

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5401

57th Legislature
2001 Regular Session

Passed by the Senate April 16, 2001
YEAS 46 NAYS 0

President of the Senate

Passed by the House April 4, 2001
YEAS 92 NAYS 0

**Speaker of the
House of Representatives**

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5401** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5401

AS AMENDED BY THE HOUSE

Passed Legislature - 2001 Regular Session

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on State & Local Government (originally sponsored by Senators Patterson and Finkbeiner; by request of Governor Locke)

READ FIRST TIME 02/12/01.

1 AN ACT Relating to the elimination of boards and commissions;
2 amending RCW 70.105D.030; reenacting and amending RCW 43.20A.360;
3 creating new sections; repealing RCW 43.20A.370, 43.20A.375,
4 43.20A.380, 50.67.010, 50.67.020, 50.67.030, 77.70.030, and 77.70.270;
5 providing an effective date; and declaring an emergency.

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

7 **PART 1**

8 **DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

9 **REGIONAL ADVISORY COMMITTEES**

10 **Sec. 101.** RCW 43.20A.360 and 1989 1st ex.s. c 9 s 214 and 1989 c
11 s 14 are each reenacted and amended to read as follows:

12 (1) The secretary is hereby authorized to appoint such advisory
13 committees or councils as may be required by any federal legislation as
14 a condition to the receipt of federal funds by the department. The
15 secretary may appoint statewide committees or councils in the following
16 subject areas: (a) Health facilities; (b) children and youth services;
17 (c) blind services; (d) medical and health care; (e) drug abuse and
18 alcoholism; (f) social services; (g) economic services; (h) vocational

1 services; (i) rehabilitative services; and on such other subject
2 matters as are or come within the department's responsibilities. ((The
3 secretary shall appoint committees or councils advisory to the
4 department in each service delivery region to be designated by the
5 secretary.)) The statewide ((and the regional)) councils shall have
6 representation from both major political parties and shall have
7 substantial consumer representation. Such committees or councils shall
8 be constituted as required by federal law or as the secretary in his or
9 her discretion may determine. The members of the committees or
10 councils shall hold office for three years except in the case of a
11 vacancy, in which event appointment shall be only for the remainder of
12 the unexpired term for which the vacancy occurs. No member shall serve
13 more than two consecutive terms.

14 (2) Members of such state advisory committees or councils may be
15 paid their travel expenses in accordance with RCW 43.03.050 and
16 43.03.060 as now existing or hereafter amended. ((Members of regional
17 advisory committees may, in the discretion of the secretary, be paid
18 the same travel expenses as set forth above.))

19 **PART 2**

20 **DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

21 **STATE ADVISORY COMMITTEE**

22 NEW SECTION. **Sec. 201.** The following acts or parts of acts are
23 each repealed:

24 (1) RCW 43.20A.370 (State advisory committee to department--
25 Created--Membership--Terms--Vacancies) and 1988 c 49 s 1, 1984 c 259 s
26 2, & 1971 ex.s. c 189 s 13;

27 (2) RCW 43.20A.375 (State advisory committee to department--Powers
28 and duties) and 1999 c 372 s 6, 1988 c 49 s 2, 1984 c 259 s 3, & 1971
29 ex.s. c 189 s 14; and

30 (3) RCW 43.20A.380 (State advisory committee to department--Travel
31 expenses) and 1975-'76 2nd ex.s. c 34 s 99 & 1971 ex.s. c 189 s 15.

32 **PART 3**

33 **WASHINGTON STATE JOB TRAINING COORDINATING COUNCIL**

34 NEW SECTION. **Sec. 301.** The following acts or parts of acts are
35 each repealed:

- 1 (1) RCW 50.67.010 (Council created) and 1991 c 238 s 14;
2 (2) RCW 50.67.020 (Membership of council--Assistance to work force
3 training and education coordinating board) and 1991 c 238 s 15; and
4 (3) RCW 50.67.030 (Washington youthbuild program--Council to
5 advise) and 1994 sp.s. c 3 s 8.

6 **PART 4**

7 **REGIONAL CITIZEN'S ADVISORY COMMITTEES**

8 **MODEL TOXICS CONTROL ACT**

9 **Sec. 401.** RCW 70.105D.030 and 1997 c 406 s 3 are each amended to
10 read as follows:

11 (1) The department may exercise the following powers in addition to
12 any other powers granted by law:

13 (a) Investigate, provide for investigating, or require potentially
14 liable persons to investigate any releases or threatened releases of
15 hazardous substances, including but not limited to inspecting,
16 sampling, or testing to determine the nature or extent of any release
17 or threatened release. If there is a reasonable basis to believe that
18 a release or threatened release of a hazardous substance may exist, the
19 department's authorized employees, agents, or contractors may enter
20 upon any property and conduct investigations. The department shall
21 give reasonable notice before entering property unless an emergency
22 prevents such notice. The department may by subpoena require the
23 attendance or testimony of witnesses and the production of documents or
24 other information that the department deems necessary;

25 (b) Conduct, provide for conducting, or require potentially liable
26 persons to conduct remedial actions (including investigations under (a)
27 of this subsection) to remedy releases or threatened releases of
28 hazardous substances. In carrying out such powers, the department's
29 authorized employees, agents, or contractors may enter upon property.
30 The department shall give reasonable notice before entering property
31 unless an emergency prevents such notice. In conducting, providing for,
32 or requiring remedial action, the department shall give preference to
33 permanent solutions to the maximum extent practicable and shall provide
34 for or require adequate monitoring to ensure the effectiveness of the
35 remedial action;

1 (c) Indemnify contractors retained by the department for carrying
2 out investigations and remedial actions, but not for any contractor's
3 reckless or wilful misconduct;

4 (d) Carry out all state programs authorized under the federal
5 cleanup law and the federal resource, conservation, and recovery act,
6 42 U.S.C. Sec. 6901 et seq., as amended;

7 (e) Classify substances as hazardous substances for purposes of RCW
8 70.105D.020(7) and classify substances and products as hazardous
9 substances for purposes of RCW 82.21.020(1);

10 (f) Issue orders or enter into consent decrees or agreed orders
11 that include, or issue written opinions under (i) of this subsection
12 that may be conditioned upon, deed restrictions where necessary to
13 protect human health and the environment from a release or threatened
14 release of a hazardous substance from a facility. Prior to
15 establishing a deed restriction under this subsection, the department
16 shall notify and seek comment from a city or county department with
17 land use planning authority for real property subject to a deed
18 restriction;

19 (g) Enforce the application of permanent and effective
20 institutional controls that are necessary for a remedial action to be
21 protective of human health and the environment;

22 (h) Require holders to conduct remedial actions necessary to abate
23 an imminent or substantial endangerment pursuant to RCW
24 70.105D.020(12)(b)(ii)(C);

25 (i) Provide informal advice and assistance to persons regarding the
26 administrative and technical requirements of this chapter. This may
27 include site-specific advice to persons who are conducting or otherwise
28 interested in independent remedial actions. Any such advice or
29 assistance shall be advisory only, and shall not be binding on the
30 department. As a part of providing this advice and assistance for
31 independent remedial actions, the department may prepare written
32 opinions regarding whether the independent remedial actions or
33 proposals for those actions meet the substantive requirements of this
34 chapter or whether the department believes further remedial action is
35 necessary at the facility. The department may collect, from persons
36 requesting advice and assistance, the costs incurred by the department
37 in providing such advice and assistance; however, the department shall,
38 where appropriate, waive collection of costs in order to provide an
39 appropriate level of technical assistance in support of public

1 participation. The state, the department, and officers and employees
2 of the state are immune from all liability, and no cause of action of
3 any nature may arise from any act or omission in providing, or failing
4 to provide, informal advice and assistance; and

5 (j) Take any other actions necessary to carry out the provisions of
6 this chapter, including the power to adopt rules under chapter 34.05
7 RCW.

8 (2) The department shall immediately implement all provisions of
9 this chapter to the maximum extent practicable, including investigative
10 and remedial actions where appropriate. The department shall adopt,
11 and thereafter enforce, rules under chapter 34.05 RCW to:

12 (a) Provide for public participation, including at least (i) ~~((the~~
13 ~~establishment of regional citizen's advisory committees, (ii))~~ public
14 notice of the development of investigative plans or remedial plans for
15 releases or threatened releases~~((7))~~ and ~~((iii))~~ (ii) concurrent
16 public notice of all compliance orders, agreed orders, enforcement
17 orders, or notices of violation;

18 (b) Establish a hazard ranking system for hazardous waste sites;

19 (c) Provide for requiring the reporting by an owner or operator of
20 releases of hazardous substances to the environment that may be a
21 threat to human health or the environment within ninety days of
22 discovery, including such exemptions from reporting as the department
23 deems appropriate, however this requirement shall not modify any
24 existing requirements provided for under other laws;

25 (d) Establish reasonable deadlines not to exceed ninety days for
26 initiating an investigation of a hazardous waste site after the
27 department receives notice or otherwise receives information that the
28 site may pose a threat to human health or the environment and other
29 reasonable deadlines for remedying releases or threatened releases at
30 the site;

31 (e) Publish and periodically update minimum cleanup standards for
32 remedial actions at least as stringent as the cleanup standards under
33 section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621, and at
34 least as stringent as all applicable state and federal laws, including
35 health-based standards under state and federal law; and

36 (f) Apply industrial clean-up standards at industrial properties.
37 Rules adopted under this subsection shall ensure that industrial
38 properties cleaned up to industrial standards cannot be converted to
39 nonindustrial uses without approval from the department. The

1 department may require that a property cleaned up to industrial
2 standards is cleaned up to a more stringent applicable standard as a
3 condition of conversion to a nonindustrial use. Industrial clean-up
4 standards may not be applied to industrial properties where hazardous
5 substances remaining at the property after remedial action pose a
6 threat to human health or the environment in adjacent nonindustrial
7 areas.

8 (3) Before November 1st of each even-numbered year, the department
9 shall develop, with public notice and hearing, and submit to the ways
10 and means and appropriate standing environmental committees of the
11 senate and house of representatives a ranked list of projects and
12 expenditures recommended for appropriation from both the state and
13 local toxics control accounts. The department shall also provide the
14 legislature and the public each year with an accounting of the
15 department's activities supported by appropriations from the state
16 toxics control account, including a list of known hazardous waste sites
17 and their hazard rankings, actions taken and planned at each site, how
18 the department is meeting its top two management priorities under RCW
19 70.105.150, and all funds expended under this chapter.

20 (4) The department shall establish a scientific advisory board to
21 render advice to the department with respect to the hazard ranking
22 system, cleanup standards, remedial actions, deadlines for remedial
23 actions, monitoring, the classification of substances as hazardous
24 substances for purposes of RCW 70.105D.020(7) and the classification of
25 substances or products as hazardous substances for purposes of RCW
26 82.21.020(1). The board shall consist of five independent members to
27 serve staggered three-year terms. No members may be employees of the
28 department. Members shall be reimbursed for travel expenses as
29 provided in RCW 43.03.050 and 43.03.060.

30 (5) The department shall establish a program to identify potential
31 hazardous waste sites and to encourage persons to provide information
32 about hazardous waste sites.

33 **PART 5**

34 **SEA URCHIN AND SEA CUCUMBER ADVISORY REVIEW BOARD**

35 **COASTAL CRAB ADVISORY REVIEW BOARD**

1 appropriate public involvement and outreach mechanisms designed to
2 provide cost-effective public input on their programs and policies.

3 NEW SECTION. **Sec. 1002.** Part headings used in this act are not
4 any part of the law.

5 NEW SECTION. **Sec. 1003.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 July 1, 2001.

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