior to a threshold determination adds a lot of analysis for a project that may not ultimately be impactful. Some local governments may not be qualified to assess environmental justice impacts. There would be additional costs to local governments.

Persons Testifying: (In support) Guillermo Rogel, Front and Centered; Jean Hill, Washington State Catholic Conference; and JC Harris, Sea-Tac Noise.Info.

(Opposed) John Worthington; Cory Shaw, Washington Aggregates and Concrete Association; Jan Himebaugh, Building Industry Association of Washington; and Peter Godlewski, Association of Washington Business.

(Other) Kelsey Hulse, Washington State Association of Counties and Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.