

E2SSB 5141 - H AMD 683

By Representative Fitzgibbon

ADOPTED AS AMENDED 04/10/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The purpose of
4 this chapter is to reduce environmental and health disparities in
5 Washington state and improve the health of all Washington state
6 residents. This chapter implements the recommendations of the
7 environmental justice task force established in section 221(48),
8 chapter 415, Laws of 2019 entitled "Report to the Washington state
9 governor and legislature, *Environmental Justice Task Force:
10 Recommendations for Prioritizing EJ in Washington State Government*
11 (October 2020)."

12 (2) As conveyed in the task force report, Washington state
13 studies and national studies found that people of color and low-
14 income people continue to be disproportionately exposed to
15 environmental harms in their communities. As a result, there is a
16 higher risk of adverse health outcomes for those communities. This
17 risk is amplified when overlaid on communities with preexisting
18 social and economic barriers and environmental risks, and creates
19 cumulative environmental health impacts, which this act seeks to
20 prevent and mitigate.

21 This chapter also seeks to reduce exposure to environmental
22 hazards within Indian country, as defined in 18 U.S.C. Sec. 1151, due
23 to off-reservation activities within the state, and to improve state
24 practices to reduce contamination of traditional foods wherever they
25 occur. Exposure to such hazards can result in generational health and
26 ecological problems, particularly on small reservations where it is
27 impossible to move away from a hazard.

28 (3) Accordingly, the state has a compelling interest in
29 preventing and addressing such environmental health disparities in
30 the administration of ongoing and new environmental programs,
31 including allocation of funds, and in administering these programs so
32 as to remedy the effects of past disparate treatment of overburdened
33 communities and vulnerable populations.

1 (4) The task force provided recommendations to state agencies for
2 measurable goals and model policies to reduce environmental health
3 inequities in Washington, equitable practices for meaningful
4 community involvement, and how to use the environmental health
5 disparities map to identify and promote the equitable distribution of
6 environmental benefits to overburdened communities. In order for all
7 communities in Washington state to be healthy and thriving, state
8 government should aim to concentrate government actions to benefit
9 communities that currently have the greatest environmental and health
10 burdens.

11 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
12 section apply throughout this chapter unless the context clearly
13 requires otherwise.

14 (1) "Council" means the environmental justice council established
15 in section 20 of this act.

16 (2) "Covered agency" means the departments of ecology, health,
17 natural resources, commerce, agriculture, and transportation, the
18 Puget Sound partnership, and any agency that opts to assume all of
19 the obligations of this act pursuant to section 11 of this act.

20 (3) "Cumulative environmental health impact" means the combined,
21 multiple environmental impacts and health impacts on a vulnerable
22 population or overburdened community.

23 (4) "Environmental benefits" means activities that:

24 (a) Prevent or reduce existing environmental harms or associated
25 risks that contribute significantly to cumulative environmental
26 health impacts;

27 (b) Prevent or mitigate impacts to overburdened communities or
28 vulnerable populations from, or support community response to, the
29 impacts of environmental harm; or

30 (c) Meet a community need formally identified to a covered agency
31 by an overburdened community or vulnerable population that is
32 consistent with the intent of this chapter.

33 (5) "Environmental harm" means the individual or cumulative
34 environmental health impacts and risks to communities caused by
35 historic, current, or projected:

36 (a) Exposure to pollution, conventional or toxic pollutants,
37 environmental hazards, or other contamination in the air, water, and
38 land;

1 (b) Adverse environmental effects, including exposure to
2 contamination, hazardous substances, or pollution that increase the
3 risk of adverse environmental health outcomes or create
4 vulnerabilities to the impacts of climate change;

5 (c) Loss or impairment of ecosystem functions or traditional food
6 resources or loss of access to gather cultural resources or harvest
7 traditional foods; or

8 (d) Health and economic impacts from climate change.

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

11 (7) "Environmental impacts" means environmental benefits or
12 environmental harms, or the combination of environmental benefits and
13 harms, resulting or expected to result from a proposed action.

14 (8) "Environmental justice" means the fair treatment and
15 meaningful involvement of all people regardless of race, color,
16 national origin, or income with respect to the development,
17 implementation, and enforcement of environmental laws, rules, and
18 policies. Environmental justice includes addressing disproportionate
19 environmental and health impacts in all laws, rules, and policies
20 with environmental impacts by prioritizing vulnerable populations and
21 overburdened communities, the equitable distribution of resources and
22 benefits, and eliminating harm.

23 (9) "Equitable distribution" means a fair and just, but not
24 necessarily equal, allocation intended to mitigate disparities in
25 benefits and burdens that are based on current conditions, including
26 existing legacy and cumulative impacts, that are informed by
27 cumulative environmental health impact analysis.

28 (10) "Evidence-based" means a process that is conducted by a
29 systematic review of available data based on a well-established and
30 widely used hierarchy of data in current use by other state and
31 national programs, selected by the departments of ecology and health.
32 The environmental justice council may provide input on the
33 development of the process.

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

38 (12) "Significant agency action" means the following actions as
39 identified at the beginning of a covered agency's consideration of
40 the significant agency action or at the time when an environmental

1 justice assessment would normally be initiated in conjunction with an
2 agency action:

3 (a) The development and adoption of significant legislative rules
4 as defined in RCW 34.05.328;

5 (b) The development and adoption of any new grant or loan program
6 that a covered agency is explicitly authorized or required by statute
7 to carry out;

8 (c) A capital project, grant, or loan award by a covered agency
9 of at least \$12,000,000 or a transportation project, grant, or loan
10 by a covered agency of at least \$15,000,000;

11 (d) The submission of agency request legislation to the office of
12 the governor or the office of financial management for approval; and

13 (e) Any other agency actions deemed significant by a covered
14 agency consistent with section 14 of this act.

15 (13) "Tribal lands" has the same meaning as "Indian country" as
16 provided in 18 U.S.C. Sec. 1151, and also includes sacred sites,
17 traditional cultural properties, burial grounds, and other tribal
18 sites protected by federal or state law.

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

28 (b) "Vulnerable populations" includes, but is not limited to:

29 (i) Racial or ethnic minorities;

30 (ii) Low-income populations;

31 (iii) Populations disproportionately impacted by environmental
32 harms; and

33 (iv) Populations of workers experiencing environmental harms.

34 NEW SECTION. **Sec. 3.** ENVIRONMENTAL JUSTICE OBLIGATIONS FOR ALL
35 AGENCIES. Covered agencies are required to comply with all provisions
36 of this chapter. All other state agencies should strive to apply the
37 laws of the state of Washington, and the rules and policies of the
38 agency, in accordance with the policies of this chapter including, to
39 the extent feasible, incorporating the principles of environmental

1 justice assessment processes set forth in section 14 of this act into
2 agency decisions.

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 25 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 25 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 25 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 25 of this act).

27 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.330
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 25 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 25 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 25 of this act).

11 NEW SECTION. **Sec. 11.** AUTHORITY OF OTHER AGENCIES TO OPT IN TO
12 ENVIRONMENTAL JUSTICE OBLIGATIONS. (1) 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 but excluding local
15 governmental entities, may opt in to assume all of the substantive
16 and procedural requirements of covered agencies under chapter 70A.---
17 RCW (the new chapter created in section 25 of this act) at any time
18 by notifying the council established in section 20 of this act.

19 (2) An agency that opts in to assume all of the substantive and
20 procedural requirements of chapter 70A.--- RCW (the new chapter
21 created in section 25 of this act) is not subject to the deadlines or
22 timelines established in sections 12, 13, 14, 16, and 20 of this act.

23 NEW SECTION. **Sec. 12.** INCORPORATING ENVIRONMENTAL JUSTICE INTO
24 AGENCY STRATEGIC PLANS. (1) By January 1, 2023, each covered agency
25 shall include an environmental justice implementation plan within its
26 strategic plan. A covered agency may additionally incorporate an
27 environmental justice implementation plan into other significant
28 agency planning documents. The plan must describe how the covered
29 agency plans to apply the principles of environmental justice to the
30 agency's activities and must guide the agency in its implementation
31 of its obligations under this chapter.

32 (2) In its environmental justice implementation plan, each
33 covered agency must include:

34 (a) Agency-specific goals and actions to reduce environmental and
35 health disparities and for otherwise achieving environmental justice
36 in the agency's programs;

1 (b) Metrics to track and measure accomplishments of the agency
2 goals and actions;

3 (c) Methods to embed equitable community engagement with, and
4 equitable participation from, members of the public, into agency
5 practices for soliciting and receiving public comment;

6 (d) Strategies to ensure compliance with existing federal and
7 state laws and policies relating to environmental justice, including
8 Title VI of the civil rights act of 1964, 42 U.S.C. Sec.
9 2000d-2000d-4, Title IX of the Education Amendments of 1972, 20
10 U.S.C. Sec. 1681-1683, Section 504 of the Rehabilitation Act of 1973,
11 29 U.S.C. Sec. 794, and the age discrimination act of 1975, 42 U.S.C.
12 Sec. 6101-6107;

13 (e) The plan for community engagement required under section 13
14 of this act; and

15 (f) Specific plans and timelines for incorporating environmental
16 justice considerations into agency activities as required under this
17 chapter.

18 (3) In developing and updating its plan, each covered agency must
19 consider any guidance developed by the council pursuant to section 20
20 of this act.

21 NEW SECTION. **Sec. 13.** EQUITABLE COMMUNITY ENGAGEMENT AND PUBLIC
22 PARTICIPATION. (1) By July 1, 2022, each covered agency must create
23 and adopt a community engagement plan that describes how it will
24 engage with overburdened communities and vulnerable populations as it
25 evaluates new and existing activities and programs. This plan must
26 describe how the agency plans to facilitate equitable participation
27 and support meaningful and direct involvement of vulnerable
28 populations and overburdened communities. The plan must include:

29 (a) How the covered agency will identify and prioritize
30 overburdened communities for purposes of this chapter;

31 (b) Best practices for outreach and communication to overcome
32 barriers to engagement with overburdened communities and vulnerable
33 populations;

34 (c) Use of special screening tools that integrate environmental,
35 demographic, and health disparities data, such as the environmental
36 health disparities map, to evaluate and understand the nature and
37 needs of the people who the agency expects to be impacted by
38 significant agency actions under section 14 of this act and processes
39 under section 16 of this act to overcome barriers to participation;

1 (d) Processes that facilitate and support the inclusion of
2 members of communities affected by agency decision making including,
3 to the extent legal and practicable, but not limited to, child care
4 and reimbursement for travel and other expenses; and

5 (e) Methods for outreach and communication with those who face
6 barriers, language or otherwise, to participation.

7 (2) Covered agencies must regularly review their compliance with
8 existing laws and policies that guide community engagement and must
9 comply with the following:

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

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

15 (c) Guidance related to Executive Order 13166, requiring
16 meaningful access to agency programs and services for people with
17 limited English proficiency.

18 (3) In developing and updating its plan, each covered agency must
19 consider any guidance developed by the council pursuant to section 20
20 of this act.

21 (4) A covered agency may coordinate with the office of equity to
22 identify policy and system barriers to meaningful engagement with
23 communities as conducted by the office under RCW 43.06D.040(1)(b).

24 NEW SECTION. **Sec. 14.** ENVIRONMENTAL JUSTICE ASSESSMENT. (1)(a)
25 When considering a significant agency action initiated after July 1,
26 2023, a covered agency must conduct an environmental justice
27 assessment in accordance with this section to inform and support the
28 agency's consideration of overburdened communities and vulnerable
29 populations when making decisions and to assist the agency with the
30 equitable distribution of environmental benefits, the reduction of
31 environmental harms, and the identification and reduction of
32 environmental and health disparities.

33 (b) A covered agency must aspire to complete the environmental
34 justice assessment for a significant agency action without delaying
35 the completion of the underlying agency action.

36 (2)(a) Consistent with section 2(12)(e) of this act, for the
37 purpose of preparing environmental justice assessments, a covered
38 agency may deem actions significant that are additional to the
39 significant agency actions identified in section 2(12)(a) through

1 (d) of this act, in iterative consultation with the council and
2 interagency work group established under section 20 of this act. By
3 July 1, 2025, each covered agency must consider their agency's
4 activities and identify and begin applying environmental justice
5 assessments to any actions that the agency identifies as significant
6 that are in addition to the significant agency actions identified in
7 section 2(12) (a) through (d) of this act. Significant agency actions
8 designated by a covered agency under this subsection must be actions
9 that may cause environmental harm or may affect the equitable
10 distribution of environmental benefits to an overburdened community
11 or a vulnerable population.

12 (b) In the identification of significant agency actions, covered
13 agencies shall consider guidance issued by the council established in
14 section 20 of this act. Each covered agency must periodically review
15 and update its identified types of significant agency actions for
16 which an environmental justice assessment is required under this
17 section, and the relevant factors to the agency's environmental
18 justice assessments that result from the unique mission, authorities,
19 and priorities of the agency.

20 (3) By July 1, 2023, and periodically thereafter, after an
21 opportunity for public comment on its determinations, each covered
22 agency must:

23 (a) Publish on its website the types of agency actions that the
24 agency has determined are significant agency actions that require an
25 environmental justice assessment under this section, including any
26 significant agency actions identified under subsection (2)(a) of this
27 section;

28 (b) Provide notification of the determination of the types of
29 significant agency actions in the Washington State Register; and

30 (c) Prepare an environmental justice assessment when considering
31 a listed action, after publication of the list of any additional
32 significant agency actions identified under (a) of this subsection.

33 (4) At a minimum, environmental justice assessments must:

34 (a) Consider guidance prepared by the council under section 20 of
35 this act relating to best practices on environmental justice
36 assessments and when and how to use cumulative environmental health
37 impact analysis;

38 (b) Use cumulative environmental health impact analysis, such as
39 the environmental health disparities map or other data that considers

1 the effects of a proposed action on overburdened communities and
2 vulnerable populations;

3 (c) Identify overburdened communities and vulnerable populations
4 who are expected to be affected by the proposed action and the
5 potential environmental and health impacts;

6 (d) Identify if the proposed action is expected to have any local
7 or regional impacts to federally reserved tribal rights and resources
8 including, but not limited to, those protected by treaty, executive
9 order, or federal law;

10 (e) Summarize community input and describe how the covered agency
11 can further involve overburdened communities, vulnerable populations,
12 affected tribes, and indigenous populations in development of the
13 proposed action; and

14 (f) Describe options for the agency to reduce, mitigate, or
15 eliminate identified probable impacts on overburdened communities and
16 vulnerable populations, or provide a justification for not reducing,
17 mitigating, or eliminating identified probable impacts.

18 (5) To obtain information for the purposes of assessments, a
19 covered agency must solicit feedback from members of overburdened
20 communities and vulnerable populations to assist in the accurate
21 assessment of the potential impact of the action and in developing
22 the means to reduce or eliminate the impact on overburdened
23 communities and vulnerable populations.

24 (6) Based on the environmental justice assessment, each covered
25 agency must seek, to the extent legal and feasible and consistent
26 with the underlying statute being implemented, to reduce or eliminate
27 the environmental harms and maximize the environmental benefits
28 created by the significant agency action on overburdened communities
29 and vulnerable populations. Consistent with agency authority,
30 mission, and statutory responsibilities, the covered agency must
31 consider each of the following methods for reducing environmental
32 harms or equitably distributing environmental benefits:

33 (a) Eliminating the disparate impact of environmental harms on
34 overburdened communities and vulnerable populations;

35 (b) Reducing cumulative environmental health impacts on
36 overburdened communities or vulnerable populations;

37 (c) Preventing the action from adding to the cumulative
38 environmental health impacts on overburdened communities or
39 vulnerable populations;

1 (d) Providing equitable participation and meaningful engagement
2 of vulnerable populations and overburdened communities in the
3 development of the significant agency action;

4 (e) Prioritizing equitable distribution of resources and benefits
5 to overburdened communities;

6 (f) Promoting positive workforce and job outcomes for
7 overburdened communities;

8 (g) Meeting community needs identified by the affected
9 overburdened community;

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

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

14 (7) If the covered agency determines it does not have the ability
15 or authority to avoid or reduce any estimated environmental harm of
16 the significant agency action on overburdened communities and
17 vulnerable populations or address the distribution of environmental
18 and health benefits, the agency must provide a clear explanation of
19 why it has made that determination and provide notice of that
20 explanation to members of the public who participated in the process
21 for the significant agency action or the process for the
22 environmental justice assessment and who provided contact information
23 to the agency.

24 (8) In developing a process for conducting environmental justice
25 assessments, each covered agency must consider any guidance developed
26 by the council pursuant to section 20 of this act.

27 (9) The issuance of forest practices permits under chapter 76.09
28 RCW or sale of timber from state lands and state forestlands as
29 defined in RCW 79.02.010 do not require an environmental justice
30 assessment under this section.

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

35 NEW SECTION. **Sec. 16.** ENVIRONMENTAL JUSTICE OBLIGATIONS OF
36 AGENCIES RELATING TO BUDGETS AND FUNDING. (1) With consideration of
37 the guidelines issued by the council in section 20 of this act, and
38 in iterative consultation with the council, each covered agency must

1 incorporate environmental justice principles into its decision
2 processes for budget development, making expenditures, and granting
3 or withholding environmental benefits. Through the incorporation of
4 environmental justice principles into its decision processes,
5 including by conducting environmental justice assessments where
6 required under section 14 of this act, each covered agency, to the
7 extent allowed by law and consistent with legislative appropriations,
8 must equitably distribute funding and expenditures related to
9 programs that address or may cause environmental harms or provide
10 environmental benefits towards overburdened communities and
11 vulnerable populations.

12 (2) Beginning on or before July 1, 2023, each covered agency
13 must, where practicable, take the following actions when making
14 expenditure decisions or developing budget requests to the office of
15 financial management and the legislature for programs that address or
16 may cause environmental harms or provide environmental benefits:

17 (a) Focus applicable expenditures on creating environmental
18 benefits that are experienced by overburdened communities and
19 vulnerable populations, including reducing or eliminating
20 environmental harms, creating community and population resilience,
21 and improving the quality of life of overburdened communities and
22 vulnerable populations;

23 (b) Create opportunities for overburdened communities and
24 vulnerable populations to meaningfully participate in agency
25 expenditure decisions;

26 (c) Clearly articulate environmental justice goals and
27 performance metrics to communicate the basis for agency expenditures;

28 (d) Consider a broad scope of grants and contracting
29 opportunities that effectuate environmental justice principles,
30 including:

31 (i) Community grants to monitor pollution;

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

34 (iii) Making technical assistance available for communities that
35 may be new to receiving agency grant funding; and

36 (iv) Education and work readiness youth programs focused on
37 infrastructure or utility-related internships to develop career paths
38 and leadership skills for youth; and

1 (e) Establish a goal of directing 40 percent of grants and
2 expenditures that create environmental benefits to vulnerable
3 populations and overburdened communities.

4 (3) A covered agency may adopt rules or guidelines for criteria
5 and procedures applicable to incorporating environmental justice
6 principles in expenditure decisions, granting or withholding
7 benefits, and processes for budget development.

8 (4) In incorporating environmental justice principles into its
9 decision processes for budget development, making expenditures, and
10 granting or withholding benefits, each covered agency must consider
11 any guidance developed by the council pursuant to section 20 of this
12 act.

13 (5) A covered agency may not take actions or make expenditures
14 under this section that are inconsistent with or conflict with other
15 statutes or with conditions or limitations on the agency's
16 appropriations.

17 (6) If a covered agency, due to the breadth of its programs and
18 funding opportunities, determines it is not practicable to take the
19 actions listed in subsection (2) of this section for all applicable
20 expenditure decisions and budget requests developed, the covered
21 agency is encouraged to prioritize taking the actions listed in
22 subsection (2) of this section for those budget requests and
23 expenditure decisions that are primarily directed at addressing
24 environmental impacts. By July 1, 2023, each covered agency must
25 publish on its website the types of decision processes for budget
26 development, making expenditures, and granting or withholding
27 environmental benefits for which the agency will take the actions
28 listed in subsection (2) of this section.

29 NEW SECTION. **Sec. 17.** REPORTING REQUIREMENTS. (1) By September
30 1st of each year, each covered agency must annually update the
31 council on the development and implementation of environmental
32 justice in agency strategic plans pursuant to section 12 of this act,
33 budgeting and funding criteria for making budgeting and funding
34 decisions pursuant to section 16 of this act, and community
35 engagement plans pursuant to section 13 of this act.

36 (2) (a) Beginning in 2024, as part of each covered agency's annual
37 update to the council under subsection (1) of this section, each
38 covered agency must include updates on the agency's implementation

1 status with respect to the environmental justice assessments under
2 section 14 of this act.

3 (b) By September 1st of each year beginning in 2024, each covered
4 agency must publish or update a dashboard report, in a uniform
5 dashboard format on the office of financial management's website,
6 describing the agency's progress on:

7 (i) Incorporating environmental justice in its strategic plan;

8 (ii) The obligations of agencies relating to budgets and funding
9 under section 16 of this act; and

10 (iii) Its environmental justice assessments of proposed
11 significant agency actions, including logistical metrics related to
12 covered agency completion of environmental justice assessments.

13 (3) Each covered agency must file a notice with the office of
14 financial management of significant agency actions for which the
15 agency is initiating an environmental justice assessment under
16 section 14 of this act. The office of financial management must
17 prepare a list of all filings received from covered agencies each
18 week and must post the list on its website and make it available to
19 any interested parties. The list of filings must include a brief
20 description of the significant agency action and the methods for
21 providing public comment for agency consideration as part of the
22 environmental justice assessment.

23 NEW SECTION. **Sec. 18.** TRIBAL CONSULTATION. (1) Covered agencies
24 shall develop a consultation framework in coordination with tribal
25 governments that includes best practices, protocols for
26 communication, and collaboration with federally recognized tribes.
27 Consistent with this framework, covered agencies must offer
28 consultation with federally recognized Indian tribes on:

29 (a) The inclusion or updating of an environmental justice
30 implementation plan within the covered agency's strategic plan
31 required under section 12 of this act;

32 (b) The creation and adoption or updating of a community
33 engagement plan required under section 13 of this act; and

34 (c) Significant agency actions under section 14 of this act that
35 affect federally recognized Indian tribes' rights and interests in
36 their tribal lands.

37 (2) The department of health must offer consultation with
38 federally recognized Indian tribes on the development of the
39 environmental health disparities map under section 19 of this act.

1 (3) The consultation under subsections (1) and (2) of this
2 section must occur in accordance with chapter 43.376 RCW and must be
3 independent of any public participation process required by state
4 law, or by a state agency, and regardless of whether the agency
5 receives a request for consultation from an Indian tribe.

6 (4) Nothing in this chapter is intended to direct, authorize, or
7 encourage covered agencies to collect, maintain, or provide data
8 related to sacred sites, traditional cultural properties, burial
9 grounds, and other tribal sites protected by federal or state law.

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

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

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

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

28 (2) In further developing and maintaining the environmental
29 health disparities map, the department must:

30 (a) Solicit feedback from representatives from overburdened
31 communities and vulnerable populations through community engagement
32 and listening sessions in all regions of the state and provide
33 opportunities for public comment; and

34 (b) Request assistance from:

35 (i) State universities;

36 (ii) Other academic researchers, such as the Washington state
37 institute for public policy, to perform modeling and create evidence-
38 based indicators and to conduct sensitivity analyses to assess the

1 impact of new indicators on communities and determinations of
2 overburdened communities; and

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

6 (3) The department must:

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

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

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

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

24 (4) (a) By November 1, 2022, the Washington state institute for
25 public policy must conduct a technical review of the measures and
26 methods used in the environmental health disparities map. The review
27 must, to the extent possible, address the following:

28 (i) Identify how the measures used in the map compare to measures
29 used in other similar tools that aim to identify communities that are
30 disproportionately impacted as a result of environmental justice
31 issues;

32 (ii) Compare characteristics such as the reliability, validity,
33 and clinical importance of individual and composite measures included
34 in the map and other similar tools; and

35 (iii) Compare methodologies used in the map to statistical
36 methodologies used in other similar tools.

37 (b) The department of health and the University of Washington
38 must provide technical documentation regarding current methods to the
39 Washington state institute for public policy and must consult with

1 the institute as needed to ensure that the institute has adequate
2 information to complete the technical review.

3 (c) By November 1, 2022, the Washington state institute for
4 public policy must submit a report on their findings to the office of
5 the governor, the appropriate committees of the legislature, and the
6 environmental justice council.

7 NEW SECTION. **Sec. 20.** ENVIRONMENTAL JUSTICE COUNCIL. (1) The
8 environmental justice council is established to advise covered
9 agencies on incorporating environmental justice into agency
10 activities.

11 (2) The council consists of 14 members appointed by the governor.
12 The councilmembers must be persons who are well-informed regarding
13 and committed to the principles of environmental justice and who, to
14 the greatest extent practicable, represent diversity in race,
15 ethnicity, age, and gender, urban and rural areas, and different
16 regions of the state. The members of the council shall elect two
17 members to serve as cochairs for two-year terms. The council must
18 include:

19 (a) Seven community representatives, including one youth
20 representative, the nominations of which are based upon applied and
21 demonstrated work and focus on environmental justice or a related
22 field, such as racial or economic justice, and accountability to
23 vulnerable populations and overburdened communities;

24 (i) The youth representative must be between the ages of 18 and
25 25 at the time of appointment;

26 (ii) The youth representative serves a two-year term. All other
27 community representatives serve four-year terms, with six
28 representatives initially being appointed to four-year terms and five
29 being initially appointed to two-year terms, after which they will be
30 appointed to four-year terms;

31 (b) Two members representing tribal communities, one from eastern
32 Washington and one from western Washington, appointed by the
33 governor. The governor shall solicit and consider nominees from each
34 of the federally recognized tribes in Washington state. The governor
35 shall collaborate with federally recognized tribes on the selection
36 of tribal representatives. The tribal representatives serve four-year
37 terms. One representative must be initially appointed for a four-year
38 term. The other representative must be initially appointed for a two-

1 year term, after which, that representative must be appointed for a
2 four-year term;

3 (c) Two representatives who are environmental justice
4 practitioners or academics to serve as environmental justice experts,
5 the nominations of which are based upon applied and demonstrated work
6 and focus on environmental justice;

7 (d) (i) One representative of a business that is regulated by a
8 covered agency and whose ordinary business conditions are
9 significantly affected by the actions of at least one other covered
10 agency; and

11 (ii) One representative who is a member or officer of a union
12 representing workers in the building and construction trades; and

13 (e) One representative at large, the nomination of which is based
14 upon applied and demonstrated work and focus on environmental
15 justice.

16 (3) Covered agencies shall serve as nonvoting, ex officio
17 liaisons to the council. Each covered agency must identify an
18 executive team level staff person to participate on behalf of the
19 agency.

20 (4) Nongovernmental members of the council must be compensated
21 and reimbursed in accordance with RCW 43.03.050, 43.03.060, and
22 43.03.220.

23 (5) The department of health must:

24 (a) Hire a manager who is responsible for overseeing all staffing
25 and administrative duties in support of the council; and

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

27 (6) In collaboration with the office of equity, the office of
28 financial management, the council, and covered agencies, the
29 department of health must:

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

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

35 (i) Using outcome-based methodology to determine the
36 effectiveness of agency programs and services on reducing
37 environmental disparities; and

38 (ii) Taking into consideration community feedback from the
39 council on whether the performance measures established accurately

1 measure the effectiveness of covered agency programs and services in
2 the communities served; and

3 (c) Create an online performance dashboard to publish performance
4 measures and outcomes as referenced in section 17 of this act for the
5 state and each covered agency.

6 (7) The department of health must coordinate with the
7 consolidated technology services agency to address cybersecurity and
8 data protection for all data collected by the department.

9 (8) (a) With input and assistance from the council, the department
10 of health must establish an interagency work group to assist covered
11 agencies in incorporating environmental justice into agency decision
12 making. The work group must include staff from each covered agency
13 directed to implement environmental justice provisions under this
14 chapter and may include members from the council. The department of
15 health shall provide assistance to the interagency work group by:

16 (i) Facilitating information sharing among covered agencies on
17 environmental justice issues and between agencies and the council;

18 (ii) Developing and providing assessment tools for covered
19 agencies to use in the development and evaluation of agency programs,
20 services, policies, and budgets;

21 (iii) Providing technical assistance and compiling and creating
22 resources for covered agencies to use; and

23 (iv) Training covered agency staff on effectively using data and
24 tools for environmental justice assessments.

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

26 (i) Providing technical assistance to support agency compliance
27 with the implementation of environmental justice into their strategic
28 plans, environmental justice obligations for budgeting and funding
29 criteria and decisions, environmental justice assessments, and
30 community engagement plans;

31 (ii) Assisting the council in developing a suggested schedule and
32 timeline for sequencing the types of: (A) Funding and expenditure
33 decisions subject to rules; and (B) criteria incorporating
34 environmental justice principles;

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

37 (iv) Identifying goals and metrics that the council may use to
38 assess agency performance in meeting the requirements of this act for
39 purposes of communicating progress to the public, the governor, and
40 the legislature; and

1 (v) Developing the guidance under subsection (9)(c) of this
2 section in coordination with the council.

3 (9) The council has the following powers and duties:

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

5 (i) Provide written or oral testimony on their environmental
6 justice concerns;

7 (ii) Assist the council in understanding environmental justice
8 priorities across the state in order to develop council
9 recommendations to agencies for issues to prioritize; and

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

12 (b)(i) The council shall work in an iterative fashion with the
13 interagency work group to develop guidance for environmental justice
14 implementation into covered agency strategic plans pursuant to
15 section 12 of this act, environmental justice assessments pursuant to
16 section 14 of this act, budgeting and funding criteria for making
17 budgeting and funding decisions pursuant to section 16 of this act,
18 and community engagement plans pursuant to section 13 of this act;

19 (ii) The council and interagency work group shall regularly
20 update its guidance;

21 (c) In consultation with the interagency work group, the council:

22 (i) Shall provide guidance to covered agencies on developing
23 environmental justice assessments pursuant to section 14 of this act
24 for significant agency actions;

25 (ii) Shall make recommendations to covered agencies on which
26 agency actions may cause environmental harm or may affect the
27 equitable distribution of environmental benefits to an overburdened
28 community or a vulnerable population and therefore should be
29 considered significant agency actions that require an environmental
30 justice assessment under section 14 of this act;

31 (iii) Shall make recommendations to covered agencies:

32 (A) On the identification and prioritization of overburdened
33 communities under this chapter; and

34 (B) Related to the use by covered agencies of the environmental
35 and health disparities map in agency efforts to identify and
36 prioritize overburdened communities;

37 (iv) May make recommendations to a covered agency on the timing
38 and sequencing of a covered agencies' efforts to implement sections
39 12 through 16 of this act; and

1 (v) May make recommendations to the governor and the legislature
2 regarding ways to improve agency compliance with the requirements of
3 this chapter;

4 (d) By December 1, 2023, and biennially thereafter, and with
5 consideration of the information shared on September 1st each year in
6 covered agencies' annual updates to the council required under
7 section 17 of this act, the council must:

8 (i) Evaluate the progress of each agency in applying council
9 guidance, and update guidance as needed; and

10 (ii) Communicate each covered agency's progress to the public,
11 the governor, and the legislature. This communication is not required
12 to be a report and may take the form of a presentation or other
13 format that communicates the progress of the state and its agencies
14 in meeting the state's environmental justice goals in compliance with
15 this act, and summarizing the work of the council pursuant to (a)
16 through (d) of this subsection, and subsection (11) of this section.

17 (10) By November 30, 2023, and in compliance with RCW 43.01.036,
18 the council must submit a report to the governor and the appropriate
19 committees of the house of representatives and the senate on:

20 (a) The council's recommendations to covered agencies on the
21 identification of significant agency actions requiring an
22 environmental justice assessment under subsection (9)(c)(ii) of this
23 section;

24 (b) The summary of covered agency progress reports provided to
25 the council under section 17(1) of this act, including the status of
26 agency plans for performing environmental justice assessments
27 required by section 14 of this act; and

28 (c) Guidance for environmental justice implementation into
29 covered agency strategic plans, environmental justice assessments,
30 budgeting and funding criteria, and community engagement plans under
31 subsection (9)(c)(i) of this section.

32 (11) The council may:

33 (a) Review incorporation of environmental justice implementation
34 plans into covered agency strategic plans pursuant to section 12 of
35 this act, environmental justice assessments pursuant to section 14 of
36 this act, budgeting and funding criteria for making budgeting and
37 funding decisions pursuant to section 16 of this act, and community
38 engagement plans pursuant to section 13 of this act;

1 (b) Make recommendations for amendments to this chapter or other
2 legislation to promote and achieve the environmental justice goals of
3 the state;

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

6 (d) Recommend to specific agencies that they create environmental
7 justice-focused, agency-requested legislation;

8 (e) Provide requested assistance to state agencies other than
9 covered agencies that wish to incorporate environmental justice
10 principles into agency activities; and

11 (f) Recommend funding strategies and allocations to build
12 capacity in vulnerable populations and overburdened communities to
13 address environmental justice.

14 (12) The role of the council is purely advisory and council
15 decisions are not binding on an agency, individual, or organization.

16 (13) The department of health must convene the first meeting of
17 the council by January 1, 2022.

18 (14) All council meetings are subject to the open public meetings
19 requirements of chapter 42.30 RCW and a public comment period must be
20 provided at every meeting of the council.

21 NEW SECTION. **Sec. 21.** LEGAL OBLIGATIONS. (1) Nothing in this
22 act prevents state agencies that are not covered agencies from
23 adopting environmental justice policies and processes consistent with
24 this act.

25 (2) The head of a covered agency may, on a case-by-case basis,
26 exempt a significant agency action or decision process from the
27 requirements of sections 14 and 16 of this act upon determining that:

28 (a) Any delay in the significant agency action poses a
29 potentially significant threat to human health or the environment, or
30 is likely to cause serious harm to the public interest;

31 (b) An assessment would delay a significant agency decision
32 concerning the assessment, collection, or administration of any tax,
33 tax program, debt, revenue, receipt, a regulated entity's financial
34 filings, or insurance rate or form filing;

35 (c) The requirements of sections 14 and 16 of this act are in
36 conflict with:

37 (i) Federal law or federal program requirements;

38 (ii) The requirements for eligibility of employers in this state
39 for federal unemployment tax credits; or

1 (iii) Constitutional limitations or fiduciary obligations,
2 including those applicable to the management of state lands and state
3 forestlands as defined in RCW 79.02.010.

4 NEW SECTION. **Sec. 22.** APPEALS. (1) Except as specified in
5 subsection (2) of this section, the actions and duties set forth in
6 this act are not subject to appeal.

7 (2)(a) Only the following agency actions undertaken pursuant to
8 this act are subject to appeal:

9 (i) Decisions related to the designation of significant agency
10 actions pursuant to section 14(3)(a) of this act; and

11 (ii) Environmental justice assessments prepared pursuant to
12 section 14 of this act, only for environmental justice assessments
13 for which there is an associated agency action that is appealable.

14 (b) Appeals of environmental justice assessments allowed under
15 (a)(ii) of this subsection must be of the environmental justice
16 assessment together with the accompanying agency action, as defined
17 in RCW 34.05.010.

18 (3) Nothing in this act may be construed to create a new private
19 right of action, other than as described in this section, on the part
20 of any individual, entity, or agency against any state agency.

21 (4) Nothing in this act may be construed to expand, contract, or
22 otherwise modify any rights of appeal, or procedures for appeal,
23 under other laws other than the availability of the appeal process
24 described in this section.

25 **Sec. 23.** RCW 43.376.020 and 2012 c 122 s 2 are each amended to
26 read as follows:

27 In establishing a government-to-government relationship with
28 Indian tribes, state agencies must:

29 (1) Make reasonable efforts to collaborate with Indian tribes in
30 the development of policies, agreements, and program implementation
31 that directly affect Indian tribes and develop a consultation process
32 that is used by the agency for issues involving specific Indian
33 tribes. Covered agencies, as defined in section 2 of this act,
34 subject to the requirements of chapter 70A.--- RCW (the new chapter
35 created in section 25 of this act), must offer consultation with
36 Indian tribes on the actions specified in section 18 of this act;

37 (2) Designate a tribal liaison who reports directly to the head
38 of the state agency;

1 (3) Ensure that tribal liaisons who interact with Indian tribes
2 and the executive directors of state agencies receive training as
3 described in RCW 43.376.040; and

4 (4) Submit an annual report to the governor on activities of the
5 state agency involving Indian tribes and on implementation of this
6 chapter.

7 **Sec. 24.** RCW 34.05.030 and 2015 3rd sp.s. c 1 s 309 are each
8 amended to read as follows:

9 (1) This chapter shall not apply to:

10 (a) The state militia, or

11 (b) The board of clemency and pardons, or

12 (c) The department of corrections or the indeterminate sentencing
13 review board with respect to persons who are in their custody or are
14 subject to the jurisdiction of those agencies.

15 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not
16 apply:

17 (a) To adjudicative proceedings of the board of industrial
18 insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

19 (b) Except for actions pursuant to chapter 46.29 RCW, to the
20 denial, suspension, or revocation of a driver's license by the
21 department of licensing;

22 (c) To the department of labor and industries where another
23 statute expressly provides for review of adjudicative proceedings of
24 a department action, order, decision, or award before the board of
25 industrial insurance appeals;

26 (d) To actions of the Washington personnel resources board, the
27 director of financial management, and the department of enterprise
28 services when carrying out their duties under chapter 41.06 RCW;

29 (e) To adjustments by the department of revenue of the amount of
30 the surcharge imposed under RCW 82.04.261; (~~or~~)

31 (f) To actions to implement the provisions of chapter 70A.--- RCW
32 (the new chapter created in section 25 of this act), except as
33 specified in section 22 of this act; or

34 (g) To the extent they are inconsistent with any provisions of
35 chapter 43.43 RCW.

36 (3) Unless a party makes an election for a formal hearing
37 pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through
38 34.05.598 do not apply to a review hearing conducted by the board of
39 tax appeals.

1 (4) The rule-making provisions of this chapter do not apply to:
2 (a) Reimbursement unit values, fee schedules, arithmetic
3 conversion factors, and similar arithmetic factors used to determine
4 payment rates that apply to goods and services purchased under
5 contract for clients eligible under chapter 74.09 RCW; and
6 (b) Adjustments by the department of revenue of the amount of the
7 surcharge imposed under RCW 82.04.261.
8 (5) All other agencies, whether or not formerly specifically
9 excluded from the provisions of all or any part of the administrative
10 procedure act, shall be subject to the entire act.

11 NEW SECTION. **Sec. 25.** Sections 1 through 3, 11 through 18, and
12 20 through 22 of this act constitute a new chapter in Title 70A RCW.

13 NEW SECTION. **Sec. 26.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

17 NEW SECTION. **Sec. 27.** If any part of this act is found to be in
18 conflict with federal requirements that are a prescribed condition to
19 the allocation of federal funds to the state, the conflicting part of
20 this act is inoperative solely to the extent of the conflict and with
21 respect to the agencies directly affected, and this finding does not
22 affect the operation of the remainder of this act in its application
23 to the agencies concerned. Rules adopted under this act must meet
24 federal requirements that are a necessary condition to the receipt of
25 federal funds by the state."

26 Correct the title.

EFFECT: Makes the following changes to the Engrossed Second
Substitute Bill (as passed by the Senate):

Covered Agencies.

Identifies the agencies required to assume environmental justice obligations as "covered agencies" (Puget Sound Partnership, and the Departments of Agriculture, Commerce, Ecology, Health, Natural Resources, and Transportation), and distinguishes provisions of the bill that apply to covered agencies as opposed to all state agencies.

Specifies that state agencies may opt-in to assume the obligations of covered agencies by notifying the environmental justice council, and clarifies that agencies that opt-in to assume environmental justice obligations of covered agencies are not bound

by the deadlines or timelines for the environmental justice obligations that apply to covered agencies.

Planning and General Obligations of Covered Agencies.

Authorizes, rather than requires, covered agencies include environmental justice implementation plans within planning documents other than the agency's strategic plan, while retaining the requirement that environmental justice implementation plans be included in the agency's strategic plan.

Requires covered agencies to update required environmental justice implementation plans and community engagement plans.

Requires each covered agency to identify, as part of its community engagement plan, how the agency will identify and prioritize overburdened communities, and requires the environmental justice council to provide related guidance to covered agencies regarding the identification and prioritization of overburdened communities.

Limits several of the obligations of state agencies with respect to environmental justice implementation by requiring those activities only to the extent legal, practicable, consistent with statutory authority, or consistent with appropriations.

Adds, as a type of environmental harm to be addressed by covered agencies, the loss or impairment of ecosystem functions or traditional food resources, or loss of access to gather cultural resources or traditional foods.

Significant Agency Actions and Environmental Justice Assessments.

Narrows the definition of "significant agency actions" for which covered agencies must conduct an environmental justice assessment to the following five categories: (1) Significant legislative rules; (2) new statutory grant or loan program development and adoption; (3) the award by a covered agency of a capital project, grant, or loan of at least \$12 million or a transportation project, grant, or loan of at least \$15,000,000; and (4) the submission of agency request legislation to the office of the governor or the office of financial management for approval.

Establishes a process for covered agencies to identify and periodically evaluate additional types of significant agency actions beyond the five categories included in the definition, and requires covered agencies to consider other agency actions that may be significant by 2025.

Requires each covered agency to publish by July 1, 2023, a list of actions that the agency has determined is a significant agency action, and for which environmental justice assessments must be completed.

Clarifies that environmental justice assessment requirements apply only to significant agency actions initiated after July 1, 2023.

Specifies that the issuance of forest practice permits and sale of timber from state lands and state forestlands do not require an environmental justice assessment.

Requires covered agencies to aspire to complete environmental justice assessments without delaying the underlying significant agency action. Requires covered agencies to include logistical implementation metrics in their annual dashboard report on the Office of Financial Management's website.

Requires the environmental justice council to provide guidance to covered agencies on the agency activities that are automatically defined as significant agency actions, and to make recommendations to covered agencies as to which other agency actions should be considered significant agency actions because they may cause

environmental harm or may affect the equitable distribution of environmental benefits to an overburdened community.

Requires covered agencies to periodically evaluate their list of identified significant agency actions.

Requires covered agencies to file a notice with the office of financial management for significant agency actions for which the agency is initiating an environmental justice assessment, and for the office of financial management to post covered agency filings on its website and make it available to interested parties.

Budget and Expenditure Obligations of Covered Agencies.

Provides limits on the requirement that covered agencies to incorporate environmental justice principles into decision processes for budget development and making expenditures, including by requiring incorporation of principles only to the extent allowed by law, where practicable, consistent with legislative appropriations, and to apply only to applicable expenditures related to programs that address or may cause environmental harms or provide environmental benefits.

Clarifies that all covered agencies, rather than just the Department of Transportation, may not take actions or make expenditures that are inconsistent with or conflict with other statutes or conditions and limitations on the agency's appropriations.

Requires covered agencies to provide updates on the implementation of environmental justice principles in agency expenditures and budgets, as part of the annual update on the covered agency's activities posted on the Office of Financial Management's website.

Authorizes covered agencies to determine that it is not practicable to take specified actions to integrate environmental justice principles into expenditure decisions or budget requests for all applicable expenditure decisions and budget requests developed by a covered agency. Requires each covered agency, by July 1, 2023, to publish on its website the types of decision processes for budget development, making expenditures, and granting or withholding environmental benefits that will be subject to specified actions to integrate environmental justice principles into expenditure decisions.

Environmental Justice Council.

Eliminates senate confirmation of environmental justice council members.

Expands the environmental justice council from 12 to 14 members by adding one representative each from a business regulated by a covered agency and whose business is affected by at least one other covered agency, and one representative of a union representing workers in the building and construction trades.

Makes the governor responsible for appointment of environmental justice council members representing tribal communities, rather than the Governor's office of Indian affairs.

Requires the Governor to solicit and consider nominees and collaborate with each tribe on the selection of tribal representatives, rather than to make the selection in consultation with all tribes.

Eliminates the requirement that the environmental justice council make recommendations on the prioritization and phase-in of implementation priorities prior to July 1, 2023.

Authorizes the environmental justice council to provide requested assistance to state agencies that are not covered agencies related to the voluntary incorporation of environmental justice principles into agency activities.

Indian Tribe Consultation.

Specifies that consultation requirements applicable to covered agencies pertain only to federally recognized Indian tribes.

Requires covered agencies to develop a consultation framework in collaboration with tribal governments.

Limits consultation obligations of covered agencies to actions taken to incorporate environmental justice into covered agency strategic plans, actions related to the community engagement plan developed by covered agencies, and significant agency actions that affect federally recognized Indian tribes' rights and interests in tribal lands, rather than applying to covered agency decisions broadly.

Requires the Department of Health to offer consultation with federally recognized Indian tribes related to the development of the environmental health disparities map.

Specifies that the new consultation obligations of covered agencies are in addition to requirements that apply to all state agencies with respect to Indian tribe consultation.

Environmental Health Disparities Map.

Establishes a definition for the "evidence-based", which pertains to evidence-based indicators that the Department of Health may request assistance from researchers to apply.

Requires, rather than authorizes, the Department of Health to request assistance from state universities, other academic researchers, and other state agencies for specified types of input into the development of the health disparities map. Requires the Washington State Institute for Public Policy (WSIPP) to conduct a technical review of the Department of Health's environmental health disparities map by November 1, 2022. Requires the Department of Health and the University of Washington provide technical documentation and other information as needed to WSIPP for their technical review. Requires WSIPP to submit a report of their findings to the Legislature, the Governor, and the Environmental Justice Council by November 1, 2022.

Other.

Limits appeals of agency actions under the bill to covered agencies' (a) identification of significant agency actions and (b) environmental justice assessments of significant agency actions, only for significant agency actions that are appealable.

Specifies that the Act does not create a new private right of action other than the specified appeal process.

Specifies that appeals of environmental justice assessments must be of the environmental justice assessment together with the accompanying agency action that is appealable.

Clarifies that specified types of exemptions to environmental justice assessment and budget obligations of covered agencies must be determined by the head of a covered agency on a case-by-case basis.

Adds a federal funding savings clause.

Amends the intent section.

Makes numerous other clarifying and technical edits.

--- END ---