

JAN 27 2021

A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL JUSTICE MAPPING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that environmental
2 hazards that cause adverse health outcomes have
3 disproportionately affected certain communities as a result of
4 systemic injustices relating to factors that include race and
5 income. These environmental justice communities have increased
6 vulnerability to the adverse effects of climate change and need
7 significant investment to face current and future environmental
8 hazards.

9 In 1994, President Clinton signed Executive Order 12898 to
10 focus federal attention on the environmental and human health
11 conditions of minority and low-income populations, with the goal
12 of achieving environmental protection for all communities.
13 Executive Order 12898 directed federal agencies to develop
14 environmental justice strategies to help federal agencies
15 address the disproportionately high and adverse human health or
16 environmental effects of their programs on minority and low-
17 income populations. The Order was intended to provide minority



1 and low-income communities with access to public information and
2 meaningful public participation in matters relating to human
3 health and the environment. However, the legislature finds that
4 the federal government has lacked a cohesive and consistent
5 strategy to carry out the responsibility of federal agencies
6 described in Executive Order 12898.

7 Additionally, the legislature finds that it is necessary
8 for the State to engage with environmental justice communities
9 for a process to develop a robust strategy to address
10 environmental justice, including high levels of review, input,
11 and consent. In 2005, the legislature adopted Senate Concurrent
12 Resolution No. 140, H.D. 1, in recognition of the environmental
13 justice concerns that may arise from effects on the natural and
14 physical environment, such as human health or ecological effects
15 on minority populations, low-income populations, and native
16 Hawaiians, or from related social or economic effect. In
17 Hawaii, the cultural, spiritual, and mental health impacts of
18 land use decisions severely impact environmental justice
19 communities.

20 Currently, there is a lack of statewide high-quality data
21 relating to environmental justice concerns, such as



1 socioeconomic factors, air pollution, water pollution, soil
2 pollution, public health, adverse impacts to culture, and the
3 State has failed to update the existing data with adequate
4 frequency. Further, there is a lack of a consistent statewide
5 method to identify environmental justice communities based on
6 the cumulative effects of socioeconomic factors, pollution
7 burden, and public health.

8 The legislature finds that a method is needed to correct
9 for racist and unjust practices leading to historical and
10 current environmental injustices through the targeted investment
11 in environmental justice communities of at least forty per cent
12 of the funds provided for a clean energy transition and other
13 related investments, including transportation infrastructure,
14 housing infrastructure, and water quality infrastructure. Funds
15 targeted for environmental justice communities should include
16 set-asides for technical assistance and capacity building for
17 these communities to access the funds.

18 Oversight and care are necessary when investing in
19 environmental justice communities to ensure that existing issues
20 are not exacerbated and new issues are not created, particularly
21 issues relating to pollution burden and the displacement of



1 residents. In addition to the investment in environmental
2 justice communities, pollution reduction is essential to
3 achieving equitable access to a healthy and clean environment
4 and equitable energy systems. Specific policy decisions may
5 rely on different combinations of data sets and indicators
6 relating to environmental justice, and race alone may be
7 considered a criterion when assessing the susceptibility of a
8 community to environmental injustice.

9 Several states, academic institutions, and nonprofit
10 organizations have engaged in cumulative impact environmental
11 justice mapping efforts that can serve as references for a
12 federal mapping effort.

13 Accordingly, the purpose of this Act is to establish the
14 environmental justice mapping task force that shall:

- 15 (1) Produce high-quality data relating to environmental
16 justice concerns;
- 17 (2) Identify environmental justice communities; and
- 18 (3) Devise a method to correct for racist and unjust
19 practices leading to historical and current
20 environmental injustices.



1 SECTION 2. (a) There is established on July 1, 2021, an
2 environmental justice mapping task force within the department
3 of health for administrative purposes to consist of the
4 following members:

5 (1) The chairperson of the environmental council or the
6 chairperson's designee, who shall serve as the chair
7 of the task force;

8 (2) The attorney general, or the attorney general's
9 designee;

10 (3) The director of budget and finance, or the director's
11 designee;

12 (4) The director of the department of business, economic
13 development, and tourism, or the director's designee;

14 (5) The director of the department of health, or the
15 director's designee;

16 (6) The director of the department of human services, or
17 the director's designee;

18 (7) The director of the department of transportation, or
19 the director's designee;

20 (8) The chief executive officer of the office of Hawaiian
21 affairs, or the officer's designee;



(9) The director of the office of environmental quality control, or the director's designee; and

(10) The executive director of the Hawaii civil rights commission, or the director's designee.

Task force members may recommend additional members with appropriate specialized expertise to be invited to join the task force, to be subject to approval by the chairperson.

(b) When selecting a designee, the head of an agency shall select a representative of the agency who has expertise in areas relevant to the task force's responsibilities, such as demographic indicators relating to socioeconomic hardship; environmental justice; public engagement; public health; exposure to pollution; future climate and extreme weather mapping; affordable energy; sustainable transportation; or access to water, feed, and green space.

The chairperson of the task force shall:

(1) Determine the agenda of the task force in consultation with other members of the task force;

(2) Direct the work of the task force, including the oversight of a meaningful public engagement process;

and



(3) Convene meetings of the task force at least once each fiscal quarter.

(c) The task force shall be subject to chapter 92, Hawaii Revised Statutes.

(d) The task force shall:

(1) Establish a tool to identify environmental justice communities, including the identification of a criteria to be used in the tool and a methodology to determine the cumulative impacts of those criteria;

(2) Assess and address data gaps; and

(3) Collect data for an environmental justice data repository.

(e) The task force, in consultation with relevant stakeholders, shall establish an interactive, transparent, integrated, and statewide tool for assessing and mapping environmental justice communities based on the cumulative impacts of all indicators selected by the task force to be integrated into the tool. The task force shall:

(1) Integrate indicators into the tool that fall into categories, including:



- 1 (A) Demographics, particularly relating to
2 socioeconomic hardship and social stressors, such
3 as race and ethnicity, income, unemployment, home
4 ownership, rent burden, transportation,
5 educational attainment, linguistic isolation,
6 energy insecurity, food insecurity, and health
7 insurance status;
- 8 (B) Public health, particularly data that are
9 indicative of sensitive populations, such as
10 rates of asthma, rates of cardiovascular disease,
11 child leukemia or other cancers that correlate
12 with environmental hazards, low birth weight,
13 maternal mortality, rates of lead poisoning, and
14 rates of diabetes;
- 15 (C) Pollution burdens, such as those created by toxic
16 chemicals, air pollutants, water pollutants, soil
17 contaminants, and perfluoroalkyl and
18 polyfluoroalkyl substances; and
- 19 (D) Environmental effects, such as effects created by
20 proximity to risk management plan sites,
21 hazardous waste facilities, and sites on the



1 national priorities list developed in accordance
2 with section 105(a)(8)(B) of the Comprehensive
3 Environmental Response, Compensation, and
4 Liability Act of 1980, 42 U.S.C. 9605(a)(8)(B);

5 (2) Investigate how further indicators of vulnerability to
6 the impacts of climate change, including proximity and
7 exposure to sea level rise, wildfire smoke, flooding,
8 drought, rising average temperatures, extreme storms,
9 and extreme heat;

10 (3) Identify and consider the effects of other indicators
11 relating to environmental justice, including:

12 (A) Safe, sufficient, and affordable drinking water,
13 sanitation, and stormwater services;

14 (B) Access to and the quality of green space and tree
15 canopy cover, healthy food, affordable energy;
16 transportation; reliable communication system,
17 such as broadband internet, child care; high-
18 quality public schools; and health care
19 facilities;

20 (C) Length of commute;

21 (D) Indoor air quality in multiunit dwellings;



- 1 (E) Mental health;
- 2 (F) Labor market categories, particularly relating to
- 3 essential workers; and
- 4 (G) Each type of utility expense;
- 5 (4) Consider the implementation of specific regional
- 6 indicators with the potential to:
- 7 (A) Create regionally and locally downsized maps in
- 8 additional to a state map;
- 9 (B) Provide incentives for counties to collect data
- 10 and conduct additional analyses to capture
- 11 conditions specific to their populations;
- 12 (C) Provide resources for and engage in ground-
- 13 truthing to identify and verify important data
- 14 with community members; and
- 15 (D) Develop companion resources for, and provide
- 16 technical support to local to create their own
- 17 maps and environmental justice scores with
- 18 relevant local data;
- 19 (5) Identify a methodology to account for the cumulative
- 20 impacts of all indicators selected by the task force
- 21 to be integrated into the tool to provide



1 environmental justice scores for regions that are as
2 small as practicable to identify communities and given
3 the identified available data;

4 (6) Ensure that the tool is capable of providing maps of
5 environmental justice communities based on
6 environmental justice scores;

7 (7) Implement a method for users of the tool to generate a
8 map and environmental justice score based on a subset
9 of indicators, particularly for the purpose of using
10 the tool in addressing various policy needs and
11 investment goals;

12 (8) Make the tool customizable to address specific policy
13 needs and investment goals;

14 (9) Account for conditions that are not captured by the
15 quantitative data used to develop one or maps and
16 environmental justice scores comprising the tool, by
17 developing and executing a plan to perform outreach to
18 relevant communities; and establishing a mechanism by
19 which communities can self-identify as environmental
20 justice communities in the tool and that may include
21 citing qualitative data on conditions for which



quantitative data are lacking, such as cultural loss
in native Hawaiian communities;

(10) Consider that the tool:

(A) Will be used across the State in screening state
policies and investments for environmental and
climate justice impacts; and

(B) May be used to assess communities for pollution
reduction programs; and

(11) Carry out such other activities as the task force
deems to be appropriate.

(f) The task force shall update the tool annually. Every
three years the task force shall:

(1) Update the indicators, methodology, or both for the
tool; and

(2) Reevaluate the data submitted by State departments and
agencies used for the tool.

The task force shall publish a report describing the:

(1) Process for identifying indicators relating to
environmental justice in the development of the tool;

(2) Methodology used; and



1 (3) Use of public input and community engagement in that
2 process.

3 Additionally, the task force shall:

4 (1) Develop virtual training tutorials and session for
5 environmental justice communities for the use of the
6 tool; and

7 (2) Where practicable, provide in-person training sessions
8 for environmental justice communities for the use of
9 that tool.

10 The tutorials and sessions shall be made available in each
11 language commonly used in the applicable environmental justice
12 community.

13 (g) In carrying out the duties of the task force, the task
14 force shall meaningfully engage with relevant stakeholders,
15 particularly members and representatives of environmental
16 justice communities; environmental justice advocates; and
17 individuals with expertise in cumulative impacts and geospatial
18 data.

19 (h) The environmental justice mapping task force shall
20 establish an advisory council composed of a balanced proportion
21 of relevant stakeholders with at least half of the members



1 representing environmental justice communities. The advisory
2 council shall be chaired by an environmental justice advocate or
3 other relevant stakeholder with substantial experience in
4 environmental justice. The advisory council may carry out
5 public outreach activities to supplement public engagement.

6 (i) Consultation should consist of early and regular
7 engagement with the advisory council, including carrying out
8 public engagement, and consideration of the recommendations of
9 the advisory council. If the task force does not use a
10 recommendation of the advisory council after sixty days after
11 the date on which the task force receives notice of the
12 recommendation, the task force shall:

13 (1) Make available to the public on the website of the
14 office of environmental quality a written report
15 describing the rationale of the task force for not
16 using the recommendation; and

17 (2) Submit the report described in paragraph (1) to the
18 legislature.

19 (j) The task force shall develop a plan, in consultation
20 with the advisory council, for comprehensive public engagement



1 with, and incorporation of feedback from, environmental justice
2 advocates and members of environmental justice communities.

3 The plan shall include strategies to overcome barriers to
4 public engagement, including but not limited to language
5 barriers, transportation barriers, economic barriers, and lack
6 of internet access. The task force shall consider the diverse
7 and varied experiences of environmental justice communities
8 relating to the scope and types of environmental hazards and
9 socioeconomic injustices.

10 (k) The task force shall:

- 11 (1) Consult with the advisory council and solicit
12 meaningful public comment from relevant stakeholders
13 on its activities at least once each fiscal quarter;
- 14 (2) Provide public notice of its meetings in publications
15 relevant to environmental justice communities and
16 through direct outreach to environmental justice
17 communities;
- 18 (3) Provide public broadcast of their meetings, including
19 solicitation and receiving comments by virtual means,
20 and provide minutes of that meeting through
21 publication on an accessible website; and



(4) Provide each notice, notification, direct outreach, broadcast, and minutes in each language commonly used in the applicable environmental justice community, including through oral interpretation, if applicable.

(1) The task force shall make available to the public on an internet website of the office of environmental quality:

(1) The tool as described in subsections (d) and (e);

(2) Updates to the tool, methodology, indicators, or use of public input and community engagement; and

(3) The training tutorials and sessions.

The task force shall make the tool, updates, and report accessible to the public in publication in relevant language and with accessibility functions. The task force shall take measures to prevent the tool from being misused to discriminate against environmental justice communities, such as by providing safeguards against the use of downscaled data that may enable the identification of individuals.

(m) In establishing the tool as described in subsections (d) and (e), the task force shall direct relevant state departments and agencies to conduct an audit of data collected by the department or agency to identify any data that are



1 relevant to environmental justice concerns, including data
2 related to:

- 3 (1) Public health metrics;
- 4 (2) Toxic chemicals;
- 5 (3) Socioeconomic demographics;
- 6 (4) Air quality; and
- 7 (5) Water quality.

8 The audit shall examine the granularity and accessibility
9 of the data and include recommendations to other State
10 departments and agencies on means to improve the quality,
11 granularity, and transparency of, and public involvement in,
12 data collection, and dissemination.

13 (n) The task force shall direct a state department or
14 agency, in conducting an audit, to address gaps in existing data
15 collection that will assist the task force in establishing and
16 operating the tool, including by providing to the department or
17 agency:

- 18 (1) Benchmarks to meet in addressing the gaps;
- 19 (2) Instructions for consistency in data formatting that
20 will allow for inclusion of data in the environmental
21 justice data repository; and



(3) Best practices for collecting data in collaboration with local organizations and partners, such as engaging in ground-truthing.

One hundred eighty days after the state department or agency has conducted an audit, the task force shall make available to the public on an Internet website of the office of environmental quality a report describing the findings and conclusions of the audit, including the progress made by the state department or agency in addressing environmental justice data gaps.

(o) For the purpose of this section,

"Advisory council" means the advisory council established under subsection (h).

"Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, culture, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies to ensure that each person enjoys:

(1) The same degree of protection from environmental and health hazards; and



(2) Equal access to any state agency action relating to the development, implementation, and enforcement of environmental laws, regulations, and policies for the purpose of having a healthy environment in which to live, learn, work, and recreate.

"Environmental justice community" means a community with significant representation of communities of color, low-income communities, or indigenous communities, that experiences or is at risk of experiencing higher, or more adverse human health or environmental effects, as compared to other communities.

"Ground-truthing" means a community fact-finding process by which residents of a community supplement technical information with local knowledge for the purpose of better informing policy and project decisions.

"Relevant stakeholder" means:

(1) A representative of a regional, state, or local government agency;

(2) A representative of a nongovernmental organization in areas that may include indigenous relations, environmental conservation, urban and regional planning, and public health;



1 (3) A representative or member of an environmental justice
2 community or a community-based organization for an
3 environmental justice community;

4 (4) An individual with expertise in cumulative impacts,
5 geospatial data, and environmental justice,
6 particularly such an individual from an academic or
7 research institution; and

8 (5) An advocate with experience in environmental justice
9 who represents an environmental justice community.

10 SECTION 3. (a) The chair of the task force shall
11 establish an environmental justice data repository to maintain
12 the data collected by the task force through the establishment
13 of the tool established by subsections (d) and (e) and audits
14 required by subsection (m) in section 2 of this Act.

15 (b) The chair of the task force shall make the data
16 repository available to regional, State, and local agencies.
17 The task force may collaborate with the agencies to include
18 within that data repository State data in existence before the
19 establishment of the tool and the completion of the audits.

20



S.B. NO. 1277

1 SECTION 4. This Act shall take effect upon its approval.

2

INTRODUCED BY: 



S.B. NO. 1277

Report Title:

Environmental Justice; Mapping; Data Collection

Description:

Establishes the environmental justice mapping task force and an advisory council to develop high-quality data relating to environmental justice concerns, identify environmental justice communities, and devise a method to correct for racist and unjust practices leading to historical and current environmental injustices.

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