

SENATE AMENDMENTS TO SENATE BILL 286

By COMMITTEE ON ENERGY AND ENVIRONMENT

April 2

1 On page 1 of the printed bill, delete lines 6 through 27 and delete pages 2 through 9 and insert:

2
3 **“RENAMING AND REORGANIZING THE**
4 **ENVIRONMENTAL JUSTICE TASK FORCE**

5
6 **“SECTION 1. (1) The amendments to ORS 182.538 and 182.542 by sections 2 and 3 of this**
7 **2021 Act are intended to change the name of the ‘Environmental Justice Task Force’ to the**
8 **‘Environmental Justice Council’ and establish that entity within the Department of Envi-**
9 **ronmental Quality.**

10 **“(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel**
11 **may substitute for words designating the ‘Environmental Justice Task Force,’ wherever they**
12 **occur in statutory law, other words designating the Environmental Justice Council.**

13 **“SECTION 2. ORS 182.538 is amended to read:**

14 *“182.538. [(1) There is established the Environmental Justice Task Force consisting of 12 members*
15 *appointed by the Governor. The members shall be persons who are well-informed on the principles of*
16 *environmental justice and who, to the greatest extent practicable, represent minority communities, low-*
17 *income communities, environmental interests, industry groups and geographically diverse areas of the*
18 *state. Of the 12 members, the Governor shall appoint one member of the task force from each of the*
19 *following commissions:]*

20 *“[(a) The Commission on Asian and Pacific Islander Affairs;]*

21 *“[(b) The Commission on Black Affairs;]*

22 *“[(c) The Commission on Hispanic Affairs; and]*

23 *“[(d) The Commission on Indian Services.]*

24 **“(1)(a) The Environmental Justice Council is established within the Department of Envi-**
25 **ronmental Quality. The council consists of 13 members. Of the 13 members, nine members**
26 **shall be appointed by the Governor and must be persons who have expertise and knowledge**
27 **in environmental justice, as well as expertise in at least one of the following areas:**

28 **“(A) Environmental, racial or climate justice;**

29 **“(B) The enforcement of environmental laws;**

30 **“(C) Land use planning and development;**

31 **“(D) Sustainability; or**

32 **“(E) Community organizing.**

33 **“(b) Four members shall be appointed by the Governor as follows:**

34 **“(A) One member shall be appointed from among persons nominated by the Commission**
35 **on Asian and Pacific Islander Affairs;**

1 **“(B) One member shall be appointed from among persons nominated by the Commission**
2 **on Black Affairs;**

3 **“(C) One member shall be appointed from among persons nominated by the Commission**
4 **on Hispanic Affairs; and**

5 **“(D) One member shall be appointed from among persons nominated by the Commission**
6 **on Indian Services.**

7 “(2) The *[task force]* **council** shall submit an annual report to the Governor **and the Environ-**
8 **mental Quality Commission** setting forth its view of the progress of natural resource agencies
9 toward achieving the goals established pursuant to ORS 182.542 and identifying any other environ-
10 mental issues that the *[task force]* **council** determines need attention.

11 “(3) The term of office of each member is four years, *[but a]* **and a member may be reap-**
12 **pointed.** A member serves at the pleasure of the Governor. Before the expiration of the term of a
13 member, the Governor shall appoint a successor whose term begins on January 1 of the following
14 year. *[A member may be reappointed.]* If there is a vacancy for any cause, the Governor shall make
15 an appointment to become immediately effective for the unexpired term.

16 “(4) A member of the *[task force who is not a member of the Legislative Assembly]* **council** is
17 entitled to compensation and expenses in the manner and amounts provided for in ORS 292.495.
18 Claims for compensation and expenses incurred in performing functions of the *[task force]* **council**
19 shall be paid out of funds appropriated to the *[Governor]* **department** for that purpose.

20 “(5) The *[task force]* **council** shall elect one of its members as a chairperson and another as vice
21 chairperson, for the terms and with the duties and powers necessary for the performance of the
22 functions of such offices as the *[task force]* **council** determines.

23 “(6) A majority of the members of the *[task force]* **council** constitutes a quorum for the trans-
24 action of business.

25 “(7) The *[task force]* **council** shall meet at least once every three months at times and places
26 specified by the chairperson. The *[task force]* **council** also shall meet at other times and places
27 specified by the call of the chairperson or of a majority of the members of the *[task force]* **council.**

28 “*[(8) The Governor shall provide the task force with the necessary clerical and administrative staff*
29 *support.]*

30 **“(8) The department is responsible for ensuring payment of the administrative expenses**
31 **of the council. The department may enter into interagency agreements under ORS 190.110**
32 **with natural resource agencies for sharing the administrative expenses of the council.**

33 **“(9) The department shall act as the fiscal agent of the council for purposes of:**

34 **“(a) Budgeting, interagency agreements for sharing administrative expenses or other**
35 **mechanisms for paying the administrative and other expenses of the council;**

36 **“(b) Drafting and processing contracts, other agreements, grant applications or other**
37 **documents; and**

38 **“(c) Taking all reasonable actions to ensure the council is in compliance with state fi-**
39 **nancial administration laws.**

40 “*[(9)] (10) Natural resource agencies are directed to assist the [task force] council in the per-*
41 *formance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish*
42 *such information and advice as the members of the [task force] council consider necessary to per-*
43 *form their duties.*

44 “*[(10) A member of the task force who is a member of the Legislative Assembly may serve in an*
45 *advisory capacity only.]*

1 agency shall include any recommendations from the committee in the record maintained by the
2 agency for the rule.

3 “(6) An agency may appoint the Small Business Rules Advisory Committee established in ORS
4 183.407 as the advisory committee or fiscal impact advisory committee for purposes of this section.

5 “(7) **A natural resource agency as defined in ORS 182.535 may appoint a member of the**
6 **Environmental Justice Council established under ORS 182.538 to an advisory committee ap-**
7 **pointed under subsection (1) of this section.**

8 “[7] (8) Subsection (5) of this section does not apply to any rule adopted by an agency to
9 comply with a judgment or a settlement of a judicial proceeding.

10 “[8] (9) If an agency is required by law to appoint an advisory committee under this section,
11 the agency may not appoint an officer, employee or other agent of the agency to serve as a member
12 of the advisory committee.

13
14 **“ENVIRONMENTAL VULNERABILITY ASSESSMENT**

15
16 **“SECTION 9.** ORS 182.535 is amended to read:

17 **“182.535. [For purposes of] As used in ORS 182.535 to 182.550[.]:**

18 **“(1) ‘Environmental burdens’ means the cumulative risks to communities caused by his-**
19 **toric and current:**

20 **“(a) Exposure to conventional and toxic hazards in the air or in or on water or land;**

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

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

26 **“(2) ‘Environmental justice’ means the equal protection from environmental and health**
27 **risks, fair treatment and meaningful involvement in decision making of all people regardless**
28 **of race, color, national origin, immigration status, income or other identities with respect**
29 **to the development, implementation and enforcement of environmental laws, regulations and**
30 **policies that affect the environment in which people live, work, learn and practice spirituality**
31 **and culture.**

32 **“(3) ‘Equity analysis’ means an analysis used to determine or evaluate environmental**
33 **justice considerations.**

34 **“(4) ‘Fair treatment’ means that no one group of people, including racial, ethnic or**
35 **socioeconomic groups, should bear a disproportionate share of the negative environmental**
36 **consequences resulting from industrial, municipal and commercial operations or the exe-**
37 **cution of federal, state, local and tribal environmental programs and policies.**

38 **“(5) ‘Highly impacted community’ means a demographic group that experiences a dis-**
39 **proportionate amount of environmental burdens or environmental harms or risks.**

40 **“(6) ‘Meaningful involvement’ means:**

41 **“(a) Members of vulnerable populations have appropriate opportunities to participate in**
42 **decisions about a proposed activity that will affect their environment or health;**

43 **“(b) Public contributions can influence a decision maker’s decision;**

44 **“(c) The concerns of all participants involved are considered in the decision-making pro-**
45 **cess; and**

1 “(d) **Decision makers seek out and facilitate the involvement of members of vulnerable**
2 **populations.**

3 “(7) ‘Natural resource agency’ means the Department of Environmental Quality, the State De-
4 partment of Agriculture, the Water Resources Department, the State Department of Fish and
5 Wildlife, **the State Parks and Recreation Department, the State Department of Energy,** the
6 State Forestry Department, the Department of State Lands, [*the Department of Education,*] the State
7 Department of Geology and Mineral Industries, the Department of Land Conservation and Develop-
8 ment, the State Marine Board, the Public Utility Commission, the Department of Transportation, the
9 State Fire Marshal and the Oregon Health Authority.

10 “(8) **‘Vulnerable population’ may include:**

11 “(a) **Communities affected by adverse socioeconomic factors, including unemployment,**
12 **high costs for housing and transportation relative to income, limited access to food and**
13 **health care, historic disadvantage, low levels of educational attainment and linguistic iso-**
14 **lation;**

15 “(b) **Communities affected by negative public health factors that increase vulnerability**
16 **to the effects of environmental burdens; or**

17 “(c) **Black, indigenous or other people of color or low-income, rural, tribal, coastal or**
18 **homeless populations.**

19 “SECTION 10. (1) **The Department of Environmental Quality, in consultation with the**
20 **Environmental Justice Council, natural resource agencies, local agencies and officials and**
21 **community representatives, shall conduct an environmental vulnerability assessment to de-**
22 **termine susceptibility to environmental burdens by bringing together existing and new data**
23 **to identify highly impacted communities and vulnerable populations and environmental**
24 **health disparities in identified geographic areas and populations.**

25 “(2) **The department shall review and update the environmental vulnerability assessment**
26 **at least once every five years.**

27 “(3) **When developing or revising the environmental vulnerability assessment, the de-**
28 **partment shall hold at least four meetings in different regions of the state to:**

29 “(a) **Present the department’s work plan and proposals; and**

30 “(b) **Receive input and feedback from communities throughout the state.**

31 “SECTION 11. (1) **The Environmental Justice Council, in consultation with natural re-**
32 **source agencies, shall identify in a report to the Governor and, in the manner required in**
33 **ORS 192.245, the Legislative Assembly:**

34 “(a) **Guidance for state agencies when adopting rules, policies or guidelines regarding how**
35 **to use the environmental vulnerability assessment. The guidance must be flexible to accom-**
36 **modate for differences in agency directives.**

37 “(b) **Best practices for increasing public participation and engagement by providing**
38 **meaningful involvement for all people, taking into account barriers to participation that may**
39 **arise due to race, color, ethnicity, religion, income or education level.**

40 “(c) **A specific recommendation on how to best meaningfully consult vulnerable popu-**
41 **lations when utilizing and updating the environmental vulnerability assessment.**

42 “(d) **Recommendations for establishing measurable goals for reducing environmental**
43 **disparities across Oregon and ways in which state agencies may focus their work toward**
44 **meeting those goals.**

45 “(e) **Guidelines for identifying highly impacted communities and vulnerable populations**

1 for the purpose of reducing environmental health disparities and advancing a healthy envi-
2 ronment for all residents.

3 **“(2) The report prepared under this section may include:**

4 **“(a) Recommendations for approaches to integrate an analysis of the distribution of en-
5 vironmental burdens across population groups into evaluations performed under state envi-
6 ronmental laws;**

7 **“(b) Equity analysis methods that may include a process for describing potential risks to,
8 benefits to and opportunities for highly impacted communities and vulnerable populations;**

9 **“(c) Best practices for cataloging and collecting data on programs within natural re-
10 source agencies related to the health and environment of people of all races, cultures and
11 income levels, including minority populations and low-income populations; and**

12 **“(d) Recommendations for criteria for identifying and addressing gaps in current re-
13 search and data collection to inform state agency actions, to refine the environmental vul-
14 nerability assessment and to identify factors that may impede the achievement of
15 environmental justice.**

16 **“(3) The council, in consultation with the natural resource agencies, shall review and
17 update the report required under this section at least once every five years.**

18 **“SECTION 12. (1) Natural resource agencies shall consider the environmental vulner-
19 ability assessment when developing administrative rules or agency policies or programs.
20 Natural resource agencies shall consider the recommendations in the report required by
21 section 11 of this 2021 Act when utilizing the environmental vulnerability assessment.**

22 **“(2) A natural resource agency may develop or revise agency policies, programs and
23 practices as necessary to:**

24 **“(a) Identify highly impacted communities and vulnerable populations affected by agency
25 programs;**

26 **“(b) Conduct outreach and engagement activities with highly impacted communities or
27 vulnerable populations to inform the development, adoption, implementation or enforcement
28 of environmental laws, administrative rules or agency policies;**

29 **“(c) Establish measurable goals for reducing environmental health disparities within
30 agency programs; and**

31 **“(d) Prioritize agency funding to help address identified impacts on highly impacted
32 communities or vulnerable populations.**

33 **“SECTION 13. ORS 182.545 is amended to read:**

34 **“182.545. In order to provide greater public participation and to ensure that all persons affected
35 by decisions of the natural resource agencies have a voice in those decisions, each natural resource
36 agency shall:**

37 **“(1) In making a determination whether and how to act, consider the effects of the action on
38 environmental justice issues.**

39 **“(2) Hold hearings at times and in locations that are convenient for people in the communities
40 that will be affected by the decisions stemming from the hearings.**

41 **“(3) Engage in public outreach activities in the communities that will be affected by decisions
42 of the agency.**

43 **“(4) Create a [citizen] public advocate position that is responsible for:**

44 **“(a) Encouraging public participation;**

45 **“(b) Ensuring that the agency considers environmental justice issues; and**

1 “(c) Informing the agency of the effect of its decisions on **highly impacted communities and**
2 **other** communities traditionally underrepresented in public processes.

3 “**SECTION 14.** ORS 182.550 is amended to read:

4 “182.550. All directors of natural resource agencies, and other agency directors as the Governor
5 may designate, shall report annually to the Environmental Justice [*Task Force*] **Council** and to the
6 Governor on the results of the agencies’ efforts to:

7 “(1) Address environmental justice issues;

8 “(2) Increase public participation of individuals and communities affected by agencies’ decisions;

9 “(3) Determine the effect of the agencies’ decisions on **highly impacted communities and**
10 **other** traditionally underrepresented communities; [*and*]

11 “(4) Improve plans to further the progress of environmental justice in Oregon[.]; **and**

12 “(5) **Utilize the environmental vulnerability assessment when developing administrative**
13 **rules or agency policies or programs.**

14 “**SECTION 15.** Sections 10 to 12 of this 2021 Act are added to and made a part of ORS
15 **182.535 to 182.550.**

16 17 “AGENCY CONFERENCE AND REPORT

18
19 “**SECTION 16.** (1) The Department of Environmental Quality, the Department of Land
20 Conservation and Development, the State Department of Agriculture, the State Forestry
21 Department, the Water Resources Department, the State Department of Fish and Wildlife,
22 the State Department of Energy, the Department of Transportation, the Oregon Health Au-
23 thority, the Oregon Watershed Enhancement Board, the Public Utility Commission, the State
24 Parks and Recreation Department, the Environmental Justice Council, the Oregon Global
25 Warming Commission and the Sustainability Board established under ORS 184.427 shall an-
26 nually confer to discuss climate impacts on impacted communities and to develop strategies
27 to guide state climate actions.

28 “(2) No later than September 15 of each year, the agencies and other bodies listed in
29 subsection (1) of this section shall jointly report to the Governor and the interim committees
30 of the Legislative Assembly related to the environment in the manner provided under ORS
31 192.245. The report must summarize the discussions required under subsection (1) of this
32 section and may make recommendations for legislation.

33 34 “TEMPORARY PROVISIONS

35
36 “**SECTION 17.** (1) The Department of Environmental Quality shall first conduct the en-
37 vironmental vulnerability assessment under section 10 of this 2021 Act no later than Sep-
38 tember 15, 2024.

39 “(2) The Environmental Justice Council shall provide the initial report required under
40 section 11 of this 2021 Act to the Governor and the Legislative Assembly no later than Sep-
41 tember 15, 2024.

42 “**SECTION 18.** Notwithstanding the amendments to ORS 182.538 by section 2 of this 2021
43 Act, members appointed to the Environmental Justice Task Force before the operative date
44 specified in section 21 of this 2021 Act shall continue to serve the remainder of their terms
45 as members of the Environmental Justice Council unless replaced by the Governor in ac-

1 cordance with ORS 182.538 (3).

2 “SECTION 19. (1) Section 17 of this 2021 Act is repealed on January 2, 2025.

3 “(2) Section 18 of this 2021 Act is repealed on January 2, 2026.

4
5 “CAPTIONS

6
7 “SECTION 20. The unit captions used in this 2021 Act are provided only for the conven-
8 ience of the reader and do not become part of the statutory law of this state or express any
9 legislative intent in the enactment of this 2021 Act.

10
11 “OPERATIVE DATE

12
13 “SECTION 21. (1) Sections 1, 4 to 7 and 10 to 12 of this 2021 Act and the amendments to
14 ORS 182.535, 182.538, 182.542, 182.545, 182.550 and 183.333 by sections 2, 3, 8, 9, 13 and 14 of this
15 2021 Act become operative on January 1, 2022.

16 “(2) The office of the Governor, the Department of Environmental Quality, and the En-
17 vironmental Justice Task Force may take any action before the operative date specified in
18 subsection (1) of this section that is necessary for the office, the department or the task
19 force to exercise, on and after the operative date specified in subsection (1) of this section,
20 all of the duties, functions and powers conferred on the office, the department or the task
21 force by sections 1, 4 to 7 and 10 to 12 of this 2021 Act and the amendments to ORS 182.535,
22 182.538, 182.542, 182.545, 182.550 and 183.333 by sections 2, 3, 8, 9, 13 and 14 of this 2021 Act.

23
24 “EFFECTIVE DATE

25
26 “SECTION 22. This 2021 Act takes effect on the 91st day after the date on which the 2021
27 regular session of the Eighty-first Legislative Assembly adjourns sine die.”