
SUBSTITUTE HOUSE BILL 1396

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on State Government (originally sponsored by Representatives Anderson, Zellinsky, Mielke, Reams, Wineberry and Dellwo)

Read first time 02/19/93.

1 AN ACT Relating to the creation of the department of financial
2 institutions; amending RCW 43.17.010, 43.17.020, 43.19.010, 43.19.020,
3 43.19.030, 43.19.050, 43.19.080, 43.19.090, 43.19.095, and 43.19.112;
4 adding a new chapter to Title 43 RCW; creating new sections; and
5 repealing RCW 43.19.040, 43.19.100, and 43.19.110.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that, given the
8 overlap of powers and products in the companies regulated, the
9 consolidation of the agencies regulating financial institutions into
10 one department will better serve the public interest through more
11 effective use of staff expertise. Therefore, for the convenience of
12 administration and the centralization of control and the more effective
13 use of state resources and expertise, the state desires to combine the
14 regulation of financial institutions into one department.

15 NEW SECTION. **Sec. 2.** There is hereby created a state department
16 of financial institutions which shall be headed by the director of
17 financial institutions. The department shall be organized and operated
18 in a manner which to the fullest extent permissible under applicable

1 law protects the public interest, protects the safety and soundness of
2 depository institutions, ensures access to the regulatory process for
3 all concerned parties, and protects the interests and integrity of the
4 public and all types of regulated institutions and entities under the
5 jurisdiction of the director of financial institutions. The department
6 of financial institutions shall be structured to reflect the unique
7 differences in the types of institutions it regulates.

8 NEW SECTION. **Sec. 3.** The director of financial institutions shall
9 be appointed by the governor with the advice of the financial
10 institutions advisory board and shall exercise all powers and perform
11 all of the duties and functions prescribed by law with respect to
12 banks, savings banks, foreign bank branches, savings and loan
13 associations, credit unions, consumer loan companies, check cashers and
14 sellers, trust companies and departments, which are currently exercised
15 by the department of general administration. The director may
16 deputize, appoint, and employ examiners and other such assistants and
17 personnel as may be necessary to carry on the work of the department.
18 The director of financial institutions shall receive a salary in an
19 amount fixed by the governor.

20 NEW SECTION. **Sec. 4.** A person shall not be eligible for
21 appointment as director of financial institutions unless he or she is,
22 and for the last two years prior to his or her appointment has been, a
23 citizen of the United States. A person shall not be eligible for
24 appointment as director of financial institutions if he or she has an
25 interest at the time of appointment, as a director, officer, or
26 stockholder in any bank, savings bank, foreign bank branch, savings and
27 loan association, credit union, consumer loan company, check cashier and
28 seller, trust company and department.

29 NEW SECTION. **Sec. 5.** The director of financial institutions may
30 adopt any rules, under chapter 34.05 RCW, necessary to implement the
31 powers and duties of the director under this chapter or any other law.

32 NEW SECTION. **Sec. 6.** All powers, duties, and functions of the
33 department of general administration under Titles 30, 31, 32, 33, and
34 43 RCW and any other title pertaining to duties relating to banks,
35 savings banks, foreign bank branches, savings and loan associations,

1 credit unions, consumer loan companies, check cashers and sellers,
2 trust companies and departments, and other similar institutions are
3 transferred to the department of financial institutions. All
4 references to the director of general administration, supervisor of
5 banking, or the supervisor of savings and loan associations in the
6 Revised Code of Washington shall be construed to mean the director of
7 the department of financial institutions when referring to the
8 functions transferred in this section. All references to the
9 department of general administration in the Revised Code of Washington
10 shall be construed to mean the department of financial institutions
11 when referring to the function transferred in this section.

12 NEW SECTION. **Sec. 7.** All reports, documents, surveys, books,
13 records, files, papers, or other written or electronically stored
14 material in the possession of the department of general administration
15 and pertaining to the powers, functions, and duties transferred by
16 section 6 of this act shall be delivered to the custody of the
17 department of financial institutions. All cabinets, furniture, office
18 equipment, motor vehicles, and other tangible property purchased by the
19 department of general administration in carrying out the powers,
20 functions, and duties transferred by section 6 of this act shall be
21 made available to the department of financial institutions. All funds,
22 credits, or other assets held by the department of general
23 administration in connection with the powers, functions, and duties
24 transferred by section 6 of this act shall be assigned to the
25 department of financial institutions.

26 Any appropriations made to the department of general administration
27 for carrying out the powers, functions, and duties transferred by
28 section 6 of this act shall, on the effective date of this section, be
29 transferred and credited to the department of financial institutions.

30 The director of the department of general administration shall take
31 such steps as are necessary to ensure that this chapter is implemented
32 by the effective date of this act.

33 In the event any dispute arises as to the transfer of any
34 personnel, funds, books, documents, records, papers, files, equipment,
35 or other tangible property used or held in the exercise of the powers
36 and the performance of the duties and functions transferred, the
37 director of financial management shall make a determination as to the
38 proper allocation and certify the same to the state agencies concerned.

1 NEW SECTION. **Sec. 8.** The director of financial institutions shall
2 have the power to appoint assistant directors for each of the divisions
3 of the department and to delegate to them the power to perform any act
4 or duty conferred upon the director. The director shall be responsible
5 for the official acts of these assistant directors.

6 The department of financial institutions shall consist of at least
7 the following three divisions; the division of FDIC insured
8 institutions, with regulatory authority over all state-chartered FDIC
9 insured institutions, the division of credit unions, with regulatory
10 authority over all state-chartered credit unions, and the division of
11 consumer affairs, with regulatory authority over state-licensed
12 nondepository lending institutions and other regulated entities. The
13 director of financial institutions is granted broad administrative
14 authority to add additional responsibilities to these divisions as
15 necessary and consistent with applicable law.

16 For purposes of this section, "FDIC" means the federal deposit
17 insurance corporation.

18 NEW SECTION. **Sec. 9.** All employees classified under chapter 41.06
19 RCW, the state civil service law, who are employees of the department
20 of general administration engaged in performing the powers, functions,
21 and duties transferred by section 6 of this act are transferred to the
22 department of financial institutions. All such employees are assigned
23 to the department of financial institutions to perform their usual
24 duties upon the same terms as formerly, without any loss of rights,
25 subject to any action that may be appropriate thereafter in accordance
26 with the laws and rules governing state civil service.

27 NEW SECTION. **Sec. 10.** All pending business before the department
28 of general administration pertaining to the powers, functions, and
29 duties transferred by section 6 of this act shall be continued and
30 acted upon by the department of financial institutions. All existing
31 contracts and obligations shall remain in full force and shall be
32 performed by the department of financial institutions.

33 NEW SECTION. **Sec. 11.** The transfer of the powers, duties,
34 functions, and personnel of the department of general administration
35 shall not affect the validity of any act performed by such an employee
36 prior to the effective date of this section.

1 NEW SECTION. **Sec. 12.** If apportionments of budgeted funds are
2 required because of the transfers directed by sections 6 through 11 of
3 this act, the director of financial management shall certify the
4 apportionments to the agencies affected, to the state auditor, and to
5 the state treasurer. Each of these shall make the appropriate transfer
6 and adjustments in funds and appropriation accounts and equipment
7 records in accordance with the certification.

8 NEW SECTION. **Sec. 13.** Nothing contained in sections 6 through 11
9 of this act may be construed to alter any existing collective
10 bargaining unit or the provisions of any existing collective bargaining
11 agreement until the expiration date of the current agreement or until
12 the bargaining unit has been modified by action of the personnel board
13 as provided by law.

14 NEW SECTION. **Sec. 14.** There is hereby created a financial
15 institutions advisory board which shall consist of a number not to
16 exceed eight members.

17 NEW SECTION. **Sec. 15.** The financial institutions advisory board
18 shall:

19 (1) Advise the governor on appointment of the director of financial
20 institutions;

21 (2) Advise the director of financial institutions, at his or her
22 request, on broad policy and major operational issues; and

23 (3) Acquaint themselves with the administration of the department
24 and provide information to their respective industries, movement, or
25 interest group.

26 NEW SECTION. **Sec. 16.** The board shall be composed of: (1) One
27 representative each of the senior management of state-chartered
28 commercial banks, consumer loan companies, credit unions, savings
29 banks, savings and loan associations, trust companies or departments;
30 and (2) two members of the general public. The governor shall appoint
31 a representative of the general public as chair person of the financial
32 institutions advisory board. The director of the department of
33 financial institutions shall serve on the financial institutions
34 advisory board as a nonvoting member. Representatives of the public
35 appointed to the board shall have demonstrated some knowledge of and

1 experience with the public policy issues involved in the regulation of
2 financial institutions and markets. With the exception of
3 representatives of the public, all members of the financial
4 institutions advisory board shall be employees of organizations
5 regulated by the department of financial institutions. The department
6 of financial institutions shall provide staff support for the financial
7 institutions advisory board.

8 NEW SECTION. **Sec. 17.** Members of the financial institutions
9 advisory board shall be appointed by the governor for overlapping two-
10 year terms, with one-half of the initial appointments serving an
11 initial term of three years. No member shall serve more than two terms
12 total. Appointments made to fill vacancies on the board shall serve
13 out the remaining term of the position vacated, and such service shall
14 count as a full term.

15 NEW SECTION. **Sec. 18.** The governor shall appoint the financial
16 institutions advisory board chairperson and the board shall select a
17 secretary. The financial institutions advisory board may create and
18 adopt its own bylaws and methods of operation.

19 NEW SECTION. **Sec. 19.** Members of the financial institutions
20 advisory board shall be compensated for their travel expenses in
21 accordance with RCW 43.03.050 and 43.03.060.

22 **Sec. 20.** RCW 43.17.010 and 1989 1st ex.s. c 9 s 810 are each
23 amended to read as follows:

24 There shall be departments of the state government which shall be
25 known as (1) the department of social and health services, (2) the
26 department of ecology, (3) the department of labor and industries, (4)
27 the department of agriculture, (5) the department of fisheries, (6) the
28 department of wildlife, (7) the department of transportation, (8) the
29 department of licensing, (9) the department of general administration,
30 (10) the department of trade and economic development, (11) the
31 department of veterans affairs, (12) the department of revenue, (13)
32 the department of retirement systems, (14) the department of
33 corrections, (15) the department of community development, (~~and~~) (16)
34 the department of health, and (17) the department of financial
35 institutions, which shall be charged with the execution, enforcement,

1 and administration of such laws, and invested with such powers and
2 required to perform such duties, as the legislature may provide.

3 **Sec. 21.** RCW 43.17.020 and 1989 1st ex.s. c 9 s 811 are each
4 amended to read as follows:

5 There shall be a chief executive officer of each department to be
6 known as: (1) The secretary of social and health services, (2) the
7 director of ecology, (3) the director of labor and industries, (4) the
8 director of agriculture, (5) the director of fisheries, (6) the
9 director of wildlife, (7) the secretary of transportation, (8) the
10 director of licensing, (9) the director of general administration, (10)
11 the director of trade and economic development, (11) the director of
12 veterans affairs, (12) the director of revenue, (13) the director of
13 retirement systems, (14) the secretary of corrections, (15) the
14 director of community development, ~~((and))~~ (16) the secretary of
15 health, and (17) the director of financial institutions.

16 Such officers, except the secretary of transportation, shall be
17 appointed by the governor, with the consent of the senate, and hold
18 office at the pleasure of the governor. The director of wildlife,
19 however, shall be appointed according to the provisions of RCW
20 77.04.080. If a vacancy occurs while the senate is not in session, the
21 governor shall make a temporary appointment until the next meeting of
22 the senate. A temporary director of wildlife shall not serve more than
23 one year. The secretary of transportation shall be appointed by the
24 transportation commission as prescribed by RCW 47.01.041.

25 **Sec. 22.** RCW 43.19.010 and 1988 c 25 s 10 are each amended to read
26 as follows:

27 The department of general administration shall be organized into
28 divisions, which shall include (1) ~~((the division of banking, (2) the
29 division of savings and loan associations, (3))~~ the division of
30 capitol buildings, ~~((+4))~~ (2) the division of purchasing, ~~((+5))~~ (3)
31 the division of engineering and architecture, and ~~((+6))~~ (4) the
32 division of motor vehicle transportation service.

33 The director of general administration shall have charge and
34 general supervision of the department. He or she may appoint and
35 deputize such clerical and other assistants as may be necessary for the
36 general administration of the department. The director of general

1 administration shall receive a salary in an amount fixed by the
2 governor.

3 **Sec. 23.** RCW 43.19.020 and 1977 ex.s. c 185 s 1 are each amended
4 to read as follows:

5 The director of (~~general administration~~) financial institutions
6 shall appoint (~~and~~),^L deputize (~~an assistant director to be known as~~
7 ~~the supervisor of banking, who shall have charge and supervision of the~~
8 ~~division of banking. With the approval of the director, he may~~
9 ~~appoint~~),^L and employ (~~bank~~) examiners and such other assistants and
10 personnel as may be necessary to carry on the work of the (~~division.~~

11 ~~No person shall be eligible for appointment as supervisor of~~
12 ~~banking unless he is, and for the last two years prior to his~~
13 ~~appointment has been, a citizen of the United States and a resident of~~
14 ~~this state; nor if he is interested in any bank or trust company as~~
15 ~~director, officer, or stockholder~~) department of financial
16 institutions.

17 In the event of the (~~supervisor's~~) director's absence the
18 director (~~of general administration~~) shall have the power to deputize
19 one of the assistants of the (~~supervisor~~) director to exercise all
20 the powers and perform all the duties prescribed by law with respect to
21 banks (~~and~~), savings banks, foreign bank branches, savings and loan
22 associations, credit unions, consumer loan companies, check cashers and
23 sellers, trust companies(~~, mutual savings banks, loan agencies~~) and
24 departments, and other similar institutions that are performed by the
25 (~~supervisor~~) director so long as the (~~supervisor~~) director is
26 absent: PROVIDED, That such deputized (~~supervisor~~) assistant shall
27 not have the power to approve or disapprove new charters, licenses,
28 branches, and satellite facilities, unless such action has received the
29 prior written approval of the (~~supervisor~~) director. Any person so
30 deputized shall possess the same qualifications as those set out in
31 this section for the (~~supervisor~~) director.

32 **Sec. 24.** RCW 43.19.030 and 1977 ex.s. c 270 s 8 are each amended
33 to read as follows:

34 Before entering (~~upon his~~) office each (~~bank~~) examiner shall
35 take and subscribe an oath faithfully to discharge the duties of
36 (~~his~~) the office.

37 Oaths shall be filed with the secretary of state.

1 Neither the (~~supervisor of banking~~) director of financial
2 institutions, any (~~deputy supervisor~~) deputized assistant of the
3 director, nor any (~~bank~~) examiner or employee shall be personally
4 liable for any act done (~~by him~~) in good faith in the performance of
5 his or her duties.

6 **Sec. 25.** RCW 43.19.050 and 1965 c 8 s 43.19.050 are each amended
7 to read as follows:

8 The (~~supervisor of banking~~) director of financial institutions
9 shall maintain an office at the state capitol, but may with the consent
10 of the governor also maintain (~~an office~~) branch offices at (~~some~~)
11 other convenient (~~banking center~~) business centers in this state.
12 (~~He~~) The director shall keep books of record of all moneys received
13 or disbursed by (~~him~~) the director into or from the banking
14 examination fund, the credit union examination fund, and any other
15 accounts maintained by the department of financial institutions. (~~He~~
16 ~~shall adopt an official seal.~~)

17 **Sec. 26.** RCW 43.19.080 and 1965 c 8 s 43.19.080 are each amended
18 to read as follows:

19 (1) It shall be unlawful for the (~~supervisor or any deputy or~~
20 ~~employee of his division~~) director of financial institutions, any
21 deputized assistant of the director, or any employee of the department
22 of financial institutions to borrow money from any bank (~~or trust~~
23 ~~company under his jurisdiction~~), savings bank, foreign bank branch,
24 savings and loan association, credit union, consumer loan company,
25 check cashers and sellers, trust company or department, or similar
26 lending institution under the department's direct jurisdiction unless
27 the extension of credit:

28 (a) Is made on substantially the same terms (including interest
29 rates and collateral) as, and following credit underwriting procedures
30 that are not less stringent than, those prevailing at the time for
31 comparable transactions by the financial institution with other persons
32 that are not employed by either the department or the financial
33 institution; and

34 (b) Does not involve more than the normal risk of repayment or
35 present other unfavorable features.

1 (2) The director of the office of financial management shall adopt
2 rules, policies, and procedures interpreting and implementing this
3 section.

4 (3) Every person who knowingly violates this section shall forfeit
5 his or her office or employment and be guilty of a gross misdemeanor.

6 **Sec. 27.** RCW 43.19.090 and 1977 c 75 s 43 are each amended to read
7 as follows:

8 The ~~((supervisor))~~ director of financial institutions shall file in
9 his or her office all reports required to be made to ~~((him))~~ the
10 director, prepare and furnish to banks ((and)), savings banks, foreign
11 bank branches, savings and loan associations, credit unions, consumer
12 loan companies, check cashers and sellers, trust companies and
13 departments, and trust companies and departments blank forms for such
14 reports as are required of them, and each year make a report to the
15 governor showing:

16 (1) A summary of the conditions of the banks, savings banks,
17 foreign bank branches, savings and loan associations, credit unions,
18 consumer loan companies, check cashers and sellers, trust companies and
19 departments, and trust companies and departments at the date of their
20 last report; and

21 (2) A list of those organized or closed during the year.

22 ~~((He))~~ The director may publish such other statements, reports, and
23 pamphlets as he or she deems advisable.

24 **Sec. 28.** RCW 43.19.095 and 1981 c 241 s 1 are each amended to read
25 as follows:

26 There is created a local fund known as the "banking examination
27 fund" which shall consist of all moneys received by the ~~((division of~~
28 ~~banking))~~ department of financial institutions from banks, savings
29 banks, foreign bank branches, savings and loan associations, consumer
30 loan companies, check cashers and sellers, trust companies and
31 departments, and which shall be used for the purchase of supplies and
32 necessary equipment and the payment of salaries, wages, utilities, and
33 other incidental costs required for the proper ~~((maintenance of the~~
34 ~~division))~~ regulation of these companies. The state treasurer shall be
35 the custodian of the fund. Disbursements from the fund shall be on
36 authorization of the director of ~~((general administration or the~~
37 ~~supervisor of banking))~~ financial institutions or the director's ~~((or~~

1 ~~supervisor's~~) designee. In order to maintain an effective expenditure
2 and revenue control, the fund shall be subject in all respects to
3 chapter 43.88 RCW, but no appropriation is required to permit
4 expenditures and payment of obligations from the fund.

5 **Sec. 29.** RCW 43.19.112 and 1981 c 241 s 2 are each amended to read
6 as follows:

7 There is created a local fund known as the "~~(savings and loan~~
8 ~~associations and)~~ credit unions examination fund" which shall consist
9 of all moneys received by the ~~((division of savings and loan~~
10 ~~associations))~~ department of financial institutions from credit unions
11 and which shall be used for the purchase of supplies and necessary
12 equipment and the payment of salaries, wages, utilities, and other
13 incidental costs required for the ~~((proper maintenance of the~~
14 ~~division))~~ regulation of these institutions. The state treasurer shall
15 be the custodian of the fund. Disbursements from the fund shall be on
16 authorization of the director of ~~((general administration or the~~
17 ~~supervisor of savings and loan associations))~~ financial institutions or
18 the director's ~~((or supervisor's))~~ designee. In order to maintain an
19 effective expenditure and revenue control, the fund shall be subject in
20 all respects to chapter 43.88 RCW, but no appropriation is required to
21 permit expenditures and payment of obligations from the fund.

22 NEW SECTION. **Sec. 30.** The following acts or parts of acts are
23 each repealed:

- 24 (1) RCW 43.19.040 and 1965 c 8 s 43.19.040;
25 (2) RCW 43.19.100 and 1982 c 3 s 113, 1977 ex.s. c 185 s 2, & 1965
26 c 8 s 43.19.100; and
27 (3) RCW 43.19.110 and 1965 c 8 s 43.19.110.

28 NEW SECTION. **Sec. 31.** This act shall be implemented no later than
29 July 1, 1994.

30 NEW SECTION. **Sec. 32.** Notwithstanding any provision of this act,
31 the department of general administration retains its authority to
32 regulate financial institutions until the director of the department of
33 financial institutions adopts an order stating that the transfer has
34 been completed.

1 NEW SECTION. **Sec. 33.** All rules adopted by the supervisor of
2 banking and the supervisor of savings and loan associations by July 1,
3 1993, remain in effect until expressly amended, repealed, or superseded
4 by the director of the department of financial institutions.

5 NEW SECTION. **Sec. 34.** Sections 1 through 19 of this act shall
6 constitute a new chapter in Title 43 RCW.

--- END ---