

Requested by Senator BEYER

**PROPOSED AMENDMENTS TO
SENATE BILL 286**

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

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

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

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

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

17 *“182.538. [(1) There is established the Environmental Justice Task Force*
18 *consisting of 12 members appointed by the Governor. The members shall be*
19 *persons who are well-informed on the principles of environmental justice and*
20 *who, to the greatest extent practicable, represent minority communities, low-*
21 *income communities, environmental interests, industry groups and geograph-*

1 *ically diverse areas of the state. Of the 12 members, the Governor shall appoint*
2 *one member of the task force from each of the following commissions:]*

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

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

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

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

7 **“(1)(a) The Environmental Justice Council is established within the**
8 **Department of Environmental Quality. The council consists of 13**
9 **members. Of the 13 members, nine members shall be appointed by the**
10 **Governor and must be persons who have expertise and knowledge in**
11 **environmental justice, as well as expertise in at least one of the fol-**
12 **lowing areas:**

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

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

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

16 **“(D) Sustainability; or**

17 **“(E) Community organizing.**

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

19 **“(A) One member shall be appointed from among persons nomi-**
20 **nated by the Commission on Asian and Pacific Islander Affairs;**

21 **“(B) One member shall be appointed from among persons nomi-**
22 **nated by the Commission on Black Affairs;**

23 **“(C) One member shall be appointed from among persons nomi-**
24 **nated by the Commission on Hispanic Affairs; and**

25 **“(D) One member shall be appointed from among persons nomi-**
26 **nated by the Commission on Indian Services.**

27 **“(2) The [task force] council shall submit an annual report to the Gover-**
28 **nor and the Environmental Quality Commission setting forth its view**
29 **of the progress of natural resource agencies toward achieving the goals es-**
30 **tablished pursuant to ORS 182.542 and identifying any other environmental**

1 issues that the *[task force]* **council** determines need attention.

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

9 “(4) A member of the *[task force who is not a member of the Legislative*
10 *Assembly]* **council** is entitled to compensation and expenses in the manner
11 and amounts provided for in ORS 292.495. Claims for compensation and ex-
12 penses incurred in performing functions of the *[task force]* **council** shall be
13 paid out of funds appropriated to the *[Governor]* **department** for that pur-
14 pose.

15 “(5) The *[task force]* **council** shall elect one of its members as a chair-
16 person and another as vice chairperson, for the terms and with the duties
17 and powers necessary for the performance of the functions of such offices
18 as the *[task force]* **council** determines.

19 “(6) A majority of the members of the *[task force]* **council** constitutes a
20 quorum for the transaction of business.

21 “(7) The *[task force]* **council** shall meet at least once every three months
22 at times and places specified by the chairperson. The *[task force]* **council**
23 also shall meet at other times and places specified by the call of the chair-
24 person or of a majority of the members of the *[task force]* **council**.

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

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

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

3 “(a) Budgeting, interagency agreements for sharing administrative
4 expenses or other mechanisms for paying the administrative and other
5 expenses of the council;

6 “(b) Drafting and processing contracts, other agreements, grant
7 applications or other documents; and

8 “(c) Taking all reasonable actions to ensure the council is in com-
9 pliance with state financial administration laws.

10 “[(9)] (10) Natural resource agencies are directed to assist the [*task*
11 *force*] **council** in the performance of its duties and, to the extent permitted
12 by laws relating to confidentiality, to furnish such information and advice
13 as the members of the [*task force*] **council** consider necessary to perform
14 their duties.

15 “[(10) A member of the task force who is a member of the Legislative As-
16 ssembly may serve in an advisory capacity only.]

17 “**SECTION 3.** ORS 182.542 is amended to read:

18 “182.542. (1) The Environmental Justice [*Task Force*] **Council** shall:

19 “[(1)] (a) Advise **and provide a biannual report to** the Governor on
20 environmental justice issues;

21 “[(2)] (b) Advise natural resource agencies on environmental justice is-
22 sues, including community concerns and public participation processes;

23 “[(3)] (c) Identify, in cooperation with natural resource agencies, [*minor-*
24 *ity and low-income communities*] **highly impacted communities or other**
25 **communities** that may be affected by environmental decisions made by the
26 agencies;

27 “[(4)] (d) Meet with environmental justice communities and make recom-
28 mendations to the Governor regarding concerns raised by these communities;
29 [*and*]

30 “[(5)] (e) Define environmental justice issues in the state[.]; **and**

1 “(f) Upon the request of a natural resource agency, provide con-
2 sultation and review of a natural resource agency’s proposed admin-
3 istrative rules under ORS 183.333 (1).

4 “(2) The council may form work groups or consult with
5 stakeholders as necessary to carry out the duties of the council.

6
7 “(Finance)

8
9 “SECTION 4. (1) The unexpended balances of amounts authorized
10 to be expended by the office of the Governor for purposes of the En-
11 vironmental Justice Task Force for the biennium beginning July 1,
12 2021, from revenues dedicated, continuously appropriated, appropriated
13 or otherwise made available to the office, are transferred to and are
14 available for expenditure by the Department of Environmental Quality
15 for purposes of the Environmental Justice Council for the biennium
16 beginning July 1, 2021.

17 “(2) The expenditure classifications, if any, established by Acts au-
18 thORIZING or limiting expenditures by the Environmental Justice Task
19 Force remain applicable to expenditures by the Environmental Justice
20 Council under this section.

21
22 “(Action, Proceeding, Prosecution)

23
24 “SECTION 5. The amendments to ORS 182.538 and 182.542 by
25 sections 2 and 3 of this 2021 Act do not affect any action, proceeding
26 or prosecution involving or with respect to any duties, functions and
27 powers of the Environmental Justice Task Force begun before and
28 pending as of the operative date specified in section 21 of this 2021 Act,
29 except that the Environmental Justice Council is substituted for the
30 Environmental Justice Task Force in any such action, proceeding or

1 prosecution.

2

3 “(Liability, Duty, Obligation)

4

5 “SECTION 6. (1) Nothing in the amendments to ORS 182.538 and
6 182.542 by sections 2 and 3 of this 2021 Act relieves a person of a li-
7 ability, duty or obligation accruing under or with respect to the duties,
8 functions and powers conferred by those statutes prior to the operative
9 date specified in section 21 of this 2021 Act. The Environmental Jus-
10 tice Council may undertake the collection or enforcement of any such
11 liability, duty or obligation.

12 “(2) The rights and obligations of the Environmental Justice Task
13 Force legally incurred under contracts, leases and business trans-
14 actions executed, entered into or begun before the operative date
15 specified in section 21 of this 2021 Act are transferred to the Environ-
16 mental Justice Council. For the purpose of succession to these rights
17 and obligations, the Environmental Justice Council is a continuation
18 of the Environmental Justice Task Force and not a new authority.

19

20 “(References)

21

22 “SECTION 7. Whenever, in any statutory law or resolution of the
23 Legislative Assembly or in any rule, document, record or proceeding
24 authorized by the Legislative Assembly, reference is made to the En-
25 vironmental Justice Task Force or an officer or employee of the En-
26 vironmental Justice Task Force, the reference is considered to be a
27 reference to the Environmental Justice Council or an officer or em-
28 ployee of the Environmental Justice Council.

29

30 “(Council as Advisory Committee for Review of Proposed Rules)

1 **“SECTION 8.** ORS 183.333 is amended to read:

2 “183.333. (1) The Legislative Assembly finds and declares that it is the
3 policy of this state that whenever possible the public be involved in the de-
4 velopment of public policy by agencies and in the drafting of rules. The
5 Legislative Assembly encourages agencies to seek public input to the maxi-
6 mum extent possible before giving notice of intent to adopt a rule. The
7 agency may appoint an advisory committee that will represent the interests
8 of persons likely to be affected by the rule, or use any other means of ob-
9 taining public views that will assist the agency in drafting the rule.

10 “(2) Any agency in its discretion may develop a list of interested parties
11 and inform those parties of any issue that may be the subject of rulemaking
12 and invite the parties to make comments on the issue.

13 “(3) If an agency appoints an advisory committee for consideration of a
14 rule under subsection (1) of this section, the agency shall seek the
15 committee’s recommendations on whether the rule will have a fiscal impact,
16 what the extent of that impact will be and whether the rule will have a
17 significant adverse impact on small businesses. If the committee indicates
18 that the rule will have a significant adverse impact on small businesses, the
19 agency shall seek the committee’s recommendations on compliance with ORS
20 183.540.

21 “(4) An agency shall consider an advisory committee’s recommendations
22 provided under subsection (3) of this section in preparing the statement of
23 fiscal impact required by ORS 183.335 (2)(b)(E).

24 “(5) If an agency does not appoint an advisory committee for consider-
25 ation of a permanent rule under subsection (1) of this section and 10 or more
26 persons likely to be affected by the rule object to the agency’s statement of
27 fiscal impact as required by ORS 183.335 (2)(b)(E) or an association with at
28 least 10 members likely to be affected by the rule objects to the statement,
29 the agency shall appoint a fiscal impact advisory committee to provide rec-
30 ommendations on whether the rule will have a fiscal impact and what the

1 extent of that impact will be. An objection under this subsection must be
2 made not later than 14 days after the notice required by ORS 183.335 (1) is
3 given. If the agency determines that the statement does not adequately re-
4 flect the rule’s fiscal impact, the agency shall extend the period for sub-
5 mission of data or views under ORS 183.335 (3)(a) by at least 20 days. The
6 agency shall include any recommendations from the committee in the record
7 maintained by the agency for the rule.

8 “(6) An agency may appoint the Small Business Rules Advisory Commit-
9 tee established in ORS 183.407 as the advisory committee or fiscal impact
10 advisory committee for purposes of this section.

11 “(7) **A natural resource agency as defined in ORS 182.535 may ap-**
12 **point a member of the Environmental Justice Council established un-**
13 **der ORS 182.538 to an advisory committee appointed under subsection**
14 **(1) of this section.**

15 “[7] (8) Subsection (5) of this section does not apply to any rule adopted
16 by an agency to comply with a judgment or a settlement of a judicial pro-
17 ceeding.

18 “[8] (9) If an agency is required by law to appoint an advisory committee
19 under this section, the agency may not appoint an officer, employee or other
20 agent of the agency to serve as a member of the advisory committee.

21

22 “**ENVIRONMENTAL VULNERABILITY ASSESSMENT**

23

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

25 “182.535. [*For purposes of*] **As used in** ORS 182.535 to 182.550[,]:

26 “(1) **‘Environmental burdens’ means the cumulative risks to com-**
27 **munities caused by historic and current:**

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

30 “(b) **Adverse environmental effects, which include environmental**

1 conditions caused or made worse by contamination or pollution or that
2 create vulnerabilities to climate impacts; and

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

6 “(2) ‘Environmental justice’ means the equal protection from envi-
7 ronmental and health risks, fair treatment and meaningful involve-
8 ment in decision making of all people regardless of race, color,
9 national origin, immigration status, income or other identities with
10 respect to the development, implementation and enforcement of envi-
11 ronmental laws, regulations and policies that affect the environment
12 in which people live, work, learn and practice spirituality and culture.

13 “(3) ‘Equity analysis’ means an analysis used to determine or eval-
14 uate environmental justice considerations.

15 “(4) ‘Fair treatment’ means that no one group of people, including
16 racial, ethnic or socioeconomic groups, should bear a disproportionate
17 share of the negative environmental consequences resulting from in-
18 dustrial, municipal and commercial operations or the execution of
19 federal, state, local and tribal environmental programs and policies.

20 “(5) ‘Highly impacted community’ means a demographic group that
21 experiences a disproportionate amount of environmental burdens or
22 environmental harms or risks.

23 “(6) ‘Meaningful involvement’ means:

24 “(a) Members of vulnerable populations have appropriate opportu-
25 nities to participate in decisions about a proposed activity that will
26 affect their environment or health;

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

28 “(c) The concerns of all participants involved are considered in the
29 decision-making process; and

30 “(d) Decision makers seek out and facilitate the involvement of

1 **members of vulnerable populations.**

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

11 “(8) ‘Vulnerable population’ may include:

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

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

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

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

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

1 **“(3) When developing or revising the environmental vulnerability**
2 **assessment, the department shall hold at least four meetings in dif-**
3 **ferent regions of the state to:**

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

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

7 **“SECTION 11. (1) The Environmental Justice Council, in consulta-**
8 **tion with natural resource agencies, shall identify in a report to the**
9 **Governor and, in the manner required in ORS 192.245, the Legislative**
10 **Assembly:**

11 **“(a) Guidance for state agencies when adopting rules, policies or**
12 **guidelines regarding how to use the environmental vulnerability as-**
13 **essment. The guidance must be flexible to accommodate for differ-**
14 **ences in agency directives.**

15 **“(b) Best practices for increasing public participation and engage-**
16 **ment by providing meaningful involvement for all people, taking into**
17 **account barriers to participation that may arise due to race, color,**
18 **ethnicity, religion, income or education level.**

19 **“(c) A specific recommendation on how to best meaningfully con-**
20 **sult vulnerable populations when utilizing and updating the environ-**
21 **mental vulnerability assessment.**

22 **“(d) Recommendations for establishing measurable goals for reduc-**
23 **ing environmental disparities across Oregon and ways in which state**
24 **agencies may focus their work toward meeting those goals.**

25 **“(e) Guidelines for identifying highly impacted communities and**
26 **vulnerable populations for the purpose of reducing environmental**
27 **health disparities and advancing a healthy environment for all resi-**
28 **dents.**

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

30 **“(a) Recommendations for approaches to integrate an analysis of**

1 the distribution of environmental burdens across population groups
2 into evaluations performed under state environmental laws;

3 “(b) Equity analysis methods that may include a process for de-
4 scribing potential risks to, benefits to and opportunities for highly
5 impacted communities and vulnerable populations;

6 “(c) Best practices for cataloging and collecting data on programs
7 within natural resource agencies related to the health and environ-
8 ment of people of all races, cultures and income levels, including mi-
9 nority populations and low-income populations; and

10 “(d) Recommendations for criteria for identifying and addressing
11 gaps in current research and data collection to inform state agency
12 actions, to refine the environmental vulnerability assessment and to
13 identify factors that may impede the achievement of environmental
14 justice.

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

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

24 “(2) A natural resource agency may develop or revise agency poli-
25 cies, programs and practices as necessary to:

26 “(a) Identify highly impacted communities and vulnerable popu-
27 lations affected by agency programs;

28 “(b) Conduct outreach and engagement activities with highly im-
29 pacted communities or vulnerable populations to inform the develop-
30 ment, adoption, implementation or enforcement of environmental

1 **laws, administrative rules or agency policies;**

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

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

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

7 “182.545. In order to provide greater public participation and to ensure
8 that all persons affected by decisions of the natural resource agencies have
9 a voice in those decisions, each natural resource agency shall:

10 “(1) In making a determination whether and how to act, consider the ef-
11 fects of the action on environmental justice issues.

12 “(2) Hold hearings at times and in locations that are convenient for peo-
13 ple in the communities that will be affected by the decisions stemming from
14 the hearings.

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

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

18 “(a) Encouraging public participation;

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

20 “(c) Informing the agency of the effect of its decisions on **highly im-**
21 **acted communities and other** communities traditionally underrepresented
22 in public processes.

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

24 “182.550. All directors of natural resource agencies, and other agency di-
25 rectors as the Governor may designate, shall report annually to the Envi-
26 ronmental Justice [*Task Force*] **Council** and to the Governor on the results
27 of the agencies’ efforts to:

28 “(1) Address environmental justice issues;

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

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

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

5 “(5) Utilize the environmental vulnerability assessment when de-
6 veloping administrative rules or agency policies or programs.

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

9
10 “AGENCY CONFERENCE AND REPORT

11
12 “SECTION 16. (1) The Department of Environmental Quality, the
13 Department of Land Conservation and Development, the State De-
14 partment of Agriculture, the State Forestry Department, the Water
15 Resources Department, the State Department of Fish and Wildlife, the
16 State Department of Energy, the Department of Transportation, the
17 Oregon Health Authority, the Oregon Watershed Enhancement Board,
18 the Public Utility Commission, the State Parks and Recreation De-
19 partment, the Environmental Justice Council, the Oregon Global
20 Warming Commission and the Sustainability Board established under
21 ORS 184.427 shall annually confer to discuss climate impacts on im-
22 pacted communities and to develop strategies to guide state climate
23 actions.

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

1 **“TEMPORARY PROVISIONS**
2

3 **“SECTION 17.** (1) The Department of Environmental Quality shall
4 first conduct the environmental vulnerability assessment under sec-
5 tion 10 of this 2021 Act no later than September 15, 2024.

6 (2) The Environmental Justice Council shall provide the initial re-
7 port required under section 11 of this 2021 Act to the Governor and the
8 Legislative Assembly no later than September 15, 2024.

9 **“SECTION 18.** Notwithstanding the amendments to ORS 182.538 by
10 section 2 of this 2021 Act, members appointed to the Environmental
11 Justice Task Force before the operative date specified in section 21 of
12 this 2021 Act shall continue to serve the remainder of their terms as
13 members of the Environmental Justice Council unless replaced by the
14 Governor in accordance with ORS 182.538 (3).

15 **“SECTION 19.** (1) Section 17 of this 2021 Act is repealed on January
16 2, 2025.

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

19 **“CAPTIONS**
20

21 **“SECTION 20.** The unit captions used in this 2021 Act are provided
22 only for the convenience of the reader and do not become part of the
23 statutory law of this state or express any legislative intent in the
24 enactment of this 2021 Act.
25

26 **“OPERATIVE DATE**
27

28 **“SECTION 21.** (1) Sections 1, 4 to 7 and 10 to 12 of this 2021 Act and
29 the amendments to ORS 182.535, 182.538, 182.542, 182.545, 182.550 and
30 183.333 by sections 2, 3, 8, 9, 13 and 14 of this 2021 Act become operative

1 on January 1, 2022.

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

12

13 “EFFECTIVE DATE

14

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

18 _____