

1 AN ACT Relating to implementing the recommendations of the
2 environmental justice task force; adding new sections to chapter
3 43.70 RCW; adding a new section to chapter 43.21A RCW; adding a new
4 section to chapter 43.23 RCW; adding a new section to chapter 43.30
5 RCW; adding a new section to chapter 43.31 RCW; adding a new section
6 to chapter 47.01 RCW; adding a new section to chapter 90.71 RCW; and
7 adding a new chapter to Title 70A RCW.

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

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

17 (2) As conveyed in the task force report, Washington state
18 studies and national studies found that people of color and low-
19 income people continue to be disproportionately exposed to
20 environmental hazards in their communities. As a result, there is a
21 higher risk of adverse health outcomes for those communities. This

1 risk is amplified when overlaid on communities with preexisting
2 economic barriers and environmental risks, and creates cumulative
3 environmental health impacts, which this act seeks to prevent and
4 mitigate.

5 (3) Accordingly, the state has a compelling interest in ensuring
6 that such environmental health disparities are prevented and
7 addressed in the administration of ongoing and new environmental
8 programs, including allocation of funds, and that these programs
9 should be administered so as not to perpetuate effects of past
10 disparate treatment of overburdened communities and vulnerable
11 populations.

12 (4) The task force provided recommendations to state agencies for
13 measurable goals and model policies to reduce environmental health
14 inequities in Washington, equitable practices for meaningful
15 community involvement, and how to use the environmental health
16 disparities map to identify overburdened communities. In order for
17 all communities in Washington state to be healthy and thriving, state
18 government must concentrate on communities that currently do not meet
19 environmental health standards.

20 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
21 section apply throughout this chapter unless the context clearly
22 requires otherwise.

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

27 (2) "Council" means the environmental justice council established
28 in section 19 of this act.

29 (3) "Cumulative environmental health impact" means the combined,
30 multiple environmental harms and health impacts on a vulnerable
31 population.

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

33 (a) Prevent or reduce existing environmental harms or associated
34 risks that contribute significantly to cumulative environmental
35 health impacts;

36 (b) Prevent or mitigate impacts to overburdened communities and
37 vulnerable populations from, or support community response to, the
38 impacts of environmental harm; or

1 (c) Meet a community need identified by an overburdened community
2 or vulnerable population that is consistent with the intent of this
3 act.

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

7 (a) Exposure to pollution, conventional or toxic pollutants,
8 environmental hazards, or other contamination in the air, water, and
9 land;

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

14 (c) Impacts from climate change.

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

17 (7) "Environmental impacts" means environmental benefits or
18 environmental harms, or the combination of environmental benefits and
19 harms resulting from a proposed action.

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

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

34 (10) "Overburdened community" means an area identified through a
35 cumulative environmental health impact analysis, and may include, but
36 is not limited to, areas that are rural, fully or partially on tribal
37 lands, or areas with a high concentration of members of a vulnerable
38 population that potentially experience disproportionate health and
39 environmental harms and risks.

1 (11) "Significant agency action" includes the adoption of
2 significant legislative rules; the adoption of agency budgets; the
3 making of a major investment, grants, loans, and other resource
4 allocations; proposing legislation concerning the duties of the
5 agency; and any decision or activity that may cause environmental
6 harm to overburdened communities or vulnerable populations.

7 (12) "Significant impact" means potential changes to critical
8 determinants of health, such as legal rights, finances, housing, and
9 safety.

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

14 (14)(a) "Vulnerable populations" means communities that
15 experience a disproportionate, cumulative risk from environmental
16 harms due to: (i) Adverse socioeconomic factors, including
17 unemployment, high housing and transportation costs relative to
18 income, limited access to nutritious food and adequate health care,
19 and linguistic isolation; (ii) sensitivity factors, such as low birth
20 weight and death from cardiovascular disease; and (iii) negative
21 public health factors that increase vulnerability to the effects of
22 environmental harms.

23 (b) "Vulnerable populations" includes minority, low-income,
24 tribal, or indigenous populations.

25 NEW SECTION. **Sec. 3.** ENVIRONMENTAL JUSTICE OBLIGATIONS FOR ALL
26 AGENCIES. The departments of agriculture, commerce, ecology, health,
27 natural resources, transportation, and the Puget Sound partnership
28 are required to comply with all provisions of this act. All other
29 state agencies should strive to apply the laws of the state of
30 Washington, and the rules and policies of the agency, in accordance
31 with the policies of this act including, to the extent feasible, the
32 incorporation into agency decisions of the principles of
33 environmental justice assessment processes set forth in section 15 of
34 this act.

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

37 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF HEALTH.
38 The department must apply and comply with the substantive and
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1 procedural requirements of chapter 70A.--- RCW (the new chapter
2 created in section 25 of this act).

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

5 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF ECOLOGY.
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. 6.** A new section is added to chapter 43.23
10 RCW to read as follows:

11 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF
12 AGRICULTURE. The department must apply and comply with the
13 substantive and procedural requirements of chapter 70A.--- RCW (the
14 new chapter created in section 25 of this act).

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

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

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

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

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

29 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF
30 TRANSPORTATION. The department must apply and comply with the
31 substantive and procedural requirements of chapter 70A.--- RCW (the
32 new chapter created in section 25 of this act).

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

1 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE PUGET SOUND PARTNERSHIP.
2 The partnership must apply and comply with the substantive and
3 procedural requirements of chapter 70A.--- RCW (the new chapter
4 created in section 25 of this act).

5 NEW SECTION. **Sec. 11.** AUTHORITY OF OTHER AGENCIES TO OPT IN TO
6 ENVIRONMENTAL JUSTICE OBLIGATIONS. Any state agency, as the term
7 "agency" is defined in RCW 34.05.010, including the governor's office
8 and the office of the attorney general, may opt in to assume the
9 substantive and procedural requirements of chapter 70A.--- RCW (the
10 new chapter created in section 25 of this act).

11 NEW SECTION. **Sec. 12.** INCORPORATING AN ENVIRONMENTAL JUSTICE
12 IMPLEMENTATION COMPONENT TO AGENCY STRATEGIC PLANS. (1) As part of
13 each agency's strategic plan, each agency shall include an
14 environmental justice implementation plan within one year of the
15 effective date of this section. The plan must describe how the agency
16 will apply the principles of environmental justice to the agency's
17 activities and guide the agency in its implementation of its
18 obligations under this act.

19 (2) The environmental justice implementation component of each
20 agency's strategic plan must include:

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

24 (b) Metrics to track and measure accomplishments of the agency
25 goals and deliverables;

26 (c) Methods to equitably solicit and receive information and
27 opinions from members of the public across Washington state;

28 (d) Strategies to ensure compliance with existing federal and
29 state laws and policies relating to environmental justice, including
30 Title VI of the Americans with disabilities act and other
31 nondiscrimination requirements; and

32 (e) A plan for community engagement as described in section 13 of
33 this act.

34 (3) In developing its plan, the agency must comply with any
35 guidelines developed by the council pursuant to section 19 of this
36 act.

37 (4) Prior to implementation, incorporation of an environmental
38 justice implementation component into an agency's strategic plan

1 under this section must be reviewed by the council once the council
2 is operational under section 19 of this act. Once incorporation of
3 the component into an agency's strategic plan is reviewed by the
4 council, it is the duty of the agency to carry out the requirements
5 of this section.

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

14 (a) Best practices for outreach and communication to overcome
15 barriers to engagement with overburdened communities and vulnerable
16 populations;

17 (b) Use of screening tools that integrate spatial, demographic,
18 and health disparities data to evaluate and understand the nature and
19 needs of the people who may be impacted by agency decisions, such as
20 the environmental health disparities map, as well as further research
21 with community members and organizations as needed;

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

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

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

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

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

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

38 (3) Prior to implementation, a community engagement plan
39 developed by the agency under this section must be reviewed by the

1 council once the council is operational under section 19 of this act.
2 Once the agency's plan is reviewed by the council, it is the duty of
3 the agency to carry out the requirements of this section.

4 NEW SECTION. **Sec. 14.** TRIBAL CONSULTATION. An agency must
5 consult with Indian tribes, including federally recognized and
6 nonrecognized tribes, on all significant agency actions, programs,
7 and on the distribution of state funds that affect Indian tribes'
8 rights and interests in their tribal lands. The consultation must
9 occur pursuant to chapter 43.376 RCW and must be independent of and
10 in addition to the equitable engagement and public participation
11 processes required under section 13 of this act, or by an agency, and
12 regardless of whether the agency receives a request for consultation
13 from an Indian tribe. A consultation framework must be developed in
14 coordination with tribal governments that includes best practices,
15 protocols for communication, and collaboration with Indian tribes.

16 NEW SECTION. **Sec. 15.** ENVIRONMENTAL JUSTICE ASSESSMENT. (1)
17 When considering a significant agency action, an agency, using the
18 guidance and consultation of the council, must conduct an
19 environmental justice assessment as described in this section to
20 better inform the agency in making its decision and to assist the
21 agency with the equitable distribution of environmental benefits,
22 reduction of environmental harms, and the identification and
23 reduction of racial and economic disparities.

24 (2) In conducting an environmental justice assessment, an agency
25 must:

26 (a) Comply with the environmental justice assessment guidelines
27 prepared by the council;

28 (b) Utilize cumulative environmental health impact analysis, such
29 as the environmental health disparities map or other data that
30 considers the effects of a proposed action on overburdened
31 communities, in conjunction with other qualitative assessments and
32 evaluation of other factors, including both environmental and
33 socioeconomic stressors that may cumulatively affect health and the
34 environment and reduce environmental benefits or contribute to
35 persistent environmental health disparities;

36 (c) Identify overburdened communities and vulnerable populations
37 that may be affected by the proposed action and the cumulative

1 positive and negative impacts and how those impacts may be
2 distributed across communities;

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

5 (e) Summarize community input and describe how overburdened
6 communities and affected tribes may be further involved in
7 development of the proposed action; and

8 (f) Describe options for the agency to reduce any
9 disproportionate impacts on overburdened communities, or provide a
10 reasonable justification for not doing so, and achieve equitable
11 distribution of benefits.

12 (3) To obtain information for purposes of this section, an agency
13 should consult with representatives of overburdened communities and
14 vulnerable populations to assist in the accurate assessment of the
15 potential impact of the action and in developing the means to reduce
16 or eliminate the impact on overburdened communities and vulnerable
17 populations.

18 (4) Based on the environmental justice assessment, the agency
19 must reduce or eliminate the negative impacts and maximize the
20 benefits created by the action on overburdened communities and
21 vulnerable populations. The agency must consider, without limitation,
22 each of the following methods for reducing such an impact or
23 equitably distributing benefit:

24 (a) Eliminating disparities and the unequal effect of
25 environmental harms on overburdened communities and vulnerable
26 populations;

27 (b) Reducing or ensuring the action does not add to the
28 cumulative environmental health impacts on overburdened communities
29 or vulnerable populations;

30 (c) Ensuring the action contributes to reducing the cumulative
31 environmental health impacts on overburdened communities or
32 vulnerable populations;

33 (d) Providing equitable participation and meaningful engagement
34 of vulnerable populations in overburdened communities in the
35 development of the agency action;

36 (e) Prioritizing equitable distribution of resources and benefits
37 to overburdened communities and vulnerable populations;

38 (f) Ensuring positive workforce and job outcomes for overburdened
39 communities;

1 (g) Meeting a community need identified by vulnerable
2 populations, in particular those in the affected overburdened
3 community;

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

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

8 (5) If the agency determines it cannot reduce the impact of the
9 action on overburdened communities and vulnerable populations or
10 address the distribution of benefits, the agency must provide a clear
11 explanation of why it has made that determination, make that
12 explanation part of the record of the decision, and provide notice of
13 that explanation to members of the public who participated in the
14 process.

15 (6) An agency may develop rules for criteria and procedures
16 applicable to environmental justice assessments and its decisions
17 based on those assessments.

18 (7) Prior to implementation, the environmental justice assessment
19 process developed by the agency under this section must be reviewed
20 by the council once the council is operational under section 19 of
21 this act. Once the agency's environmental justice assessment process
22 is reviewed by the council, it is the duty of the agency to carry out
23 the requirements of this section.

24 NEW SECTION. **Sec. 16.** ENVIRONMENTAL JUSTICE OBLIGATIONS OF
25 AGENCIES RELATING TO BUDGETS AND FUNDING. (1) An agency must
26 incorporate environmental justice principles into its decision
27 processes for budget development, making investments, granting or
28 withholding benefits, and distributing funding in order to direct
29 funding and investments towards overburdened communities and
30 vulnerable populations.

31 (2) In making such decisions, an agency must:

32 (a) Direct environmental benefits to vulnerable populations and
33 overburdened communities to reduce statewide disparities;

34 (b) Make investments in a manner that reduces or eliminates the
35 environmental health disparities that a specific community
36 experiences;

37 (c) Focus investments on creating environmental benefits,
38 including eliminating health burdens, creating community and

1 population resilience, and improving the quality of life of
2 overburdened communities and vulnerable populations;

3 (d) Ensure that overburdened communities and vulnerable
4 populations have the opportunity to meaningfully participate in
5 agency spending and investment decisions;

6 (e) Ensure that agency spending and investment decisions
7 contribute to geographic, racial, and ethnic equity and a reduction
8 in existing disparities based on geography, race, or ethnicity;

9 (f) Promote transparency by clearly articulating environmental
10 justice goals and assessment metrics to communicate where, why, and
11 how funds are to be distributed;

12 (g) Within the scope of the agency's authority, consider a broad
13 scope of grants and contracting opportunities that effectuate
14 environmental justice principles, including:

15 (i) Community grants to monitor pollution;

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

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

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

23 (h) Establish a goal of 40 percent and no less than 35 percent of
24 investments that create environmental benefits that are directed to
25 vulnerable populations in overburdened communities.

26 (3) An agency may develop rules for criteria and procedures
27 applicable to incorporating environmental justice principles in
28 investment decisions under this section.

29 (4) Prior to implementation, budgeting and funding criteria for
30 making budgeting and funding decisions developed under this section
31 must be reviewed by the council once the council is operational under
32 section 19 of this act. Once the agency's criteria are reviewed by
33 the council, it is the duty of the agency to carry out the
34 requirements of this section.

35 NEW SECTION. **Sec. 17.** DASHBOARD REPORTING REQUIREMENTS. Each
36 agency shall, by September 1st of each year, publish a dashboard
37 report or an updated dashboard report, in a uniform dashboard format
38 on the office of financial management's website, delineating its
39 progress on implementing the environmental justice implementation

1 component of its strategic plan and its environmental justice
2 assessments of proposed significant agency actions.

3 NEW SECTION. **Sec. 18.** A new section is added to chapter 43.70
4 RCW to read as follows:

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

16 (a) Track changes in environmental health disparities over time
17 in an interactive, regularly updated dashboard; and

18 (b) Measure the link between environmental data, vulnerable
19 population characteristics, such as race and income, and human health
20 data.

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

27 (3) The department may request assistance from:

28 (a) The University of Washington;

29 (b) Other academic researchers to perform modeling and create
30 evidence-based indicators and with conducting sensitivity analyses to
31 assess the impact of new indicators on communities and determination
32 of an overburdened community; and

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

36 (4) The department must:

37 (a) Document and publish a summary of the regular updates and
38 revisions to the environmental health disparities map that happen
39 over time as the new data becomes available, in order to help the

1 public delineate and understand different versions of the map as they
2 are published;

3 (b) At least every three years, perform a comprehensive
4 evaluation of the map to ensure that the most current modeling and
5 methods available to evaluate cumulative environmental health impacts
6 are being utilized to develop and update the environmental health
7 disparities map's indicators.

8 NEW SECTION. **Sec. 19.** ENVIRONMENTAL JUSTICE COUNCIL. (1) The
9 environmental justice council is established.

10 (2) The council consists of 15 members, appointed by the governor
11 except for the appointment in (b) of this subsection, each serving
12 four-year terms. The councilmembers must be persons who are well-
13 informed on and committed to the principles of environmental justice
14 and who, to the greatest extent practicable, represent minority
15 communities, low-income communities, environmental interests, and
16 geographically diverse areas of the state. These members must
17 include:

18 (a) Seven representatives from community-based organizations, the
19 nominations of which are based upon applied and demonstrated work and
20 focus on environmental justice or a related field, such as racial or
21 economic justice, and accountability to vulnerable populations in
22 overburdened communities. These representatives should maintain a
23 balanced and diverse distribution of representation from both urban
24 and rural communities across the state;

25 (b) At least one representative, to be jointly chosen to serve on
26 the council by the three tribal association groups: The Northwest
27 Indian fisheries commission, the Columbia river intertribal fish
28 commission, and the upper Columbia united tribes;

29 (c) Two representatives who are environmental justice
30 practitioners or academics to serve as environmental justice experts,
31 the nominations of which are based upon applied and demonstrated work
32 and focus on environmental justice;

33 (d) One representative at large, the nomination of which is based
34 upon applied and demonstrated work and focus on environmental
35 justice;

36 (e) One representative each from three different state agencies
37 subject to the obligations of this act, to serve as nonvoting
38 members; and

1 (f) The environmental justice advocate established pursuant to
2 sections 20 through 24 of this act, to serve as a nonvoting member in
3 an advisory capacity.

4 (3)(a) In case of a vacancy, a majority of the voting members of
5 the council shall fill such a vacancy by appointment. The appointed
6 member shall serve for the unexpired portion of the term vacated or
7 until an appointment is made by the governor.

8 (b) For the representative jointly chosen to serve on the council
9 as provided under subsection (1)(b) of this section, any vacancy may
10 only be filled by appointment as provided under that subsection.

11 (4) Nongovernmental members of the council must be compensated
12 and reimbursed in accordance with RCW 43.03.050, 43.03.060, and
13 43.03.250.

14 (5) The council shall appoint a manager who is responsible for
15 overseeing all staffing and administrative duties of the council.

16 (6) The department of health shall provide all administrative and
17 staff support for the council. The manager has supervisory authority
18 over the staff of the council and shall employ such personnel as are
19 necessary to implement this chapter. Not more than two such employees
20 may be exempt from chapter 41.06 RCW. The council shall otherwise
21 retain its independence in exercising its powers, functions, and
22 duties and its supervisory control over nonadministrative staff
23 support.

24 (7) The council has the following powers and duties:

25 (a) To review all environmental justice implementation components
26 to agency strategic plans pursuant to section 12 of this act,
27 environmental justice assessments pursuant to section 15 of this act,
28 budgeting and funding criteria for making budgeting and funding
29 decisions pursuant to section 16 of this act, and community
30 engagement plans pursuant to section 13 of this act prior to
31 implementation by agencies;

32 (b) To adopt and regularly update guidelines describing best
33 practices for achieving compliance with this act, engaging with
34 vulnerable populations, and meeting the needs of overburdened
35 communities. These guidelines must include provisions with guidance
36 for agencies on:

37 (i) Preparing an environmental justice implementation component
38 to agency strategic plans, pursuant to section 12 of this act;

39 (ii) Evaluating agency processes used to identify and designate
40 overburdened communities using cumulative environmental health impact

1 analysis and reviewing the designation of overburdened communities
2 resulting from this process;

3 (iii) Developing budgeting and funding criteria and making
4 budgeting and funding decisions pursuant to section 16 of this act;

5 (iv) Refining and adapting environmental justice assessments
6 pursuant to section 15 of this act;

7 (v) Adapting and advising how to implement community engagement
8 plans pursuant to section 13 of this act; and

9 (vi) Creating and updating the agency reporting dashboards
10 described in section 17 of this act;

11 (c) To provide technical assistance to support agency compliance
12 with the environmental justice implementation component of their
13 strategic plans, environmental justice obligations for budgeting and
14 funding criteria and decisions, environmental justice assessments,
15 and community engagement plans;

16 (d) To provide information, as appropriate, to the public, the
17 environmental justice advocate, the governor, and members of the
18 legislature, concerning agency compliance with the requirements of
19 this act;

20 (e) To hold hearings and conduct other proceedings to receive
21 relevant information from state agencies and the public to assist in
22 performance of the duties described in (a) through (j) of this
23 subsection;

24 (f) To create a process to audit the performance of agencies in
25 their compliance with this act;

26 (g) To review the agency reporting dashboards described in
27 section 17 of this act;

28 (h) To make recommendations for additional legislation to further
29 the environmental justice goals of the state;

30 (i) To review existing environmental laws and make
31 recommendations for amendments that will further environmental
32 justice;

33 (j) To recommend to specific agencies that they create
34 environmental justice-focused, agency-request legislation; and

35 (k) Provide an annual update to the appropriate committees of the
36 legislature. The update is not required to be a report and may take
37 the form of a presentation or other format that communicates the
38 progress of the state and its agencies in meeting the state's
39 environmental justice goals in compliance with this act, and

1 summarizing the work of the council pursuant to (a) through (j) of
2 this subsection.

3 (8) The council must convene by January 1, 2022.

4 NEW SECTION. **Sec. 20.** ENVIRONMENTAL JUSTICE ADVOCATE
5 AUTHORIZATION. There is created an office of environmental justice
6 advocate within the office of the governor for the purpose of
7 promoting environmental justice and compliance with this act;
8 providing information to overburdened communities and the council;
9 promoting public awareness and understanding of environmental justice
10 for overburdened communities; identifying system issues and responses
11 for the governor and the legislature to act upon; and ensuring agency
12 compliance with the provisions of this act.

13 The environmental justice advocate reports directly to the
14 governor and the council.

15 NEW SECTION. **Sec. 21.** ENVIRONMENTAL JUSTICE ADVOCATE
16 APPOINTMENT. (1) The governor shall appoint an environmental justice
17 advocate who must be a person of recognized judgment, independence,
18 objectivity, and integrity, and be qualified by training or
19 experience in environmental justice policies. Prior to the
20 appointment, the governor shall consult with, and may receive
21 recommendations from the council, appropriate committees of the
22 legislature, representatives of overburdened communities, and other
23 relevant stakeholders, regarding the selection of the advocate.

24 (2) The office of the governor shall provide all administrative
25 and staff support for the office of environmental justice advocate.
26 The advocate office has supervisory authority over the staff of the
27 office and shall employ such personnel as are necessary to implement
28 this chapter. Not more than two such employees may be exempt from
29 chapter 41.06 RCW. The office shall otherwise retain its independence
30 in exercising its powers, functions, and duties and its supervisory
31 control over nonadministrative staff support.

32 (3) The person appointed environmental justice advocate holds
33 office for a term of three years and continues to hold office until
34 reappointed or until their successor is appointed. The governor may
35 remove the environmental justice advocate only for neglect of duty,
36 misconduct, or the inability to perform duties. Any vacancy must be
37 filled by similar appointment for the remainder of the unexpired
38 term.

1 NEW SECTION. **Sec. 22.** ENVIRONMENTAL JUSTICE ADVOCATE DUTIES.

2 (1) The environmental justice advocate shall:

3 (a) Monitor agency compliance with environmental justice
4 assessments and enterprise equity provisions of sections 12 through
5 17 of this act;

6 (b) Establish a statewide uniform reporting system to collect and
7 analyze data related to complaints received by the environmental
8 justice advocate regarding agencies;

9 (c) Establish procedures to receive, investigate, and resolve
10 complaints;

11 (d) Maintain a statewide toll-free telephone number, a collect
12 telephone number, a website, and a mailing address for the receipt of
13 complaints and inquiries;

14 (e) Establish procedures to gather stakeholder input into the
15 environmental justice advocate's activities and priorities, including
16 attending environmental justice council meetings and other public
17 meetings;

18 (f) Every other year, submit annually to the governor's office,
19 the legislature, and the council, a report that includes, at a
20 minimum, the following information:

21 (i) The budget and expenditures of the environmental justice
22 advocate;

23 (ii) Agency compliance with environmental justice assessments and
24 enterprise equity provisions of sections 12 through 17 of this act;

25 (iii) The number of complaints received and resolved by the
26 environmental justice advocate;

27 (iv) A description of significant systemic or individual
28 investigations or outcomes achieved by the environmental justice
29 advocate;

30 (v) Any outstanding or unresolved concerns or recommendations of
31 the environmental justice advocate; and

32 (vi) Input and comments from stakeholders, including
33 representatives of overburdened communities, regarding the
34 environmental justice advocate's activities during the prior year;
35 and

36 (g) Adopt and comply with rules, policies, and procedures
37 necessary to implement this act.

38 (2) (a) The environmental justice advocate may initiate and
39 attempt to resolve an investigation upon its own initiative or upon

1 receipt of a complaint from a representative or member of an
2 overburdened community, the council, or others.

3 (b) The environmental justice advocate may not levy any fees for
4 the submission or investigation of complaints.

5 (c) The environmental justice advocate must remain neutral and
6 impartial and may not act as a representative for the complainant or
7 agencies.

8 (d) At the conclusion of an investigation of a significant
9 complaint, the environmental justice advocate must publish a written
10 decision that will be publicly available. The environmental justice
11 advocate must communicate the decision to the complainant and to the
12 agency. The environmental justice advocate must state its
13 recommendations and reasoning if, in the advocate's opinion, the
14 agency should:

15 (i) Consider the matter further;

16 (ii) Modify or cancel any action;

17 (iii) Alter a rule, practice, or ruling;

18 (iv) Explain in detail the administrative action in question; or

19 (v) Rectify an omission.

20 (e) If the environmental justice advocate so requests, the agency
21 must, within the time specified, inform the advocate about any action
22 taken on the recommendations or the reasons for not complying with
23 the recommendations.

24 (f) If the environmental justice advocate believes, based on the
25 investigation, that there has been or continues to be significant
26 noncompliance with the environmental justice assessment and
27 enterprise equity requirements of sections 12 through 17 of this act,
28 the advocate must report the finding to the governor, the council,
29 and the appropriate committees of the legislature.

30 (g) Before announcing a conclusion or recommendation, the
31 environmental justice advocate shall consult with the complainant and
32 the relevant agency. The environmental justice advocate may request
33 to be notified by the agency, within a specified time, of any action
34 taken on any recommendation presented. The environmental justice
35 advocate must notify the complainant of the actions taken by the
36 agency in response to the advocate's recommendations.

37 NEW SECTION. **Sec. 23.** ENVIRONMENTAL JUSTICE ADVOCATE ACCESS TO
38 AGENCIES. (1) The environmental justice advocate appointed in section
39 21 of this act must have reasonable access to agency facilities at

1 all times necessary to conduct a full investigation. This authority
2 includes the opportunity to interview an agency employee who might be
3 reasonably believed to have knowledge of the matter under
4 investigation. This access must be afforded, upon request by the
5 environmental justice advocate, when:

6 (a) A complaint is made to the office; or

7 (b) The environmental justice advocate determines there is cause
8 to believe that an agency has failed to comply with the environmental
9 justice and enterprise equity requirements of sections 12 through 17
10 of this act.

11 (2) The environmental justice advocate has the right to access,
12 inspect, and copy all relevant information, records, or documents in
13 the possession or control of the agency that the advocate considers
14 necessary in an investigation of a complaint filed under this act,
15 and the agency must assist the advocate in obtaining the necessary
16 releases for those documents that are specifically restricted or
17 privileged for use by the advocate.

18 (3) Following notification from the environmental justice
19 advocate with a written demand for access to agency records, the
20 delegated agency staff must provide the advocate with access to the
21 requested documentation no later than 20 business days after the
22 advocate's written request for the records.

23 NEW SECTION. **Sec. 24.** AGENCY EMPLOYEE WHISTLEBLOWER PROTECTION.
24 No discriminatory, disciplinary, or retaliatory action may be taken
25 against an agency employee for any communication made, or information
26 given or disclosed, to aid the office of environmental justice
27 advocate created in section 20 of this act in carrying out its
28 responsibilities, unless the communication or information is made,
29 given, or disclosed maliciously or without good faith.

30 NEW SECTION. **Sec. 25.** Sections 1 through 3, 11 through 17, and
31 19 through 24 of this act constitute a new chapter in Title 70A RCW.

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