

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2386

54th Legislature
1996 Regular Session

Passed by the House March 7, 1996
Yeas 96 Nays 2

**Speaker of the
House of Representatives**

Passed by the Senate March 7, 1996
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2386** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2386

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By House Committee on Government Operations (originally sponsored by Representatives D. Schmidt, Dyer, Thompson, Radcliff, Hargrove, Sheahan, Chappell, Cairnes, Cooke, Crouse, Scheuerman, Campbell, Honeyford, Buck, Huff, Elliot, Clements, Foreman, Quall, Backlund, Hymes, Costa, Mulliken and McMahan)

Read first time 01/26/96.

1 AN ACT Relating to providing the text of laws and rules as a part
2 of state agency technical assistance programs; amending RCW 43.05.030,
3 43.05.060, 43.05.090, 43.05.100, and 34.05.230; adding a new section to
4 chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding
5 a new section to chapter 36.70 RCW; adding a new section to chapter
6 36.70B RCW; adding a new section to chapter 43.110 RCW; adding a new
7 section to chapter 43.330 RCW; creating a new section; and providing an
8 effective date.

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

10 NEW SECTION. **Sec. 1.** The legislature finds that many individuals
11 and small businesses who are required to comply with laws and agency
12 rules often do not have access to the Revised Code of Washington, the
13 Washington Administrative Code, the United States Code, or the Code of
14 Federal Regulations. In this case, those informed of violations do not
15 know whether, or to what extent, the cited law or agency rule actually
16 applies to their situation. In order to facilitate greater
17 understanding of the law and agency rules, the legislature finds that
18 those who make the effort to obtain technical assistance from a
19 regulatory agency, and those who are issued a notice of correction,

1 should be given the text of the specific section or subsection of the
2 law or agency rule they are alleged to have violated.

3 **Sec. 2.** RCW 43.05.030 and 1995 c 403 s 604 are each amended to
4 read as follows:

5 (1) For the purposes of this chapter, a technical assistance visit
6 is a visit by a regulatory agency to a facility, business, or other
7 location that:

8 (a) Has been requested or is voluntarily accepted; and

9 (b) Is declared by the regulatory agency at the beginning of the
10 visit to be a technical assistance visit.

11 (2) A technical assistance visit also includes a consultative visit
12 pursuant to RCW 49.17.250.

13 (3) During a technical assistance visit, or within a reasonable
14 time thereafter, a regulatory agency shall inform the owner or operator
15 of the facility of any violations of law or agency rules identified by
16 the agency as follows:

17 (a) A description of the condition that is not in compliance and
18 (~~(a specific citation to)~~) the text of the specific section or
19 subsection of the applicable state or federal law or rule;

20 (b) A statement of what is required to achieve compliance;

21 (c) The date by which the agency requires compliance to be
22 achieved;

23 (d) Notice of the means to contact any technical assistance
24 services provided by the agency or others; and

25 (e) Notice of when, where, and to whom a request to extend the time
26 to achieve compliance for good cause may be filed with the agency.

27 **Sec. 3.** RCW 43.05.060 and 1995 c 403 s 607 are each amended to
28 read as follows:

29 (1) If in the course of any site inspection or visit that is not a
30 technical assistance visit, the department of ecology becomes aware of
31 conditions that are not in compliance with applicable laws and rules
32 enforced by the department and are not subject to civil penalties as
33 provided for in RCW 43.05.070, the department may issue a notice of
34 correction to the responsible party that shall include:

35 (a) A description of the condition that is not in compliance and
36 (~~(a specific citation to)~~) the text of the specific section or
37 subsection of the applicable state or federal law or rule;

1 (b) A statement of what is required to achieve compliance;
2 (c) The date by which the department requires compliance to be
3 achieved;

4 (d) Notice of the means to contact any technical assistance
5 services provided by the department or others; and

6 (e) Notice of when, where, and to whom a request to extend the time
7 to achieve compliance for good cause may be filed with the department.

8 (2) A notice of correction is not a formal enforcement action, is
9 not subject to appeal, and is a public record.

10 (3) If the department issues a notice of correction, it shall not
11 issue a civil penalty for the violations identified in the notice of
12 correction unless the responsible party fails to comply with the
13 notice.

14 **Sec. 4.** RCW 43.05.090 and 1995 c 403 s 610 are each amended to
15 read as follows:

16 (1) Following a consultative visit pursuant to RCW 49.17.250, the
17 department of labor and industries shall issue a report to the employer
18 that the employer shall make available to its employees. The report
19 shall contain:

20 (a) A description of the condition that is not in compliance and
21 ~~((a specific citation to))~~ the text of the specific section or
22 subsection of the applicable state or federal law or rule;

23 (b) A statement of what is required to achieve compliance;

24 (c) The date by which the department requires compliance to be
25 achieved;

26 (d) Notice of means to contact technical assistance services
27 provided by the department; and

28 (e) Notice of when, where, and to whom a request to extend the time
29 to achieve compliance for good cause may be filed with the department.

30 (2) Following a compliance inspection pursuant to RCW 49.17.120,
31 the department of labor and industries shall issue a citation for
32 violations of industrial safety and health standards. The citation
33 shall not assess a penalty if the violations:

34 (a) Are determined not to be of a serious nature;

35 (b) Have not been previously cited;

36 (c) Are not willful; and

37 (d) Do not have a mandatory penalty under chapter 49.17 RCW.

1 **Sec. 5.** RCW 43.05.100 and 1995 c 403 s 611 are each amended to
2 read as follows:

3 (1) If in the course of any inspection or visit that is not a
4 technical assistance visit, the department of agriculture, fish and
5 wildlife, health, licensing, or natural resources becomes aware of
6 conditions that are not in compliance with applicable laws and rules
7 enforced by the department and are not subject to civil penalties as
8 provided for in RCW 43.05.110, the department may issue a notice of
9 correction to the responsible party that shall include:

10 (a) A description of the condition that is not in compliance and
11 (~~a specific citation to~~) the text of the specific section or
12 subsection of the applicable state or federal law or rule;

13 (b) A statement of what is required to achieve compliance;

14 (c) The date by which the department requires compliance to be
15 achieved;

16 (d) Notice of the means to contact any technical assistance
17 services provided by the department or others; and

18 (e) Notice of when, where, and to whom a request to extend the time
19 to achieve compliance for good cause may be filed with the department.

20 (2) A notice of correction is not a formal enforcement action, is
21 not subject to appeal, and is a public record.

22 (3) If the department issues a notice of correction, it shall not
23 issue a civil penalty for the violations identified in the notice of
24 correction unless the responsible party fails to comply with the
25 notice.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 35.21 RCW
27 to read as follows:

28 (1) A property owner may make a written request for a statement of
29 restrictions applicable to a single parcel, tract, lot, or block of
30 real property to the city or town in which the real property is
31 located.

32 (2) Within thirty days of the receipt of the request, the city or
33 town shall provide the owner with a statement of restrictions as
34 described in subsection (3) of this section.

35 (3) The statement of restrictions shall include the following:

36 (a) The zoning currently applicable to the real property;

37 (b) Pending zoning changes currently advertised for public hearing
38 that would be applicable to the real property; and

1 (c) Any designations made by the city or town pursuant to chapter
2 36.70A RCW of any portion of the real property as agricultural land,
3 forest land, mineral resource land, wetland, an area with a critical
4 recharging effect on aquifers used for potable water, a fish and
5 wildlife habitat conservation area, a frequently flooded area, and as
6 a geological hazardous area.

7 (4) If a city or town fails to provide the statement of
8 restrictions within thirty days after receipt of the written request,
9 the owner shall be awarded recovery of all attorneys' fees and costs
10 incurred in any successful application for a writ of mandamus to compel
11 production of a statement.

12 (5) For purposes of this section:

13 (a) "Owner" means any vested owner or any person holding the
14 buyer's interest under a recorded real estate contract in which the
15 seller is the vested owner; and

16 (b) "Real property" means a parcel, tract, lot or block: (i)
17 Containing a single-family residence that is occupied by the owner or
18 a member of his or her family, or rented to another by the owner; or
19 (ii) five acres or less in size.

20 (6) This section does not affect the vesting of permits or
21 development rights.

22 Nothing in this section shall be deemed to create any liability on
23 the part of a city or town to pay damages for a violation of this
24 section.

25 NEW SECTION. **Sec. 7.** A new section is added to chapter 35A.21 RCW
26 to read as follows:

27 (1) A property owner may make a written request for a statement of
28 restrictions applicable to a single parcel, tract, lot, or block of
29 real property to the code city in which the real property is located.

30 (2) Within thirty days of the receipt of the request, the code city
31 shall provide the owner, by registered mail, with a statement of
32 restrictions as described in subsection (3) of this section.

33 (3) The statement of restrictions shall include the following:

34 (a) The zoning currently applicable to the real property;

35 (b) Pending zoning changes currently advertised for public hearing
36 that would be applicable to the real property;

37 (c) Any designations made by the code city pursuant to chapter
38 36.70A RCW of any portion of the real property as agricultural land,

1 forest land, mineral resource land, wetland, an area with a critical
2 recharging effect on aquifers used for potable water, a fish and
3 wildlife habitat conservation area, a frequently flooded area, and as
4 a geological hazardous area; and

5 (d) If information regarding the designations listed in (c) of this
6 subsection are not readily available, inform the owner of the procedure
7 by which the owner can obtain that site-specific information from the
8 code city.

9 (4) If a code city fails to provide the statement of restrictions
10 within thirty days after receipt of the written request, the owner
11 shall be awarded recovery of all attorneys' fees and costs incurred in
12 any successful application for a writ of mandamus to compel production
13 of a statement.

14 (5) For purposes of this section:

15 (a) "Owner" means any vested owner or any person holding the
16 buyer's interest under a recorded real estate contract in which the
17 seller is the vested owner; and

18 (b) "Real property" means a parcel, tract, lot or block: (i)
19 Containing a single-family residence that is occupied by the owner or
20 a member of his or her family, or rented to another by the owner; or
21 (ii) five acres or less in size.

22 (6) This section does not affect the vesting of permits or
23 development rights.

24 Nothing in this section shall be deemed to create any liability on
25 the part of a code city.

26 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70 RCW
27 to read as follows:

28 (1) A property owner may make a written request for a statement of
29 restrictions applicable to a single parcel, tract, lot, or block of
30 real property located in an unincorporated portion of a county to the
31 county in which the real property is located.

32 (2) Within thirty days of the receipt of the request, the county
33 shall provide the owner, by registered mail, with a statement of
34 restrictions as described in subsection (3) of this section.

35 (3) The statement of restrictions shall include the following:

36 (a) The zoning currently applicable to the real property;

37 (b) Pending zoning changes currently advertised for public hearing
38 that would be applicable to the real property;

1 (c) Any designations made by the county pursuant to chapter 36.70A
2 RCW of any portion of the real property as agricultural land, forest
3 land, mineral resource land, wetland, an area with a critical
4 recharging effect on aquifers used for potable water, a fish and
5 wildlife habitat conservation area, a frequently flooded area, and as
6 a geological hazardous area; and

7 (d) If information regarding the designations listed in (c) of this
8 subsection are not readily available, inform the owner of the procedure
9 by which the owner can obtain that site-specific information from the
10 county.

11 (4) If a county fails to provide the statement of restrictions
12 within thirty days after receipt of the written request, the owner
13 shall be awarded recovery of all attorneys' fees and costs incurred in
14 any successful application for a writ of mandamus to compel production
15 of a statement.

16 (5) For purposes of this section:

17 (a) "Owner" means any vested owner or any person holding the
18 buyer's interest under a recorded real estate contract in which the
19 seller is the vested owner; and

20 (b) "Real property" means a parcel, tract, lot or block: (i)
21 Containing a single-family residence that is occupied by the owner or
22 a member of his or her family, or rented to another by the owner; or
23 (ii) five acres or less in size.

24 (6) This section does not affect the vesting of permits or
25 development rights.

26 Nothing in this section shall be deemed to create any liability on
27 the part of a county.

28 NEW SECTION. **Sec. 9.** A new section is added to chapter 36.70B RCW
29 to read as follows:

30 (1) Each county and city having populations of ten thousand or more
31 that plan under RCW 36.70A.040 shall designate permit assistance staff
32 whose function it is to assist permit applicants. An existing employee
33 may be designated as the permit assistance staff.

34 (2) Permit assistance staff designated under this section shall:

35 (a) Make available to permit applicants all current local
36 government regulations and adopted policies that apply to the subject
37 application. The local government shall provide counter copies thereof
38 and, upon request, provide copies according to chapter 42.17 RCW. The

1 staff shall also publish and keep current one or more handouts
2 containing lists and explanations of all local government regulations
3 and adopted policies;

4 (b) Establish and make known to the public the means of obtaining
5 the handouts and related information; and

6 (c) Provide assistance regarding the application of the local
7 government's regulations in particular cases.

8 (3) Permit assistance staff designated under this section may
9 obtain technical assistance and support in the compilation and
10 production of the handouts under subsection (2) of this section from
11 the municipal research council and the department of community, trade,
12 and economic development.

13 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.110
14 RCW to read as follows:

15 The municipal research council shall provide technical assistance
16 in the compilation of and support in the production of the handouts to
17 be published and kept current by counties and cities under section 9 of
18 this act.

19 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.330
20 RCW to read as follows:

21 The department shall provide technical assistance in the
22 compilation of and support in the production of the handouts to be
23 published and kept current by counties and cities under section 9 of
24 this act.

25 **Sec. 12.** RCW 34.05.230 and 1995 c 403 s 702 are each amended to
26 read as follows:

27 (1) If the adoption of rules is not feasible and practicable, an
28 agency is encouraged to advise the public of its current opinions,
29 approaches, and likely courses of action by means of interpretive or
30 policy statements. Current interpretive and policy statements are
31 advisory only. To better inform and involve the public, an agency is
32 encouraged to convert long-standing interpretive and policy statements
33 into rules.

34 (2) A person may petition an agency requesting the conversion of
35 interpretive and policy statements into rules. Upon submission, the
36 agency shall notify the joint administrative rules review committee of

1 the petition. Within sixty days after submission of a petition, the
2 agency shall either deny the petition in writing, stating its reasons
3 for the denial, or initiate rule-making proceedings in accordance with
4 this chapter.

5 (3) Each agency shall maintain a roster of interested persons,
6 consisting of persons who have requested in writing to be notified of
7 all interpretive and policy statements issued by that agency. Each
8 agency shall update the roster once each year and eliminate persons who
9 do not indicate a desire to continue on the roster. Whenever an agency
10 issues an interpretive or policy statement, it shall send a copy of the
11 statement to each person listed on the roster. The agency may charge
12 a nominal fee to the interested person for this service.

13 (4) Whenever an agency issues an interpretive or policy statement,
14 it shall submit to the code reviser for publication in the Washington
15 State Register a statement describing the subject matter of the
16 interpretive or policy statement, and listing the person at the agency
17 from whom a copy of the interpretive or policy statement may be
18 obtained.

19 NEW SECTION. **Sec. 13.** Sections 6 through 8 of this act take
20 effect January 1, 1997.

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