
HOUSE BILL 2378

State of Washington 58th Legislature 2004 Regular Session

By Representatives Armstrong, Anderson, Schoesler, Nixon and Woods

Read first time 01/13/2004. Referred to Committee on State Government.

1 AN ACT Relating to restoring public trust in the regulatory
2 process; amending RCW 34.05.570, 28A.300.040, 41.50.050, 43.06A.030,
3 43.19.011, 43.21A.064, 43.24.016, 43.27A.090, 43.30.215, 43.31C.060,
4 43.33.040, 43.33A.110, 43.59.070, 43.61.040, 43.63A.475, 43.70.580,
5 43.101.085, 43.115.040, 43.117.050, 43.121.050, 43.155.040, 43.160.050,
6 43.163.100, 43.180.040, 43.200.070, 43.210.060, 43.250.090, 43.320.040,
7 43.330.040, 47.01.071, 48.02.060, 48.44.050, 48.46.200, 66.08.0501,
8 77.04.055, and 80.01.040; adding new sections to chapter 34.05 RCW;
9 adding a new section to chapter 43.17 RCW; creating a new section; and
10 declaring an emergency.

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

12 NEW SECTION. **Sec. 1.** The legislature finds that the people of
13 this state do not yield their sovereignty to the agencies that serve
14 them, that one of the most fundamental principles of a free people is
15 that citizens are presumed innocent of wrongdoing until proven guilty,
16 and that due process requires that government bear the burden of
17 establishing a person's guilt, not that the citizen bears the burden of
18 proving his or her innocence. The legislature further finds that
19 citizens generally lack the resources that state agencies have at their

1 disposal to defend administrative rules that may have been adopted
2 unlawfully and are therefore invalid because of agency noncompliance
3 with proper administrative procedures, that may violate constitutional
4 provisions, that may exceed the agency's statutory authority, or that
5 may be arbitrary and capricious. The legislature further finds that in
6 order to enhance the faith, credibility, and trust of the people in
7 government, it is necessary and proper to place the burden upon state
8 agencies, not individual citizens, to demonstrate that the
9 administrative rules they adopt are lawful and valid.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 34.05 RCW
11 to read as follows:

12 (1) An agency may not adopt a proposed rule unless the legislature
13 has had the opportunity to consider the proposed rule during a regular
14 session or special legislative session as defined in Article II,
15 section 12 of the state Constitution. For purposes of this section,
16 the legislature has had the opportunity to consider a proposed rule
17 after the adjournment of:

18 (a) For proposed rules published in the state register on or before
19 the first day of November in a calendar year, the regular session and
20 any special legislative session in the calendar year after the year in
21 which the rule was published; or

22 (b) For proposed rules published in the state register after the
23 first day of November in a calendar year, the regular session and any
24 special legislative session in the second calendar year after the year
25 in which the rule was published.

26 (2) An agency seeking to adopt a proposed rule shall submit a copy
27 of the rule, along with the summary and responses required by RCW
28 34.05.325(6), to the chief clerk of the house of representatives and
29 the secretary of the senate by the fifteenth day of January after the
30 convening of the regular session in the calendar year required by
31 subsection (1) of this section.

32 (3) This section does not apply to:

33 (a) Emergency rules adopted in accordance with RCW 34.05.350; and

34 (b) Rules adopted by the department of fish and wildlife
35 establishing hunting and fishing seasons under RCW 77.12.047 and
36 77.12.150.

1 (4) This section applies only to proposed rules that are published
2 in the state register after the effective date of this act.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 34.05 RCW
4 to read as follows:

5 When delegating authority to an agency through legislation, the
6 legislature, unless it specifically states otherwise, limits its
7 delegation of authority to:

8 (1) The minimum delegation necessary to administer the
9 legislation's clear and unambiguous directives; and

10 (2) The administration of circumstances and behaviors foreseeable
11 at the time of the legislation's enactment.

12 **Sec. 4.** RCW 34.05.570 and 1995 c 403 s 802 are each amended to
13 read as follows:

14 (1) Generally. Except to the extent that this chapter or another
15 statute provides otherwise:

16 (a) Except as provided in subsection (2) of this section and except
17 that an agency bears the burden of demonstrating that the agency action
18 was authorized by law, the burden of demonstrating the invalidity of
19 agency action is on the party asserting invalidity;

20 (b) The validity of agency action shall be determined in accordance
21 with the standards of review provided in this section, as applied to
22 the agency action at the time it was taken;

23 (c) The court shall make a separate and distinct ruling on each
24 material issue on which the court's decision is based; and

25 (d) The court shall grant relief only if it determines that a
26 person seeking judicial relief has been substantially prejudiced by the
27 action complained of.

28 (2) Review of rules. (a) A rule may be reviewed by petition for
29 declaratory judgment filed pursuant to this subsection or in the
30 context of any other review proceeding under this section. In an
31 action challenging the validity of a rule, the agency shall be made a
32 party to the proceeding.

33 (b) The validity of any rule may be determined upon petition for a
34 declaratory judgment addressed to the superior court of ((~~Thurston~~))
35 any county, when it appears that the rule, or its threatened
36 application, interferes with or impairs or immediately threatens to

1 interfere with or impair the legal rights or privileges of the
2 petitioner. When the validity of a rule is challenged, after the
3 petitioner has identified probable defects in the rule, the burden of
4 going forward with the evidence is on the agency to establish validity.
5 The declaratory judgment order may be entered whether or not the
6 petitioner has first requested the agency to pass upon the validity of
7 the rule in question.

8 (c) In a proceeding involving review of a rule, the court shall
9 declare the rule invalid only if it finds that: The rule violates
10 constitutional provisions; the rule exceeds the statutory authority of
11 the agency; the rule was adopted without compliance with statutory
12 rule-making procedures; or the rule is arbitrary and capricious.

13 (3) Review of agency orders in adjudicative proceedings. The court
14 shall grant relief from an agency order in an adjudicative proceeding
15 only if it determines that:

16 (a) The order, or the statute or rule on which the order is based,
17 is in violation of constitutional provisions on its face or as applied;

18 (b) The order is outside the statutory authority or jurisdiction of
19 the agency conferred by any provision of law;

20 (c) The agency has engaged in unlawful procedure or decision-making
21 process, or has failed to follow a prescribed procedure;

22 (d) The agency has erroneously interpreted or applied the law;

23 (e) The order is not supported by evidence that is substantial when
24 viewed in light of the whole record before the court, which includes
25 the agency record for judicial review, supplemented by any additional
26 evidence received by the court under this chapter;

27 (f) The agency has not decided all issues requiring resolution by
28 the agency;

29 (g) A motion for disqualification under RCW 34.05.425 or 34.12.050
30 was made and was improperly denied or, if no motion was made, facts are
31 shown to support the grant of such a motion that were not known and
32 were not reasonably discoverable by the challenging party at the
33 appropriate time for making such a motion;

34 (h) The order is inconsistent with a rule of the agency unless the
35 agency explains the inconsistency by stating facts and reasons to
36 demonstrate a rational basis for inconsistency; ~~((or))~~

37 (i) The order is arbitrary or capricious; or

38 (j) The order is based on a de facto rule.

1 (4) Review of other agency action.

2 (a) All agency action not reviewable under subsection (2) or (3) of
3 this section shall be reviewed under this subsection.

4 (b) A person whose rights are violated by an agency's failure to
5 perform a duty that is required by law to be performed may file a
6 petition for review pursuant to RCW 34.05.514, seeking an order
7 pursuant to this subsection requiring performance. Within twenty days
8 after service of the petition for review, the agency shall file and
9 serve an answer to the petition, made in the same manner as an answer
10 to a complaint in a civil action. The court may hear evidence,
11 pursuant to RCW 34.05.562, on material issues of fact raised by the
12 petition and answer.

13 (c) Relief for persons aggrieved by the performance of an agency
14 action, including the exercise of discretion, or an action under (b) of
15 this subsection can be granted only if the court determines that the
16 action is:

17 (i) Unconstitutional;

18 (ii) Outside the statutory authority of the agency or the authority
19 conferred by a provision of law;

20 (iii) Arbitrary or capricious; (~~(or)~~)

21 (iv) Taken by persons who were not properly constituted as agency
22 officials lawfully entitled to take such action; or

23 (v) Based on a de facto rule.

24 **Sec. 5.** RCW 28A.300.040 and 1999 c 348 s 6 are each amended to
25 read as follows:

26 In addition to any other powers and duties as provided by law, the
27 powers and duties of the superintendent of public instruction shall be:

28 (1) To have supervision over all matters pertaining to the public
29 schools of the state;

30 (2) To report to the governor and the legislature such information
31 and data as may be required for the management and improvement of the
32 schools;

33 (3) To prepare and have printed such forms, registers, courses of
34 study, rules for the government of the common schools, and such other
35 material and books as may be necessary for the discharge of the duties
36 of teachers and officials charged with the administration of the laws

1 relating to the common schools, and to distribute the same to
2 educational service district superintendents;

3 (4) To travel, without neglecting his or her other official duties
4 as superintendent of public instruction, for the purpose of attending
5 educational meetings or conventions, of visiting schools, of consulting
6 educational service district superintendents or other school officials;

7 (5) To prepare and from time to time to revise a manual of the
8 Washington state common school code, copies of which shall be provided
9 in such numbers as determined by the superintendent of public
10 instruction at no cost to those public agencies within the common
11 school system and which shall be sold at approximate actual cost of
12 publication and distribution per volume to all other public and
13 nonpublic agencies or individuals, said manual to contain Titles 28A
14 and 28C RCW, rules related to the common schools, and such other matter
15 as the state superintendent or the state board of education shall
16 determine. Proceeds of the sale of such code shall be transmitted to
17 the public printer who shall credit the state superintendent's account
18 within the state printing plant revolving fund by a like amount;

19 (6) To act as ex officio member and the chief executive officer of
20 the state board of education;

21 (7) To file all papers, reports and public documents transmitted to
22 the superintendent by the school officials of the several counties or
23 districts of the state, each year separately. Copies of all papers
24 filed in the superintendent's office, and the superintendent's official
25 acts, may, or upon request, shall be certified by the superintendent
26 and attested by the superintendent's official seal, and when so
27 certified shall be evidence of the papers or acts so certified to;

28 (8) To require annually, on or before the 15th day of August, of
29 the president, manager, or principal of every educational institution
30 in this state, a report as required by the superintendent of public
31 instruction; and it is the duty of every president, manager, or
32 principal, to complete and return such forms within such time as the
33 superintendent of public instruction shall direct;

34 (9) To keep in the superintendent's office a record of all teachers
35 receiving certificates to teach in the common schools of this state;

36 (10) To issue certificates as provided by law;

37 (11) To keep in the superintendent's office at the capital of the
38 state, all books and papers pertaining to the business of the

1 superintendent's office, and to keep and preserve in the
2 superintendent's office a complete record of statistics, as well as a
3 record of the meetings of the state board of education;

4 (12) With the assistance of the office of the attorney general, to
5 decide all points of law which may be submitted to the superintendent
6 in writing by any educational service district superintendent, or that
7 may be submitted to the superintendent by any other person, upon appeal
8 from the decision of any educational service district superintendent;
9 and the superintendent shall publish his or her rulings and decisions
10 from time to time for the information of school officials and teachers;
11 and the superintendent's decision shall be final unless set aside by a
12 court of competent jurisdiction;

13 (13) To administer oaths and affirmations in the discharge of the
14 superintendent's official duties;

15 (14) To deliver to his or her successor, at the expiration of the
16 superintendent's term of office, all records, books, maps, documents
17 and papers of whatever kind belonging to the superintendent's office or
18 which may have been received by the superintendent's for the use of the
19 superintendent's office;

20 (15) To administer family services and programs to promote the
21 state's policy as provided in RCW 74.14A.025;

22 (16) To perform such other duties as may be required by law.

23 For rules adopted under the provisions of this chapter after July
24 1, 2004, the superintendent of public instruction may only adopt rules
25 derived from a specific grant of legislative authority. The rules must
26 include the specific statutory section or sections from which the grant
27 of authority is derived, and may not rely solely on a section of law
28 stating a statute's intent or purpose or the general enabling
29 provisions establishing the office of the superintendent of public
30 instruction.

31 **Sec. 6.** RCW 41.50.050 and 1995 c 239 s 317 are each amended to
32 read as follows:

33 The director shall:

34 (1) Have the authority to organize the department into not more
35 than four divisions, each headed by an assistant director;

36 (2) Have free access to all files and records of various funds

1 assigned to the department and inspect and audit the files and records
2 as deemed necessary;

3 (3) Employ personnel to carry out the general administration of the
4 department;

5 (4) Submit an annual written report of the activities of the
6 department to the governor and the chairs of the appropriate
7 legislative committees with one copy to the staff of each of the
8 committees, including recommendations for statutory changes the
9 director believes to be desirable;

10 (5) Adopt (~~such~~) rules (~~and regulations~~) as are necessary to
11 carry out the powers, duties, and functions of the department pursuant
12 to the provisions of chapter 34.05 RCW. For rules adopted under the
13 provisions of this chapter after July 1, 2004, the director may only
14 adopt rules derived from a specific grant of legislative authority.
15 The rules must include the specific statutory section or sections from
16 which the grant of authority is derived, and may not rely solely on a
17 section of law stating a statute's intent or purpose or the general
18 enabling provisions establishing the department.

19 **Sec. 7.** RCW 43.06A.030 and 1996 c 131 s 4 are each amended to read
20 as follows:

21 The ombudsman shall perform the following duties:

22 (1) Provide information as appropriate on the rights and
23 responsibilities of individuals receiving family and children's
24 services, and on the procedures for providing these services;

25 (2) Investigate, upon his or her own initiative or upon receipt of
26 a complaint, an administrative act alleged to be contrary to law, rule,
27 or policy, imposed without an adequate statement of reason, or based on
28 irrelevant, immaterial, or erroneous grounds; however, the ombudsman
29 may decline to investigate any complaint as provided by rules adopted
30 under this chapter;

31 (3) Monitor the procedures as established, implemented, and
32 practiced by the department to carry out its responsibilities in
33 delivering family and children's services with a view toward
34 appropriate preservation of families and ensuring children's health and
35 safety;

36 (4) Review periodically the facilities and procedures of state

1 institutions serving children, and state-licensed facilities or
2 residences;

3 (5) Recommend changes in the procedures for addressing the needs of
4 families and children;

5 (6) Submit annually to the committee and to the governor by
6 November 1st a report analyzing the work of the office including
7 recommendations;

8 (7) Grant the committee access to all relevant records in the
9 possession of the ombudsman unless prohibited by law; and

10 (8) Adopt rules necessary to implement this chapter. For rules
11 adopted under the provisions of this chapter after July 1, 2004, the
12 ombudsman may only adopt rules derived from a specific grant of
13 legislative authority. The rules must include the specific statutory
14 section or sections from which the grant of authority is derived, and
15 may not rely solely on a section of law stating a statute's intent or
16 purpose or the general enabling provisions establishing the department
17 or the ombudsman's office.

18 NEW SECTION. Sec. 8. A new section is added to chapter 43.17 RCW
19 to read as follows:

20 For rules adopted under the provisions of this chapter after July
21 1, 2004, the director of each department may only adopt rules derived
22 from a specific grant of legislative authority. The rules must include
23 the specific statutory section or sections from which the grant of
24 authority is derived, and may not rely solely on a section of law
25 stating a statute's intent or purpose or the general enabling
26 provisions establishing each department.

27 **Sec. 9.** RCW 43.19.011 and 1999 c 229 s 2 are each amended to read
28 as follows:

29 (1) The director of general administration shall supervise and
30 administer the activities of the department of general administration
31 and shall advise the governor and the legislature with respect to
32 matters under the jurisdiction of the department.

33 (2) In addition to other powers and duties granted to the director,
34 the director shall have the following powers and duties:

35 (a) Enter into contracts on behalf of the state to carry out the
36 purposes of this chapter;

1 (b) Accept and expend gifts and grants that are related to the
2 purposes of this chapter, whether such grants be of federal or other
3 funds;

4 (c) Appoint a deputy director and such assistant directors and
5 special assistants as may be needed to administer the department.
6 These employees are exempt from the provisions of chapter 41.06 RCW;

7 (d) Adopt rules in accordance with chapter 34.05 RCW and perform
8 all other functions necessary and proper to carry out the purposes of
9 this chapter. For rules adopted under the provisions of this chapter
10 after July 1, 2004, the director may only adopt rules derived from a
11 specific grant of legislative authority. The rules must include the
12 specific statutory section or sections from which the grant of
13 authority is derived, and may not rely solely on a section of law
14 stating a statute's intent or purpose or the general enabling
15 provisions establishing the department of general administration;

16 (e) Delegate powers, duties, and functions as the director deems
17 necessary for efficient administration, but the director shall be
18 responsible for the official acts of the officers and employees of the
19 department; and

20 (f) Perform other duties as are necessary and consistent with law.

21 (3) The director may establish additional advisory groups as may be
22 necessary to carry out the purposes of this chapter.

23 (4) The internal affairs of the department shall be under the
24 control of the director in order that the director may manage the
25 department in a flexible and intelligent manner as dictated by changing
26 contemporary circumstances. Unless specifically limited by law, the
27 director shall have complete charge and supervisory powers over the
28 department. The director may create such administrative structures as
29 the director deems appropriate, except as otherwise specified by law,
30 and the director may employ such personnel as may be necessary in
31 accordance with chapter 41.06 RCW, except as otherwise provided by law.

32 **Sec. 10.** RCW 43.21A.064 and 1997 c 443 s 2 are each amended to
33 read as follows:

34 Subject to RCW 43.21A.068, the director of the department of
35 ecology shall have the following powers and duties:

36 (1) The supervision of public waters within the state and their

1 appropriation, diversion, and use, and of the various officers
2 connected therewith;

3 (2) Insofar as may be necessary to (~~assure~~) ensure safety to life
4 or property, the director shall inspect the construction of all dams,
5 canals, ditches, irrigation systems, hydraulic power plants, and all
6 other works, systems, and plants pertaining to the use of water, and
7 may require such necessary changes in the construction or maintenance
8 of said works, to be made from time to time, as will reasonably secure
9 safety to life and property;

10 (3) The director shall regulate and control the diversion of water
11 in accordance with the rights thereto;

12 (4) The director shall determine the discharge of streams and
13 springs and other sources of water supply, and the capacities of lakes
14 and of reservoirs whose waters are being or may be utilized for
15 beneficial purposes;

16 (5) The director shall, if requested, provide assistance to an
17 applicant for a water right in obtaining or developing an adequate and
18 appropriate supply of water consistent with the land use permitted for
19 the area in which the water is to be used and the population forecast
20 for the area under RCW 43.62.035. If the applicant is a public water
21 supply system, the supply being sought must be used in a manner
22 consistent with applicable land use, watershed and water system plans,
23 and the population forecast for that area provided under RCW 43.62.035;

24 (6) The director shall keep such records as may be necessary for
25 the recording of the financial transactions and statistical data
26 thereof, and shall procure all necessary documents, forms, and blanks.
27 The director shall keep a seal of the office, and all certificates
28 covering any of the director's acts or the acts of the director's
29 office, or the records and files of that office, under such seal, shall
30 be taken as evidence thereof in all courts;

31 (7) The director shall render when required by the governor, a full
32 written report of the office's work with such recommendations for
33 legislation as the director deems advisable for the better control and
34 development of the water resources of the state;

35 (8) The director and duly authorized deputies may administer oaths;

36 (9) The director shall establish and (~~promulgate~~) adopt rules
37 governing the administration of chapter 90.03 RCW. For rules adopted
38 under the provisions of this chapter after July 1, 2004, the director

1 may only adopt rules derived from a specific grant of legislative
2 authority. The rules must include the specific statutory section or
3 sections from which the grant of authority is derived, and may not rely
4 solely on a section of law stating a statute's intent or purpose or the
5 general enabling provisions establishing the department;

6 (10) The director shall perform such other duties as may be
7 prescribed by law.

8 **Sec. 11.** RCW 43.24.016 and 1999 c 240 s 4 are each amended to read
9 as follows:

10 (1) The director of licensing shall supervise and administer the
11 activities of the department of licensing and shall advise the governor
12 and the legislature with respect to matters under the jurisdiction of
13 the department.

14 (2) In addition to other powers and duties granted to the director,
15 the director has the following powers and duties:

16 (a) Enter into contracts on behalf of the state to carry out the
17 responsibilities of the department;

18 (b) Accept and expend gifts and grants, whether such grants be of
19 federal or other funds;

20 (c) Appoint a deputy director and such assistant directors, special
21 assistants, and administrators as may be needed to administer the
22 department. These employees are exempt from the provisions of chapter
23 41.06 RCW;

24 (d) Adopt rules in accordance with chapter 34.05 RCW and perform
25 all other functions necessary to carry out the responsibilities of the
26 department. For rules adopted under the provisions of this chapter
27 after July 1, 2004, the director may only adopt rules derived from a
28 specific grant of legislative authority. The rules must include the
29 specific statutory section or sections from which the grant of
30 authority is derived, and may not rely solely on a section of law
31 stating a statute's intent or purpose or the general enabling
32 provisions establishing the department;

33 (e) Delegate powers, duties, and functions as the director deems
34 necessary for efficient administration, but the director is responsible
35 for the official acts of the officers and employees of the department;
36 and

37 (f) Perform other duties as are necessary and consistent with law.

1 (3) The director may establish advisory groups as may be necessary
2 to carry out the responsibilities of the department.

3 (4) The internal affairs of the department shall be under the
4 control of the director in order that the director may manage the
5 department in a flexible and intelligent manner as dictated by changing
6 contemporary circumstances. Unless specifically limited by law, the
7 director shall have complete charge and supervisory powers over the
8 department. The director may create such administrative structures as
9 the director deems appropriate, except as otherwise specified by law,
10 and the director may employ such personnel as may be necessary in
11 accordance with chapter 41.06 RCW, except as otherwise provided by law.

12 **Sec. 12.** RCW 43.27A.090 and 1988 c 127 s 25 are each amended to
13 read as follows:

14 The department shall be empowered as follows:

15 (1) To represent the state at, and fully participate in, the
16 activities of any basin or regional commission, interagency committee,
17 or any other joint interstate or federal-state agency, committee or
18 commission, or publicly financed entity engaged in the planning,
19 development, administration, management, conservation or preservation
20 of the water resources of the state.

21 (2) To prepare the views and recommendations of the state of
22 Washington on any project, plan or program relating to the planning,
23 development, administration, management, conservation and preservation
24 of any waters located in or affecting the state of Washington,
25 including any federal permit or license proposal, and appear on behalf
26 of, and present views and recommendations of the state at any
27 proceeding, negotiation or hearing conducted by the federal government,
28 interstate agency, state or other agency.

29 (3) To cooperate with, assist, advise and coordinate plans with the
30 federal government and its officers and agencies, and serve as a state
31 liaison agency with the federal government in matters relating to the
32 use, conservation, preservation, quality, disposal or control of water
33 and activities related thereto.

34 (4) To cooperate with appropriate agencies of the federal
35 government and/or agencies of other states, to enter into contracts,
36 and to make appropriate contributions to federal or interstate projects

1 and programs and governmental bodies to carry out the provisions of
2 this chapter.

3 (5) To apply for, accept, administer and expend grants, gifts and
4 loans from the federal government or any other entity to carry out the
5 purposes of this chapter and make contracts and do such other acts as
6 are necessary insofar as they are not inconsistent with other
7 provisions hereof.

8 (6) To develop and maintain a coordinated and comprehensive state
9 water and water resources related development plan, and adopt, with
10 regard to such plan, such policies as are necessary to (~~insure~~)
11 ensure that the waters of the state are used, conserved and preserved
12 for the best interest of the state. There shall be included in the
13 state plan a description of developmental objectives and a statement of
14 the recommended means of accomplishing these objectives. To the extent
15 the director deems desirable, the plan shall integrate into the state
16 plan, the plans, programs, reports, research and studies of other state
17 agencies.

18 (7) To assemble and correlate information relating to water supply,
19 power development, irrigation, watersheds, water use, future
20 possibilities of water use and prospective demands for all purposes
21 served through or affected by water resources development.

22 (8) To assemble and correlate state, local and federal laws,
23 regulations, plans, programs and policies affecting the beneficial use,
24 disposal, pollution, control or conservation of water, river basin
25 development, flood prevention, parks, reservations, forests, wildlife
26 refuges, drainage and sanitary systems, waste disposal, water works,
27 watershed protection and development, soil conservation, power
28 facilities and area and municipal water supply needs, and recommend
29 suitable legislation or other action to the legislature, the congress
30 of the United States, or any city, municipality, or to responsible
31 state, local or federal executive departments or agencies.

32 (9) To cooperate with federal, state, regional, interstate and
33 local public and private agencies in the making of plans for drainage,
34 flood control, use, conservation, allocation and distribution of
35 existing water supplies and the development of new water resource
36 projects.

37 (10) To encourage, assist and advise regional, and city and

1 municipal agencies, officials or bodies responsible for planning in
2 relation to water aspects of their programs, and coordinate local water
3 resources activities, programs, and plans.

4 (11) To (~~promulgate such~~) adopt rules (~~and regulations~~) as are
5 necessary to carry out the purposes of this chapter. For rules adopted
6 under the provisions of this chapter after July 1, 2004, the department
7 may only adopt rules derived from a specific grant of legislative
8 authority. The rules must include the specific statutory section or
9 sections from which the grant of authority is derived, and may not rely
10 solely on a section of law stating a statute's intent or purpose or the
11 general enabling provisions establishing the department.

12 (12) To hold public hearings, and make such investigations, studies
13 and surveys as are necessary to carry out the purposes of the chapter.

14 (13) To subpoena witnesses, compel their attendance, administer
15 oaths, take the testimony of any person under oath and require the
16 production of any books or papers when the department deems such
17 measures necessary in the exercise of its rule-making power or in
18 determining whether or not any license, certificate, or permit shall be
19 granted or extended.

20 **Sec. 13.** RCW 43.30.215 and 2003 c 334 s 112 are each amended to
21 read as follows:

22 The board shall:

23 (1) Perform duties relating to appraisal, appeal, approval, and
24 hearing functions as provided by law;

25 (2) Establish policies to ensure that the acquisition, management,
26 and disposition of all lands and resources within the department's
27 jurisdiction are based on sound principles designed to achieve the
28 maximum effective development and use of such lands and resources
29 consistent with laws applicable thereto;

30 (3) Constitute the board of appraisers provided for in Article 16,
31 section 2 of the state Constitution;

32 (4) Constitute the commission on harbor lines provided for in
33 Article 15, section 1 of the state Constitution as amended;

34 (5) Adopt and enforce rules as may be deemed necessary and proper
35 for carrying out the powers, duties, and functions imposed upon it by
36 this chapter. For rules adopted under the provisions of this chapter
37 after July 1, 2004, the board may only adopt rules derived from a

1 specific grant of legislative authority. The rules must include the
2 specific statutory section or sections from which the grant of
3 authority is derived, and may not rely solely on a section of law
4 stating a statute's intent or purpose or the general enabling
5 provisions establishing the board or the department.

6 **Sec. 14.** RCW 43.31C.060 and 2000 c 212 s 7 are each amended to
7 read as follows:

8 The department must administer this chapter and has the following
9 powers and duties:

10 (1) To monitor the implementation of chapter 212, Laws of 2000 and
11 submit reports evaluating the effectiveness of the program and any
12 suggestions for legislative changes to the governor and legislature by
13 December 1, 2000;

14 (2) To develop evaluation and performance measures for local
15 governments to measure the effectiveness of the program at the local
16 level on meeting the objectives of this chapter;

17 (3) To provide information and appropriate assistance to persons
18 desiring to locate and operate a business in a community empowerment
19 zone;

20 (4) To work with appropriate state agencies to coordinate the
21 delivery of programs, including but not limited to housing, community
22 and economic development, small business assistance, social service,
23 and employment and training programs which are carried on in a
24 community empowerment zone; and

25 (5) To develop rules necessary for the administration of this
26 chapter. For rules adopted under the provisions of this chapter after
27 July 1, 2004, the department may only adopt rules derived from a
28 specific grant of legislative authority. The rules must include the
29 specific statutory section or sections from which the grant of
30 authority is derived, and may not rely solely on a section of law
31 stating a statute's intent or purpose or the general enabling
32 provisions establishing the department.

33 **Sec. 15.** RCW 43.33.040 and 1965 c 8 s 43.33.040 are each amended
34 to read as follows:

35 The state finance committee may ~~((make))~~ adopt appropriate rules
36 ~~((and regulations))~~ for the performance of its duties. The state

1 treasurer shall act as (~~chairman~~) chair of the committee. For rules
2 adopted under the provisions of this chapter after July 1, 2004, the
3 state finance committee may only adopt rules derived from a specific
4 grant of legislative authority. The rules must include the specific
5 statutory section or sections from which the grant of authority is
6 derived, and may not rely solely on a section of law stating a
7 statute's intent or purpose or the general enabling provisions
8 establishing the state finance committee.

9 **Sec. 16.** RCW 43.33A.110 and 1994 c 154 s 310 are each amended to
10 read as follows:

11 The state investment board may (~~make~~) adopt appropriate rules
12 (~~and regulations~~) for the performance of its duties. The board shall
13 establish investment policies and procedures designed exclusively to
14 maximize return at a prudent level of risk. However, in the case of
15 the department of labor and industries' accident, medical aid, and
16 reserve funds, the board shall establish investment policies and
17 procedures designed to attempt to limit fluctuations in industrial
18 insurance premiums and, subject to this purpose, to maximize return at
19 a prudent level of risk. The board shall adopt rules to ensure that
20 its members perform their functions in compliance with chapter 42.52
21 RCW. Rules adopted by the board shall be adopted pursuant to chapter
22 34.05 RCW.

23 For rules adopted under the provisions of this chapter after July
24 1, 2004, the state investment board may only adopt rules derived from
25 a specific grant of legislative authority. The rules must include the
26 specific statutory section or sections from which the grant of
27 authority is derived, and may not rely solely on a section of law
28 stating a statute's intent or purpose or the general enabling
29 provisions establishing the state investment board.

30 **Sec. 17.** RCW 43.59.070 and 1967 ex.s. c 147 s 8 are each amended
31 to read as follows:

32 The director shall be secretary of the commission and shall be
33 responsible for carrying into effect the commission's orders and rules
34 (~~and regulations promulgated~~) adopted by the commission. The
35 director shall also be authorized to employ such staff as is necessary

1 pursuant to the provisions of chapter 41.06 RCW. The commission shall
2 adopt (~~such~~) rules (~~and regulations~~) as shall be necessary to carry
3 into effect the purposes of this chapter.

4 For rules adopted under the provisions of this chapter after July
5 1, 2004, the Washington state traffic safety commission may only adopt
6 rules derived from a specific grant of legislative authority. The
7 rules must include the specific statutory section or sections from
8 which the grant of authority is derived, and may not rely solely on a
9 section of law stating a statute's intent or purpose or the general
10 enabling provisions establishing the commission.

11 **Sec. 18.** RCW 43.61.040 and 1977 c 75 s 60 are each amended to read
12 as follows:

13 The director of veterans affairs shall (~~make such~~) adopt rules
14 (~~and regulations~~) as may be necessary to carry out the purposes of
15 this chapter. For rules adopted under the provisions of this chapter
16 after July 1, 2004, the director of veterans affairs may only adopt
17 rules derived from a specific grant of legislative authority. The
18 rules must include the specific statutory section or sections from
19 which the grant of authority is derived, and may not rely solely on a
20 section of law stating a statute's intent or purpose or the general
21 enabling provisions establishing the department of veterans affairs.
22 The department shall furnish information, advice, and assistance to
23 veterans and coordinate all programs and services in the field of
24 veterans' claims service, education, health, vocational guidance and
25 placement, and services not provided by some other agency of the state
26 or by the federal government. The director shall submit a report of
27 the departments' activities hereunder each year to the governor.

28 **Sec. 19.** RCW 43.63A.475 and 1993 c 124 s 2 are each amended to
29 read as follows:

30 The department shall adopt all rules under chapter 34.05 RCW
31 necessary to implement chapter 124, Laws of 1993, giving due
32 consideration to standards and regulations adopted by the secretary of
33 housing and urban development under the National Manufactured Housing
34 Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C.
35 Secs. 5401-5426) for manufactured housing construction and safety
36 standards. For rules adopted under the provisions of this chapter

1 after July 1, 2004, the department of community, trade, and economic
2 development may only adopt rules derived from a specific grant of
3 legislative authority. The rules must include the specific statutory
4 section or sections from which the grant of authority is derived, and
5 may not rely solely on a section of law stating a statute's intent or
6 purpose or the general enabling provisions establishing the department
7 of community, trade, and economic development.

8 **Sec. 20.** RCW 43.70.580 and 1995 c 43 s 3 are each amended to read
9 as follows:

10 The primary responsibility of the public health system, is to take
11 those actions necessary to protect, promote, and improve the health of
12 the population. In order to accomplish this, the department shall:

13 (1) Identify, as part of the public health improvement plan, the
14 key health outcomes sought for the population and the capacity needed
15 by the public health system to fulfill its responsibilities in
16 improving health outcomes.

17 (2)(a) Distribute state funds that, in conjunction with local
18 revenues, are intended to improve the capacity of the public health
19 system. The distribution methodology shall encourage system-wide
20 effectiveness and efficiency and provide local health jurisdictions
21 with the flexibility both to determine governance structures and
22 address their unique needs.

23 (b) Enter into with each local health jurisdiction performance-
24 based contracts that establish clear measures of the degree to which
25 the local health jurisdiction is attaining the capacity necessary to
26 improve health outcomes. The contracts negotiated between the local
27 health jurisdictions and the department of health must identify the
28 specific measurable progress that local health jurisdictions will make
29 toward achieving health outcomes. A community assessment conducted by
30 the local health jurisdiction according to the public health
31 improvement plan, which shall include the results of the comprehensive
32 plan prepared according to RCW 70.190.130, will be used as the basis
33 for identifying the health outcomes. The contracts shall include
34 provisions to encourage collaboration among local health jurisdictions.
35 State funds shall be used solely to expand and complement, but not to
36 supplant city and county government support for public health programs.

1 (3) Develop criteria to assess the degree to which capacity is
2 being achieved and ensure compliance by public health jurisdictions.

3 (4) Adopt rules necessary to carry out the purposes of chapter 43,
4 Laws of 1995. For rules adopted under the provisions of this chapter
5 after July 1, 2004, the department may only adopt rules derived from a
6 specific grant of legislative authority. The rules must include the
7 specific statutory section or sections from which the grant of
8 authority is derived, and may not rely solely on a section of law
9 stating a statute's intent or purpose or the general enabling
10 provisions establishing the department.

11 (5) Biennially, within the public health improvement plan, evaluate
12 the effectiveness of the public health system, assess the degree to
13 which the public health system is attaining the capacity to improve the
14 status of the public's health, and report progress made by each local
15 health jurisdiction toward improving health outcomes.

16 **Sec. 21.** RCW 43.101.085 and 2001 c 167 s 7 are each amended to
17 read as follows:

18 In addition to its other powers granted under this chapter, the
19 commission has authority and power to:

20 (1) Adopt, amend, or repeal rules as necessary to carry out this
21 chapter. For rules adopted under the provisions of this chapter after
22 July 1, 2004, the commission may only adopt rules derived from a
23 specific grant of legislative authority. The rules must include the
24 specific statutory section or sections from which the grant of
25 authority is derived, and may not rely solely on a section of law
26 stating a statute's intent or purpose or the general enabling
27 provisions establishing the commission;

28 (2) Issue subpoenas and administer oaths in connection with
29 investigations, hearings, or other proceedings held under this chapter;

30 (3) Take or cause to be taken depositions and other discovery
31 procedures as needed in investigations, hearings, and other proceedings
32 held under this chapter;

33 (4) Appoint members of a hearings board as provided under RCW
34 43.101.380;

35 (5) Enter into contracts for professional services determined by
36 the commission to be necessary for adequate enforcement of this
37 chapter;

1 (6) Grant, deny, or revoke certification of peace officers under
2 the provisions of this chapter;

3 (7) Designate individuals authorized to sign subpoenas and
4 statements of charges under the provisions of this chapter; and

5 (8) Employ such investigative, administrative, and clerical staff
6 as necessary for the enforcement of this chapter.

7 **Sec. 22.** RCW 43.115.040 and 1993 c 261 s 3 are each amended to
8 read as follows:

9 The commission shall have the following powers and duties:

10 (1) Elect one of its members to serve as (~~chairman~~) chair;

11 (2) Adopt rules (~~and regulations~~) pursuant to chapter 34.05 RCW.
12 For rules adopted under the provisions of this chapter after July 1,
13 2004, the commission may only adopt rules derived from a specific grant
14 of legislative authority. The rules must include the specific
15 statutory section or sections from which the grant of authority is
16 derived, and may not rely solely on a section of law stating a
17 statute's intent or purpose or the general enabling provisions
18 establishing the commission;

19 (3) Examine and define issues pertaining to the rights and needs of
20 Hispanics, and make recommendations to the governor and state agencies
21 for changes in programs and laws;

22 (4) Advise the governor and state agencies on the development and
23 implementation of policies, plans, and programs that relate to the
24 special needs of Hispanics;

25 (5) Advise the legislature on issues of concern to the Hispanic
26 community;

27 (6) Establish relationships with state agencies, local governments,
28 and private sector organizations that promote equal opportunity and
29 benefits for Hispanics; and

30 (7) Receive gifts, grants, and endowments from public or private
31 sources that are made for the use or benefit of the commission and
32 expend, without appropriation, the same or any income from the gifts,
33 grants, or endowments according to their terms.

34 **Sec. 23.** RCW 43.117.050 and 1974 ex.s. c 140 s 5 are each amended
35 to read as follows:

36 The commission shall:

1 (1) Elect one of its members to serve as (~~(chairman)~~) chair; and
2 also such other officers as necessary to form an executive committee;

3 (2) Adopt rules (~~(and regulations)~~) pursuant to chapter 34.05 RCW.
4 For rules adopted under the provisions of this chapter after July 1,
5 2004, the commission may only adopt rules derived from a specific grant
6 of legislative authority. The rules must include the specific
7 statutory section or sections from which the grant of authority is
8 derived, and may not rely solely on a section of law stating a
9 statute's intent or purpose or the general enabling provisions
10 establishing the commission;

11 (3) Meet at the call of the (~~(chairman)~~) chair or the call of a
12 majority of its members, but in no case less often than once during any
13 three month period;

14 (4) Be authorized to appoint such citizen task force as it deems
15 appropriate.

16 **Sec. 24.** RCW 43.121.050 and 1988 c 278 s 5 are each amended to
17 read as follows:

18 To carry out the purposes of this chapter, the council may:

19 (1) Contract with public or private nonprofit organizations,
20 agencies, schools, or with qualified individuals for the establishment
21 of community-based educational and service programs designed to:

22 (a) Reduce the occurrence of child abuse and neglect; and

23 (b) Provide for parenting skills which include: Consistency in
24 parenting; providing children with positive discipline that provides
25 firm order without hurting children physically or emotionally; and
26 preserving and nurturing the family unit. Programs to provide these
27 parenting skills may include the following:

28 (i) Programs to teach positive methods of disciplining children;

29 (ii) Programs to educate parents about the physical, mental, and
30 emotional development of children;

31 (iii) Programs to enhance the skills of parents in providing for
32 their children's learning and development; and

33 (iv) Learning experiences for children and parents to help prepare
34 parents and children for the experiences in school. Contracts also may
35 be awarded for research programs related to primary and secondary
36 prevention of child abuse and neglect, and to develop and strengthen
37 community child abuse and neglect prevention networks. Each contract

1 entered into by the council shall contain a provision for the
2 evaluation of services provided under the contract. Contracts for
3 services to prevent child abuse and child neglect shall be awarded as
4 demonstration projects with continuation based upon goal attainment.
5 Contracts for services to prevent child abuse and child neglect shall
6 be awarded on the basis of probability of success based in part upon
7 sound research data.

8 (2) Facilitate the exchange of information between groups concerned
9 with families and children.

10 (3) Consult with applicable state agencies, commissions, and boards
11 to help determine the probable effectiveness, fiscal soundness, and
12 need for proposed educational and service programs for the prevention
13 of child abuse and neglect.

14 (4) Establish fee schedules to provide for the recipients of
15 services to reimburse the state general fund for the cost of services
16 received.

17 (5) Adopt its own bylaws.

18 (6) Adopt rules under chapter 34.05 RCW as necessary to carry out
19 the purposes of this chapter. For rules adopted under the provisions
20 of this chapter after July 1, 2004, the council may only adopt rules
21 derived from a specific grant of legislative authority. The rules must
22 include the specific statutory section or sections from which the grant
23 of authority is derived, and may not rely solely on a section of law
24 stating a statute's intent or purpose or the general enabling
25 provisions establishing the council.

26 **Sec. 25.** RCW 43.155.040 and 1985 c 446 s 10 are each amended to
27 read as follows:

28 The board may:

29 (1) Accept from any state or federal agency, loans or grants for
30 the planning or financing of any public works project and enter into
31 agreements with any such agency concerning the loans or grants;

32 (2) Provide technical assistance to local governments;

33 (3) Accept any gifts, grants, or loans of funds, property, or
34 financial or other aid in any form from any other source on any terms
35 and conditions which are not in conflict with this chapter;

36 (4) Adopt rules under chapter 34.05 RCW as necessary to carry out
37 the purposes of this chapter. For rules adopted under the provisions

1 of this chapter after July 1, 2004, the board may only adopt rules
2 derived from a specific grant of legislative authority. The rules must
3 include the specific statutory section or sections from which the grant
4 of authority is derived, and may not rely solely on a section of law
5 stating a statute's intent or purpose or the general enabling
6 provisions establishing the board;

7 (5) Do all acts and things necessary or convenient to carry out the
8 powers expressly granted or implied under this chapter.

9 **Sec. 26.** RCW 43.160.050 and 1996 c 51 s 4 are each amended to read
10 as follows:

11 The board may:

12 (1) Adopt bylaws for the regulation of its affairs and the conduct
13 of its business.

14 (2) Adopt an official seal and alter the seal at its pleasure.

15 (3) Utilize the services of other governmental agencies.

16 (4) Accept from any federal agency loans or grants for the planning
17 or financing of any project and enter into an agreement with the agency
18 respecting the loans or grants.

19 (5) Conduct examinations and investigations and take testimony at
20 public hearings of any matter material for its information that will
21 assist in determinations related to the exercise of the board's lawful
22 powers.

23 (6) Accept any gifts, grants, or loans of funds, property, or
24 financial or other aid in any form from any other source on any terms
25 and conditions which are not in conflict with this chapter.

26 (7) Exercise all the powers of a public corporation under chapter
27 39.84 RCW.

28 (8) Invest any funds received in connection with industrial
29 development revenue bond financing not required for immediate use, as
30 the board considers appropriate, subject to any agreements with owners
31 of bonds.

32 (9) Arrange for lines of credit for industrial development revenue
33 bonds from and enter into participation agreements with any financial
34 institution.

35 (10) Issue industrial development revenue bonds in one or more
36 series for the purpose of defraying the cost of acquiring or improving

1 any industrial development facility or facilities and securing the
2 payment of the bonds as provided in this chapter.

3 (11) Enter into agreements or other transactions with and accept
4 grants and the cooperation of any governmental agency in furtherance of
5 this chapter.

6 (12) Sell, purchase, or insure loans to finance the costs of
7 industrial development facilities.

8 (13) Service, contract, and pay for the servicing of loans for
9 industrial development facilities.

10 (14) Provide financial analysis and technical assistance for
11 industrial development facilities when the board reasonably considers
12 it appropriate.

13 (15) Collect, with respect to industrial development revenue bonds,
14 reasonable interest, fees, and charges for making and servicing its
15 lease agreements, loan agreements, mortgage loans, notes, bonds,
16 commitments, and other evidences of indebtedness. Interest, fees, and
17 charges are limited to the amounts required to pay the costs of the
18 board, including operating and administrative expenses and reasonable
19 allowances for losses that may be incurred.

20 (16) Procure insurance or guarantees from any party as allowable
21 under law, including a governmental agency, against any loss in
22 connection with its lease agreements, loan agreements, mortgage loans,
23 and other assets or property.

24 (17) Adopt rules under chapter 34.05 RCW as necessary to carry out
25 the purposes of this chapter. For rules adopted under the provisions
26 of this chapter after July 1, 2004, the board may only adopt rules
27 derived from a specific grant of legislative authority. The rules must
28 include the specific statutory section or sections from which the grant
29 of authority is derived, and may not rely solely on a section of law
30 stating a statute's intent or purpose or the general enabling
31 provisions establishing the board.

32 (18) Do all acts and things necessary or convenient to carry out
33 the powers expressly granted or implied under this chapter.

34 **Sec. 27.** RCW 43.163.100 and 1990 c 53 s 6 are each amended to read
35 as follows:

36 In addition to accomplishing the economic development finance
37 programs specifically authorized in this chapter, the authority may:

- 1 (1) Maintain an office or offices;
- 2 (2) Sue and be sued in its own name, and plead and be impleaded;
- 3 (3) Engage consultants, agents, attorneys, and advisers, contract
4 with federal, state, and local governmental entities for services, and
5 hire such employees, agents and other personnel as the authority deems
6 necessary, useful, or convenient to accomplish its purposes;
- 7 (4) Make and execute all manner of contracts, agreements and
8 instruments and financing documents with public and private parties as
9 the authority deems necessary, useful, or convenient to accomplish its
10 purposes;
- 11 (5) Acquire and hold real or personal property, or any interest
12 therein, in the name of the authority, and to sell, assign, lease,
13 encumber, mortgage, or otherwise dispose of the same in such manner as
14 the authority deems necessary, useful, or convenient to accomplish its
15 purposes;
- 16 (6) Open and maintain accounts in qualified public depositories and
17 otherwise provide for the investment of any funds not required for
18 immediate disbursement, and provide for the selection of investments;
- 19 (7) Appear in its own behalf before boards, commissions,
20 departments, or agencies of federal, state, or local government;
- 21 (8) Procure such insurance in such amounts and from such insurers
22 as the authority deems desirable, including, but not limited to,
23 insurance against any loss or damage to its property or other assets,
24 public liability insurance for injuries to persons or property, and
25 directors and officers liability insurance;
- 26 (9) Apply for and accept subventions, grants, loans, advances, and
27 contributions from any source of money, property, labor, or other
28 things of value, to be held, used and applied as the authority deems
29 necessary, useful, or convenient to accomplish its purposes;
- 30 (10) Establish guidelines for the participation by eligible banking
31 organizations in programs conducted by the authority under this
32 chapter;
- 33 (11) Act as an agent, by agreement, for federal, state, or local
34 governmental entities to carry out the programs authorized in this
35 chapter;
- 36 (12) Establish, revise, and collect such fees and charges as the
37 authority deems necessary, useful, or convenient to accomplish its
38 purposes;

1 (13) Make such expenditures as are appropriate for paying the
2 administrative costs and expenses of the authority in carrying out the
3 provisions of this chapter: PROVIDED, That expenditures with respect
4 to the economic development financing programs of the authority shall
5 not be made from funds of the state;

6 (14) Establish such reserves and special funds, and controls on
7 deposits to and disbursements from them, as the authority deems
8 necessary, useful, or convenient to accomplish its purposes;

9 (15) Give assistance to public bodies by providing information,
10 guidelines, forms, and procedures for implementing their financing
11 programs;

12 (16) Prepare, publish and distribute, with or without charge, such
13 studies, reports, bulletins, and other material as the authority deems
14 necessary, useful, or convenient to accomplish its purposes;

15 (17) Delegate any of its powers and duties if consistent with the
16 purposes of this chapter;

17 (18) Adopt rules concerning its exercise of the powers authorized
18 by this chapter. For rules adopted under the provisions of this
19 chapter after July 1, 2004, the authority may only adopt rules derived
20 from a specific grant of legislative authority. The rules must include
21 the specific statutory section or sections from which the grant of
22 authority is derived, and may not rely solely on a section of law
23 stating a statute's intent or purpose or the general enabling
24 provisions establishing the authority; and

25 (19) Exercise any other power the authority deems necessary,
26 useful, or convenient to accomplish its purposes and exercise the
27 powers expressly granted in this chapter.

28 **Sec. 28.** RCW 43.180.040 and 1995 c 399 s 98 are each amended to
29 read as follows:

30 (1) There is ((~~hereby~~)) established a public body corporate and
31 politic, with perpetual corporate succession, to be known as the
32 Washington state housing finance commission. The commission is an
33 instrumentality of the state exercising essential government functions
34 and, for purposes of the code, acts as a constituted authority on
35 behalf of the state when it issues bonds pursuant to this chapter. The
36 commission is a "public body" within the meaning of RCW 39.53.010.

37 (2) The commission shall consist of the following voting members:

1 (a) The state treasurer, ex officio;
2 (b) The director of community, trade, and economic development, ex
3 officio;
4 (c) An elected local government official, ex officio, with
5 experience in local housing programs, who shall be appointed by the
6 governor with the consent of the senate;
7 (d) A representative of housing consumer interests, appointed by
8 the governor with the consent of the senate;
9 (e) A representative of labor interests, appointed by the governor,
10 with the consent of the senate, after consultation with representatives
11 of organized labor;
12 (f) A representative of low-income persons, appointed by the
13 governor with the consent of the senate;
14 (g) Five members of the public appointed by the governor, with the
15 consent of the senate, on the basis of geographic distribution and
16 their expertise in housing, real estate, finance, energy efficiency, or
17 construction, one of whom shall be appointed by the governor as chair
18 of the commission and who shall serve on the commission and as chair of
19 the commission at the pleasure of the governor.
20 The term of the persons appointed by the governor, other than the
21 chair, shall be four years from the date of their appointment, except
22 that the terms of three of the initial appointees shall be for two
23 years from the date of their appointment. The governor shall designate
24 the appointees who will serve the two-year terms. An appointee may be
25 removed by the governor for cause pursuant to RCW 43.06.070 and
26 43.06.080. The governor shall fill any vacancy in an appointed
27 position by appointment for the remainder of the unexpired term. If
28 the department of community, trade, and economic development is
29 abolished, the resulting vacancy shall be filled by a state official
30 who shall be appointed to the commission by the governor. If this
31 official occupies an office or position for which senate confirmation
32 is not required, then his or her appointment to the commission shall be
33 subject to the consent of the senate. The members of the commission
34 shall be compensated in accordance with RCW 43.03.240 and may be
35 reimbursed, solely from the funds of the commission, for expenses
36 incurred in the discharge of their duties under this chapter, subject
37 to the provisions of RCW 43.03.050 and 43.03.060. A majority of the

1 commission constitutes a quorum. Designees shall be appointed in such
2 manner and shall exercise such powers as are specified by the rules of
3 the commission.

4 (3) The commission may adopt an official seal and may select from
5 its membership a vice_chair, a secretary, and a treasurer. The
6 commission shall establish rules concerning its exercise of the powers
7 authorized by this chapter. The rules shall be adopted in conformance
8 with chapter 34.05 RCW. For rules adopted under the provisions of this
9 chapter after July 1, 2004, the commission may only adopt rules derived
10 from a specific grant of legislative authority. The rules must include
11 the specific statutory section or sections from which the grant of
12 authority is derived, and may not rely solely on a section of law
13 stating a statute's intent or purpose or the general enabling
14 provisions establishing the commission.

15 **Sec. 29.** RCW 43.200.070 and 1989 c 322 s 5 are each amended to
16 read as follows:

17 The department of ecology shall adopt such rules as are necessary
18 to carry out responsibilities under this chapter. The department of
19 ecology is authorized to adopt such rules as are necessary to carry out
20 its responsibilities under chapter 43.145 RCW. For rules adopted under
21 the provisions of this chapter after July 1, 2004, the department of
22 ecology may only adopt rules derived from a specific grant of
23 legislative authority. The rules must include the specific statutory
24 section or sections from which the grant of authority is derived, and
25 may not rely solely on a section of law stating a statute's intent or
26 purpose or the general enabling provisions establishing the department
27 of ecology.

28 **Sec. 30.** RCW 43.210.060 and 1995 c 399 s 108 are each amended to
29 read as follows:

30 The department of community, trade, and economic development or its
31 statutory successor shall adopt rules under chapter 34.05 RCW as
32 necessary to carry out the purposes of this chapter. For rules adopted
33 under the provisions of this chapter after July 1, 2004, the department
34 of community, trade, and economic development may only adopt rules
35 derived from a specific grant of legislative authority. The rules must
36 include the specific statutory section or sections from which the grant

1 of authority is derived, and may not rely solely on a section of law
2 stating a statute's intent or purpose or the general enabling
3 provisions establishing the department of community, trade, and
4 economic development.

5 **Sec. 31.** RCW 43.250.090 and 1986 c 294 s 9 are each amended to
6 read as follows:

7 The state finance committee shall administer this chapter and adopt
8 appropriate rules. For rules adopted under the provisions of this
9 chapter after July 1, 2004, the state finance committee may only adopt
10 rules derived from a specific grant of legislative authority. The
11 rules must include the specific statutory section or sections from
12 which the grant of authority is derived, and may not rely solely on a
13 section of law stating a statute's intent or purpose or the general
14 enabling provisions establishing the state finance committee.

15 **Sec. 32.** RCW 43.320.040 and 1993 c 472 s 5 are each amended to
16 read as follows:

17 The director of financial institutions may adopt any rules, under
18 chapter 34.05 RCW, necessary to implement the powers and duties of the
19 director under this chapter. For rules adopted under the provisions of
20 this chapter after July 1, 2004, the director of financial institutions
21 may only adopt rules derived from a specific grant of legislative
22 authority. The rules must include the specific statutory section or
23 sections from which the grant of authority is derived, and may not rely
24 solely on a section of law stating a statute's intent or purpose or the
25 general enabling provisions establishing the department of financial
26 institutions.

27 **Sec. 33.** RCW 43.330.040 and 1993 c 280 s 6 are each amended to
28 read as follows:

29 (1) The director shall supervise and administer the activities of
30 the department and shall advise the governor and the legislature with
31 respect to community and economic development matters affecting the
32 state.

33 (2) In addition to other powers and duties granted to the director,
34 the director shall have the following powers and duties:

1 (a) Enter into contracts on behalf of the state to carry out the
2 purposes of this chapter;

3 (b) Act for the state in the initiation of or participation in any
4 multigovernmental program relative to the purpose of this chapter;

5 (c) Accept and expend gifts and grants, whether such grants be of
6 federal or other funds;

7 (d) Appoint such deputy directors, assistant directors, and up to
8 seven special assistants as may be needed to administer the department.
9 These employees are exempt from the provisions of chapter 41.06 RCW;

10 (e) Prepare and submit budgets for the department for executive and
11 legislative action;

12 (f) Submit recommendations for legislative actions as are deemed
13 necessary to further the purposes of this chapter;

14 (g) Adopt rules in accordance with chapter 34.05 RCW and perform
15 all other functions necessary and proper to carry out the purposes of
16 this chapter. For rules adopted under the provisions of this chapter
17 after July 1, 2004, the director may only adopt rules derived from a
18 specific grant of legislative authority. The rules must include the
19 specific statutory section or sections from which the grant of
20 authority is derived, and may not rely solely on a section of law
21 stating a statute's intent or purpose or the general enabling
22 provisions establishing the department;

23 (h) Delegate powers, duties, and functions as the director deems
24 necessary for efficient administration, but the director shall be
25 responsible for the official acts of the officers and employees of the
26 department; and

27 (i) Perform other duties as are necessary and consistent with law.

28 (3) When federal or other funds are received by the department,
29 they shall be promptly transferred to the state treasurer and
30 thereafter expended only upon the approval of the director.

31 (4) The director may request information and assistance from all
32 other agencies, departments, and officials of the state, and may
33 reimburse such agencies, departments, or officials if such a request
34 imposes any additional expenses upon any such agency, department, or
35 official.

36 (5) The director shall, in carrying out the responsibilities of
37 office, consult with governmental officials, private groups, and
38 individuals and with officials of other states. All state agencies and

1 their officials and the officials of any political subdivision of the
2 state shall cooperate with and give such assistance to the department,
3 including the submission of requested information, to allow the
4 department to carry out its purposes under this chapter.

5 (6) The director may establish additional advisory or coordinating
6 groups with the legislature, within state government, with state and
7 other governmental units, with the private sector and nonprofit
8 entities or in specialized subject areas as may be necessary to carry
9 out the purposes of this chapter.

10 (7) The internal affairs of the department shall be under the
11 control of the director in order that the director may manage the
12 department in a flexible and intelligent manner as dictated by changing
13 contemporary circumstances. Unless specifically limited by law, the
14 director shall have complete charge and supervisory powers over the
15 department. The director may create such administrative structures as
16 the director deems appropriate, except as otherwise specified by law,
17 and the director may employ such personnel as may be necessary in
18 accordance with chapter 41.06 RCW, except as otherwise provided by law.

19 **Sec. 34.** RCW 47.01.071 and 1981 c 59 s 2 are each amended to read
20 as follows:

21 The transportation commission shall have the following functions,
22 powers, and duties:

23 (1) To propose policies to be adopted by the legislature designed
24 to (~~assure~~) ensure the development and maintenance of a comprehensive
25 and balanced statewide transportation system which will meet the needs
26 of the people of this state for safe and efficient transportation
27 services. Wherever appropriate the policies shall provide for the use
28 of integrated, intermodal transportation systems to implement the
29 social, economic, and environmental policies, goals, and objectives of
30 the people of the state, and especially to conserve nonrenewable
31 natural resources including land and energy. To this end the
32 commission shall:

33 (a) Develop transportation policies which are based on the
34 policies, goals, and objectives expressed and inherent in existing
35 state laws;

36 (b) Inventory the adopted policies, goals, and objectives of the
37 local and area-wide governmental bodies of the state and define the

1 role of the state, regional, and local governments in determining
2 transportation policies, in transportation planning, and in
3 implementing the state transportation plan;

4 (c) Propose a transportation policy for the state, and after notice
5 and public hearings, submit the proposal to the legislative
6 transportation committee and the senate and house transportation
7 committees by January 1, 1978, for consideration in the next
8 legislative session;

9 (d) Establish a procedure for review and revision of the state
10 transportation policy and for submission of proposed changes to the
11 legislature;

12 (e) To integrate the statewide transportation plan with the needs
13 of the elderly and handicapped, and to coordinate federal and state
14 programs directed at assisting local governments to answer such needs;

15 (2) To establish the policy of the department to be followed by the
16 secretary on each of the following items:

17 (a) To provide for the effective coordination of state
18 transportation planning with national transportation policy, state and
19 local land use policies, and local and regional transportation plans
20 and programs;

21 (b) To provide for public involvement in transportation designed to
22 elicit the public's views both with respect to adequate transportation
23 services and appropriate means of minimizing adverse social, economic,
24 environmental, and energy impact of transportation programs;

25 (c) To provide for the administration of grants in aid and other
26 financial assistance to counties and municipal corporations for
27 transportation purposes;

28 (d) To provide for the management, sale, and lease of property or
29 property rights owned by the department which are not required for
30 transportation purposes;

31 (3) To direct the secretary to prepare and submit to the commission
32 a comprehensive and balanced statewide transportation plan which shall
33 be based on the transportation policy adopted by the legislature and
34 applicable state and federal laws. After public notice and hearings,
35 the commission shall adopt the plan and submit it to the legislative
36 transportation committee and to the house and senate standing
37 committees on transportation before January 1, 1980, for consideration
38 in the 1980 regular legislative session. The plan shall be reviewed

1 and revised prior to each regular session of the legislature during an
2 even-numbered year thereafter. A preliminary plan shall be submitted
3 to such committees by January 1, 1979.

4 The plan shall take into account federal law and regulations
5 relating to the planning, construction, and operation of transportation
6 facilities;

7 (4) To propose to the governor and the legislature prior to the
8 convening of each regular session held in an odd-numbered year a
9 recommended budget for the operations of the commission as required by
10 RCW 47.01.061;

11 (5) To approve and propose to the governor and to the legislature
12 prior to the convening of each regular session during an odd-numbered
13 year a recommended budget for the operation of the department and for
14 carrying out the program of the department for the ensuing biennium.
15 The proposed budget shall separately state the appropriations to be
16 made from the motor vehicle fund for highway purposes in accordance
17 with constitutional limitations and appropriations and expenditures to
18 be made from the general fund, or accounts thereof, and other available
19 sources for other operations and programs of the department;

20 (6) To review and authorize all departmental requests for
21 legislation;

22 (7) To approve the issuance and sale of all bonds authorized by the
23 legislature for capital construction of state highways, toll
24 facilities, Columbia Basin county roads (for which reimbursement to the
25 motor vehicle fund has been provided), urban arterial projects, and
26 aviation facilities;

27 (8) To adopt ((such)) rules((, regulations,)) and policy directives
28 as may be necessary to carry out reasonably and properly those
29 functions expressly vested in the commission by statute. For rules
30 adopted under the provisions of this chapter after July 1, 2004, the
31 commission may only adopt rules derived from a specific grant of
32 legislative authority. The rules must include the specific statutory
33 section or sections from which the grant of authority is derived, and
34 may not rely solely on a section of law stating a statute's intent or
35 purpose or the general enabling provisions establishing the department;

36 (9) To delegate any of its powers to the secretary of
37 transportation whenever it deems it desirable for the efficient

1 administration of the department and consistent with the purposes of
2 this title;

3 (10) To exercise such other specific powers and duties as may be
4 vested in the transportation commission by this or any other provision
5 of law.

6 **Sec. 35.** RCW 48.02.060 and 1947 c 79 s .02.06 are each amended to
7 read as follows:

8 (1) The commissioner shall have the authority expressly conferred
9 upon him or her by or reasonably implied from the provisions of this
10 code.

11 (2) The commissioner shall execute his or her duties and shall
12 enforce the provisions of this code.

13 (3) The commissioner may:

14 (a) ~~((Make))~~ Adopt reasonable rules ~~((and regulations))~~ for
15 effectuating any provision of this code, except those relating to his
16 or her election, qualifications, or compensation. No ~~((such))~~ rules
17 ~~((and regulations shall be))~~ are effective prior to their being filed
18 for public inspection in the commissioner's office. For rules adopted
19 under the provisions of this chapter after July 1, 2004, the
20 commissioner may only adopt rules derived from a specific grant of
21 legislative authority. The rules must include the specific statutory
22 section or sections from which the grant of authority is derived, and
23 may not rely solely on a section of law stating a statute's intent or
24 purpose or the general enabling provisions establishing the office of
25 the insurance commissioner.

26 (b) Conduct investigations to determine whether any person has
27 violated any provision of this code.

28 (c) Conduct examinations, investigations, hearings, in addition to
29 those specifically provided for, useful and proper for the efficient
30 administration of any provision of this code.

31 **Sec. 36.** RCW 48.44.050 and 1947 c 268 s 5 are each amended to read
32 as follows:

33 The insurance commissioner shall ~~((make))~~ adopt reasonable
34 ~~((regulations))~~ rules in aid of the administration of this chapter
35 which may include, but shall not be limited to ~~((regulations))~~ rules
36 concerning the maintenance of adequate insurance, bonds, or cash

1 deposits, information required of registrants, and methods of
2 expediting speedy and fair payments to claimants. For rules adopted
3 under the provisions of this chapter after July 1, 2004, the insurance
4 commissioner may only adopt rules derived from a specific grant of
5 legislative authority. The rules must include the specific statutory
6 section or sections from which the grant of authority is derived, and
7 may not rely solely on a section of law stating a statute's intent or
8 purpose or the general enabling provisions establishing the office of
9 the insurance commissioner.

10 **Sec. 37.** RCW 48.46.200 and 1975 1st ex.s. c 290 s 21 are each
11 amended to read as follows:

12 The commissioner may, in accordance with the provisions of the
13 administrative procedure act, chapter 34.05 RCW, (~~promulgate~~) adopt
14 rules ((and regulations)) as necessary or proper to carry out the
15 provisions of this chapter. For rules adopted under the provisions of
16 this chapter after July 1, 2004, the commissioner may only adopt rules
17 derived from a specific grant of legislative authority. The rules must
18 include the specific statutory section or sections from which the grant
19 of authority is derived, and may not rely solely on a section of law
20 stating a statute's intent or purpose or the general enabling
21 provisions establishing the office of the insurance commissioner.
22 Nothing in this chapter shall be construed to prohibit the commissioner
23 from requiring changes in procedures previously approved by him.

24 **Sec. 38.** RCW 66.08.0501 and 1997 c 321 s 56 are each amended to
25 read as follows:

26 The liquor control board may adopt appropriate rules pursuant to
27 chapter 34.05 RCW for the purpose of carrying out the provisions of
28 chapter 321, Laws of 1997. For rules adopted under the provisions of
29 this chapter after July 1, 2004, the liquor control board may only
30 adopt rules derived from a specific grant of legislative authority.
31 The rules must include the specific statutory section or sections from
32 which the grant of authority is derived, and may not rely solely on a
33 section of law stating a statute's intent or purpose or the general
34 enabling provisions establishing the liquor control board.

1 **Sec. 39.** RCW 77.04.055 and 2000 c 107 s 204 are each amended to
2 read as follows:

3 (1) In establishing policies to preserve, protect, and perpetuate
4 wildlife, fish, and wildlife and fish habitat, the commission shall
5 meet annually with the governor to:

6 (a) Review and prescribe basic goals and objectives related to
7 those policies; and

8 (b) Review the performance of the department in implementing fish
9 and wildlife policies.

10 The commission shall maximize fishing, hunting, and outdoor
11 recreational opportunities compatible with healthy and diverse fish and
12 wildlife populations.

13 (2) The commission shall establish hunting, trapping, and fishing
14 seasons and prescribe the time, place, manner, and methods that may be
15 used to harvest or enjoy game fish and wildlife.

16 (3) The commission shall establish provisions regulating food fish
17 and shellfish as provided in RCW 77.12.047.

18 (4) The commission shall have final approval authority for tribal,
19 interstate, international, and any other department agreements relating
20 to fish and wildlife.

21 (5) The commission shall adopt rules to implement the state's fish
22 and wildlife laws. For rules adopted under the provisions of this
23 chapter after July 1, 2004, the commission may only adopt rules derived
24 from a specific grant of legislative authority. The rules must include
25 the specific statutory section or sections from which the grant of
26 authority is derived, and may not rely solely on a section of law
27 stating a statute's intent or purpose or the general enabling
28 provisions establishing the commission or the department.

29 (6) The commission shall have final approval authority for the
30 department's budget proposals.

31 (7) The commission shall select its own staff and shall appoint the
32 director of the department. The director and commission staff shall
33 serve at the pleasure of the commission.

34 **Sec. 40.** RCW 80.01.040 and 1985 c 450 s 10 are each amended to
35 read as follows:

36 The utilities and transportation commission shall:

1 (1) Exercise all the powers and perform all the duties prescribed
2 therefor by this title and by Title 81 RCW, or by any other law.

3 (2) Regulate in the public interest, as provided by the public
4 service laws, the rates, services, facilities, and practices of all
5 persons engaging in the transportation by whatever means of persons or
6 property within this state for compensation, and related activities;
7 including, but not limited to, air transportation companies, auto
8 transportation companies, express companies, freight and freight line
9 companies, motor freight companies, motor transportation agents,
10 private car companies, railway companies, sleeping car companies,
11 steamboat companies, street railway companies, toll bridge companies,
12 storage warehousemen, and wharfingers and warehousemen.

13 (3) Regulate in the public interest, as provided by the public
14 service laws, the rates, services, facilities, and practices of all
15 persons engaging within this state in the business of supplying any
16 utility service or commodity to the public for compensation, and
17 related activities; including, but not limited to, electrical
18 companies, gas companies, irrigation companies, telecommunications
19 companies, and water companies.

20 (4) (~~Make such~~) Adopt rules (~~and regulations~~) as may be
21 necessary to carry out its other powers and duties. For rules adopted
22 under the provisions of this chapter after July 1, 2004, the commission
23 may only adopt rules derived from a specific grant of legislative
24 authority. The rules must include the specific statutory section or
25 sections from which the grant of authority is derived, and may not rely
26 solely on a section of law stating a statute's intent or purpose or the
27 general enabling provisions establishing the commission.

28 NEW SECTION. Sec. 41. This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and takes effect
31 immediately.

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