
SENATE BILL 5489

State of Washington

66th Legislature

2019 Regular Session

By Senators Saldaña, Das, Nguyen, Hasegawa, Darneille, Palumbo, Randall, McCoy, Conway, Billig, Cleveland, Keiser, Kuderer, Rolfes, Wilson, C., and Frockt

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1 AN ACT Relating to establishing a healthy environment for all by
2 creating a definition of environmental justice, identifying
3 communities with cumulative environmental health impacts, creating a
4 task force to recommend how best to implement environmental justice
5 principles in state agency decision making, and directing state
6 agencies to address environmental health disparities; adding new
7 sections to chapter 43.21C RCW; and creating a new section.

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

9 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that it is
10 state policy to encourage productive and enjoyable harmony between
11 humankind and the environment; to promote efforts which will prevent
12 or eliminate damage to the environment and biosphere; and to
13 stimulate the health and welfare of human beings.

14 (2) It is also the continuing policy of the state of Washington
15 to use all practicable means and measures, including financial and
16 technical assistance, in a manner calculated to: (a) Foster and
17 promote the general welfare; (b) create and maintain conditions under
18 which human beings and nature can exist in productive harmony; and
19 (c) fulfill the social, economic, and other requirements of present
20 and future generations of Washington citizens.

1 (3) The legislature has further established that it is the
2 continuing responsibility of the state of Washington and all agencies
3 of the state to use all practicable means, consistent with other
4 essential considerations of state policy, to improve and coordinate
5 plans, functions, programs, and resources to the end that the state
6 and its citizens may:

7 (a) Fulfill the responsibilities of each generation as trustee of
8 the environment for succeeding generations;

9 (b) Assure for all people of Washington safe, healthful,
10 productive, and aesthetically and culturally pleasing surroundings;

11 (c) Maintain, wherever possible, an environment which supports
12 diversity and variety of individual choice; and

13 (d) Achieve a balance between population and resource use which
14 will permit high standards of living and a wide sharing of life's
15 amenities.

16 (4) The legislature has further recognized that each person has a
17 fundamental and inalienable right to a healthful environment and that
18 each person has a responsibility to contribute to the preservation
19 and enhancement of the environment.

20 (5) The legislature finds that there are communities and
21 residents that face greater barriers to a healthy environment because
22 of cumulative environmental hazards and population vulnerabilities.

23 (6) The legislature further finds that a fundamental principle of
24 environmental justice and our democracy is that people most impacted
25 by government actions should have advance notice of government
26 decisions that could impact them, a clear understanding of the
27 options and their impacts, and a meaningful opportunity to provide
28 input and be heard before decisions are made.

29 (7) Multiple agency actions recognize the need for public
30 participation and outreach including, but not limited to, education,
31 rule making, enforcement, permitting, grant making, planning, and
32 other government actions. However, individuals and organizations
33 representing vulnerable populations often face barriers to
34 participation such as limited time, lack of funds for technical
35 experts and reviews, ability to attend meetings that conflict with
36 work, parenting, child care responsibilities, and language barriers.

37 (8) While state agencies have identified a need to more
38 effectively target their implementation and enforcement actions and
39 funding opportunities to those areas and populations in the state
40 that face greater exposure and susceptibility to environmental

1 burdens, there is limited understanding of which communities across
2 the state are most likely highly impacted.

3 (9) Therefore, the legislature finds that it is necessary to
4 incorporate environmental justice principles into the operations and
5 activities of state agencies in order to achieve state policies of
6 assuring all people of Washington safe, healthful, productive, and
7 aesthetically and culturally pleasing surroundings, assuring the
8 right of all Washington residents to a healthful environment, and
9 achieving a balance between population and resource use which will
10 permit high standards of living and wide sharing of life's amenities,
11 including through a task force on environmental justice, and agency
12 analysis and consideration of environmental justice in decision
13 making.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21C
15 RCW to read as follows:

16 (1) To ensure implementation and adherence to state policies of
17 fostering and promoting the general welfare by assuring all people of
18 Washington have a safe and healthful environment and serving as
19 trustee of the environment for succeeding generations, the
20 legislature establishes that state agencies will use all practicable
21 means and measures to promote environmental justice and fair
22 treatment.

23 (2) For purposes of this section:

24 (a) "Environmental justice" means the fair treatment of all
25 persons, regardless of race, color, national origin, ethnicity,
26 language disability, income, or other demographic or geographic
27 characteristics with respect to the development, adoption,
28 implementation, and enforcement of environmental laws, regulations,
29 and policies.

30 (b) "Fair treatment" has the meaning given in section 3 of this
31 act.

32 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.21C
33 RCW to read as follows:

34 (1) A task force is established to recommend how best to
35 incorporate environmental justice principles into how state agencies
36 discharge their responsibilities.

37 (2) The membership of the task force established under this
38 section is as follows:

1 (a) The director of the department of commerce, or his or her
2 designee;

3 (b) The director of the department of ecology, or his or her
4 designee;

5 (c) The executive director of the Puget Sound partnership, or his
6 or her designee;

7 (d) The secretary of the department of transportation, or his or
8 her designee;

9 (e) The secretary of the department of health, or his or her
10 designee;

11 (f) The secretary of the utilities and transportation commission,
12 or his or her designee;

13 (g) The executive director of the governor's interagency council
14 on health disparities, or his or her designee;

15 (h) The commissioner of public lands, or his or her designee;

16 (i) The following members appointed by the governor:

17 (i) A tribal leader;

18 (ii) A representative of statewide environmental justice
19 interests;

20 (iii) A representative of statewide environmental interests;

21 (iv) A representative of business interests;

22 (v) A representative of statewide labor organizations; and

23 (vi) Four representatives from different geographic areas who
24 live in communities in the state that are most significantly burdened
25 by, and vulnerable to, high levels of pollution including, but not
26 limited to, communities with diverse racial and ethnic populations
27 and communities with low-income populations; and

28 (j) Other agency directors or their designees appointed by the
29 governor.

30 (3) The task force shall be cochaired by the representative of
31 statewide environmental justice interests and the executive director
32 of the governor's interagency council on health disparities or his or
33 her designee.

34 (4) The task force shall report its findings and recommendations
35 to the legislature and the governor by July 31, 2020. The report must
36 discuss:

37 (a) Methods to increase public participation and engagement by
38 providing meaningful opportunities for involvement to all people
39 taking into account barriers to participation that may arise due to
40 race, color, ethnicity, religion, income, or education level;

1 (b) Draft rules for agency adoption regarding cumulative impact
2 analyses that will identify highly impacted communities, based on the
3 best science and current demographic data. Designation must be based
4 on analyses of vulnerable populations and environmental burdens
5 conducted by the University of Washington's department of
6 environmental and occupational health sciences;

7 (c) Methods on how best to meaningfully consult vulnerable
8 populations in periodically evaluating and updating the designation
9 of highly impacted communities and the cumulative impact analysis of
10 vulnerable populations and environmental burdens;

11 (d) Methods for creating and implementing equity analyses,
12 including but not limited to cumulative impact analyses, into all
13 significant planning, programmatic and policy decision making, and
14 investments, including describing potential risks, benefits, and
15 opportunities to highly impacted communities and vulnerable
16 populations;

17 (e) Methods for prioritizing highly impacted communities and
18 vulnerable populations by identifying and, where legally and fiscally
19 feasible, implementing procedures, processes, application, and
20 reporting requirements to maximize inspection, enforcement actions,
21 investment of resources, planning and permitting, and public
22 participation for the purpose of reducing environmental health
23 disparities and advancing a healthy environment for all residents;

24 (f) Methods for cataloging and cross-referencing current research
25 and data collection for programs within all state agencies relating
26 to the health of, and environment of, people of all races, cultures,
27 and income levels, including minority populations and low-income
28 populations of the state;

29 (g) Methods for establishing a target level of environmental
30 health for each community in Washington state, qualitative at the
31 resolution of the county level or greater and quantitative at the
32 census tract level or greater;

33 (h) Recommended criteria for identifying and addressing any gaps
34 in current research and data collection to inform agency actions,
35 refine the common cumulative impact methodology, and identify factors
36 that may impede the achievement of environmental justice; and

37 (i) Methods for incorporating the precautionary approach to
38 decision making, including permitting, to the extent allowed by law.

39 (5) Members of the task force who are not state employees must be
40 compensated in accordance with RCW 43.03.240 and are entitled to

1 reimbursement individually for travel expenses incurred in the
2 performance of their duties as members of the task force in
3 accordance with RCW 43.03.050 and 43.03.060.

4 (6) The task force shall have regional meetings to present their
5 work plan and proposals to communities throughout the state. At least
6 one meeting each must be held in northwest Washington, the central
7 Puget Sound region, the south Puget Sound region, southwest
8 Washington, central Washington, and eastern Washington.

9 (7) The task force shall reconvene five years after the adoption
10 of the last rules to evaluate the findings of each department and
11 update their findings and recommendations.

12 (8) As used in this section:

13 (a) "Cumulative impact analyses" refer to analyses that identify
14 environmental health risk as a factor of environmental burdens and
15 vulnerable populations.

16 (b) "Environmental burdens" refer to the cumulative risks to
17 communities caused by historic and current:

18 (i) Exposure to conventional and toxic hazards in the air, water,
19 and land;

20 (ii) Adverse environmental effects, which include environmental
21 conditions caused or made worse by contamination or pollution or that
22 create vulnerabilities to climate impacts; and

23 (iii) Exposure to hazards made worse by changes in the climate,
24 such as water stress and drought, flooding, wildfire, air quality,
25 ocean acidification, and infectious disease.

26 (c) "Environmental justice" means the fair treatment of and right
27 of all persons, regardless of race, color, national origin,
28 ethnicity, income, wealth, or other demographic or geographic
29 characteristics, to have access to a safe, healthy environment to
30 live, work, learn, practice spirituality, and play.

31 (d) "Equity analyses" refer to analyses that can be used to
32 determine or evaluate environmental justice.

33 (e) "Fair treatment" means that no group of people, including
34 racial, ethnic, or socioeconomic groups, should bear
35 disproportionately high exposure to pollution or adverse human health
36 or environmental impacts and all groups of people have appropriate
37 access to meaningful public participation in decisions that affect
38 their environment.

39 (f) "Highly impacted communities" are those communities
40 designated by the agencies based on cumulative impact analyses in

1 subsection (4)(b) of this section and census tracts that are fully or
2 partially on "Indian country" as defined in 18 U.S.C. Sec. 1151.

3 (g) "Precautionary approach" means where there are threats of
4 serious or irreversible damage, lack of full scientific certainty is
5 not used as a reason for postponing measures to prevent environmental
6 degradation.

7 (h) "Tribal leader" means persons identified by Indian tribes
8 under RCW 43.376.050 or other designees formally appointed by the
9 Indian tribe.

10 (i) "Vulnerable populations" are communities that experience
11 disproportionate cumulative risk from environmental burdens due to:

12 (i) Adverse socioeconomic factors, including unemployment, high
13 housing and transportation costs relative to income, access to food
14 and health care, and linguistic isolation; and

15 (ii) Sensitivity factors, such as low birth weight and higher
16 rates of hospitalization.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.21C
18 RCW to read as follows:

19 After the issuance of the task force report in section 3 of this
20 act, the state agencies represented on the task force shall adopt
21 rules as recommended in the report, subject to the requirements of
22 chapter 34.05 RCW. The agencies may adopt interim guidelines and
23 practices prior to the adoption of rules. Within sixty days after the
24 issuance of the task force report, it is the duty and function of the
25 department of ecology to adopt rules implementing the task force
26 recommendations for the purpose of providing uniform rules and
27 guidelines to all state agencies serving on the task force. The state
28 agencies shall issue policies, guidance, and rules necessary to
29 implement the use of cumulative impact analyses to identify highly
30 impacted communities, to create target environmental health
31 standards, and to prioritize these communities and their vulnerable
32 populations in the development, adoption, implementation, and
33 enforcement of environmental laws, regulations, policies, and funding
34 decisions. Every five years after the adoption of the rules required
35 under this section, the state agencies shall periodically review
36 their programs, plans, and policies to ensure they are promoting the
37 reduction in disproportionate environmental burdens and attainment of
38 the environmental health targets and shall announce and make results
39 publicly available. Based on the review, the state agencies shall

1 adopt such rules, policies, guidance, and prioritizations as are
2 needed to reduce disproportionate environmental burdens and promote
3 attainment of environmental health targets.

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