
SENATE BILL 5186

State of Washington

59th Legislature

2005 Regular Session

By Senators Franklin, Kohl-Welles, Keiser, Rockefeller, Doumit, Kline, Regala, McAuliffe, Poulsen, Fraser and Jacobsen

Read first time 01/17/2005. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to increasing the physical activity of Washington
2 citizens; amending RCW 70.38.015, 36.70A.070, 36.81.121, 43.17.250,
3 28A.300.040, and 28A.320.015; reenacting and amending RCW 35.77.010 and
4 79A.05.030; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that regular physical
7 activity is essential to maintaining good health and reducing the rates
8 of chronic disease. The legislature further finds that providing
9 opportunities for walking, biking, and other regular forms of exercise
10 is best accomplished through collaboration between the private sector
11 and local, state, and institutional policymakers. This collaboration
12 can build communities where people find it easy and safe to be
13 physically active. It is the intent of the legislature to promote
14 policy and planning efforts that increase access to inexpensive or free
15 opportunities for regular exercise in all communities around the state.

16 **Sec. 2.** RCW 70.38.015 and 1989 1st ex.s. c 9 s 601 are each
17 amended to read as follows:

18 It is declared to be the public policy of this state:

1 (1) That health planning to promote, maintain, and assure the
2 health of all citizens in the state, to provide accessible health
3 services, health manpower, health facilities, and other resources while
4 controlling excessive increases in costs, and to recognize prevention
5 as a high priority in health programs, is essential to the health,
6 safety, and welfare of the people of the state. Health planning should
7 be responsive to changing health and social needs and conditions.
8 Involvement in health planning from both consumers and providers
9 throughout the state should be encouraged;

10 (2) That the development of health services and resources,
11 including the construction, modernization, and conversion of health
12 facilities, should be accomplished in a planned, orderly fashion,
13 consistent with identified priorities and without unnecessary
14 duplication or fragmentation;

15 (3) That the development and maintenance of adequate health care
16 information, statistics and projections of need for health facilities
17 and services is essential to effective health planning and resources
18 development;

19 (4) That the development of nonregulatory approaches to health care
20 cost containment should be considered, including the strengthening of
21 price competition; ((and))

22 (5) That health planning should be concerned with public health and
23 health care financing, access, and quality, recognizing their close
24 interrelationship and emphasizing cost control of health services,
25 including cost-effectiveness and cost-benefit analysis; and

26 (6) That health planning should be concerned with building and
27 supporting healthy environments that make it easier for Washington
28 residents to be physically active.

29 **Sec. 3.** RCW 36.70A.070 and 2004 c 196 s 1 are each amended to read
30 as follows:

31 The comprehensive plan of a county or city that is required or
32 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
33 and descriptive text covering objectives, principles, and standards
34 used to develop the comprehensive plan. The plan shall be an
35 internally consistent document and all elements shall be consistent
36 with the future land use map. A comprehensive plan shall be adopted
37 and amended with public participation as provided in RCW 36.70A.140.

1 Each comprehensive plan shall include a plan, scheme, or design for
2 each of the following:

3 (1) A land use element designating the proposed general
4 distribution and general location and extent of the uses of land, where
5 appropriate, for agriculture, timber production, housing, commerce,
6 industry, recreation, open spaces, general aviation airports, public
7 utilities, public facilities, and other land uses. The land use
8 element shall include population densities, building intensities, and
9 estimates of future population growth. The land use element shall
10 provide for protection of the quality and quantity of ground water used
11 for public water supplies. Wherever possible, the land use element
12 shall utilize urban planning approaches that promote physical activity.
13 Where applicable, the land use element shall review drainage, flooding,
14 and storm water run-off in the area and nearby jurisdictions and
15 provide guidance for corrective actions to mitigate or cleanse those
16 discharges that pollute waters of the state, including Puget Sound or
17 waters entering Puget Sound.

18 (2) A housing element ensuring the vitality and character of
19 established residential neighborhoods that: (a) Includes an inventory
20 and analysis of existing and projected housing needs that identifies
21 the number of housing units necessary to manage projected growth; (b)
22 includes a statement of goals, policies, objectives, and mandatory
23 provisions for the preservation, improvement, and development of
24 housing, including single-family residences; (c) identifies sufficient
25 land for housing, including, but not limited to, government-assisted
26 housing, housing for low-income families, manufactured housing,
27 multifamily housing, and group homes and foster care facilities; and
28 (d) makes adequate provisions for existing and projected needs of all
29 economic segments of the community.

30 (3) A capital facilities plan element consisting of: (a) An
31 inventory of existing capital facilities owned by public entities,
32 showing the locations and capacities of the capital facilities; (b) a
33 forecast of the future needs for such capital facilities; (c) the
34 proposed locations and capacities of expanded or new capital
35 facilities; (d) at least a six-year plan that will finance such capital
36 facilities within projected funding capacities and clearly identifies
37 sources of public money for such purposes; and (e) a requirement to
38 reassess the land use element if probable funding falls short of

1 meeting existing needs and to ensure that the land use element, capital
2 facilities plan element, and financing plan within the capital
3 facilities plan element are coordinated and consistent. Park and
4 recreation facilities shall be included in the capital facilities plan
5 element.

6 (4) A utilities element consisting of the general location,
7 proposed location, and capacity of all existing and proposed utilities,
8 including, but not limited to, electrical lines, telecommunication
9 lines, and natural gas lines.

10 (5) Rural element. Counties shall include a rural element
11 including lands that are not designated for urban growth, agriculture,
12 forest, or mineral resources. The following provisions shall apply to
13 the rural element:

14 (a) Growth management act goals and local circumstances. Because
15 circumstances vary from county to county, in establishing patterns of
16 rural densities and uses, a county may consider local circumstances,
17 but shall develop a written record explaining how the rural element
18 harmonizes the planning goals in RCW 36.70A.020 and meets the
19 requirements of this chapter.

20 (b) Rural development. The rural element shall permit rural
21 development, forestry, and agriculture in rural areas. The rural
22 element shall provide for a variety of rural densities, uses, essential
23 public facilities, and rural governmental services needed to serve the
24 permitted densities and uses. To achieve a variety of rural densities
25 and uses, counties may provide for clustering, density transfer, design
26 guidelines, conservation easements, and other innovative techniques
27 that will accommodate appropriate rural densities and uses that are not
28 characterized by urban growth and that are consistent with rural
29 character.

30 (c) Measures governing rural development. The rural element shall
31 include measures that apply to rural development and protect the rural
32 character of the area, as established by the county, by:

- 33 (i) Containing or otherwise controlling rural development;
- 34 (ii) Assuring visual compatibility of rural development with the
35 surrounding rural area;
- 36 (iii) Reducing the inappropriate conversion of undeveloped land
37 into sprawling, low-density development in the rural area;

1 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and
2 surface water and ground water resources; and

3 (v) Protecting against conflicts with the use of agricultural,
4 forest, and mineral resource lands designated under RCW 36.70A.170.

5 (d) Limited areas of more intensive rural development. Subject to
6 the requirements of this subsection and except as otherwise
7 specifically provided in this subsection (5)(d), the rural element may
8 allow for limited areas of more intensive rural development, including
9 necessary public facilities and public services to serve the limited
10 area as follows:

11 (i) Rural development consisting of the infill, development, or
12 redevelopment of existing commercial, industrial, residential, or
13 mixed-use areas, whether characterized as shoreline development,
14 villages, hamlets, rural activity centers, or crossroads developments.

15 (A) A commercial, industrial, residential, shoreline, or mixed-use
16 area shall be subject to the requirements of (d)(iv) of this
17 subsection, but shall not be subject to the requirements of (c)(ii) and
18 (iii) of this subsection.

19 (B) Any development or redevelopment other than an industrial area
20 or an industrial use within a mixed-use area or an industrial area
21 under this subsection (5)(d)(i) must be principally designed to serve
22 the existing and projected rural population.

23 (C) Any development or redevelopment in terms of building size,
24 scale, use, or intensity shall be consistent with the character of the
25 existing areas. Development and redevelopment may include changes in
26 use from vacant land or a previously existing use so long as the new
27 use conforms to the requirements of this subsection (5);

28 (ii) The intensification of development on lots containing, or new
29 development of, small-scale recreational or tourist uses, including
30 commercial facilities to serve those recreational or tourist uses, that
31 rely on a rural location and setting, but that do not include new
32 residential development. A small-scale recreation or tourist use is
33 not required to be principally designed to serve the existing and
34 projected rural population. Public services and public facilities
35 shall be limited to those necessary to serve the recreation or tourist
36 use and shall be provided in a manner that does not permit low-density
37 sprawl;

1 (iii) The intensification of development on lots containing
2 isolated nonresidential uses or new development of isolated cottage
3 industries and isolated small-scale businesses that are not principally
4 designed to serve the existing and projected rural population and
5 nonresidential uses, but do provide job opportunities for rural
6 residents. Rural counties may allow the expansion of small-scale
7 businesses as long as those small-scale businesses conform with the
8 rural character of the area as defined by the local government
9 according to RCW 36.70A.030(14). Rural counties may also allow new
10 small-scale businesses to utilize a site previously occupied by an
11 existing business as long as the new small-scale business conforms to
12 the rural character of the area as defined by the local government
13 according to RCW 36.70A.030(14). Public services and public facilities
14 shall be limited to those necessary to serve the isolated
15 nonresidential use and shall be provided in a manner that does not
16 permit low-density sprawl;

17 (iv) A county shall adopt measures to minimize and contain the
18 existing areas or uses of more intensive rural development, as
19 appropriate, authorized under this subsection. Lands included in such
20 existing areas or uses shall not extend beyond the logical outer
21 boundary of the existing area or use, thereby allowing a new pattern of
22 low-density sprawl. Existing areas are those that are clearly
23 identifiable and contained and where there is a logical boundary
24 delineated predominately by the built environment, but that may also
25 include undeveloped lands if limited as provided in this subsection.
26 The county shall establish the logical outer boundary of an area of
27 more intensive rural development. In establishing the logical outer
28 boundary the county shall address (A) the need to preserve the
29 character of existing natural neighborhoods and communities, (B)
30 physical boundaries such as bodies of water, streets and highways, and
31 land forms and contours, (C) the prevention of abnormally irregular
32 boundaries, and (D) the ability to provide public facilities and public
33 services in a manner that does not permit low-density sprawl;

34 (v) For purposes of (d) of this subsection, an existing area or
35 existing use is one that was in existence:

36 (A) On July 1, 1990, in a county that was initially required to
37 plan under all of the provisions of this chapter;

1 (B) On the date the county adopted a resolution under RCW
2 36.70A.040(2), in a county that is planning under all of the provisions
3 of this chapter under RCW 36.70A.040(2); or

4 (C) On the date the office of financial management certifies the
5 county's population as provided in RCW 36.70A.040(5), in a county that
6 is planning under all of the provisions of this chapter pursuant to RCW
7 36.70A.040(5).

8 (e) Exception. This subsection shall not be interpreted to permit
9 in the rural area a major industrial development or a master planned
10 resort unless otherwise specifically permitted under RCW 36.70A.360 and
11 36.70A.365.

12 (6) A transportation element that implements, and is consistent
13 with, the land use element and incorporates policy and infrastructure
14 changes that promote nonmotorized transit.

15 (a) The transportation element shall include the following
16 subelements:

17 (i) Land use assumptions used in estimating travel;

18 (ii) Estimated traffic impacts to state-owned transportation
19 facilities resulting from land use assumptions to assist the department
20 of transportation in monitoring the performance of state facilities, to
21 plan improvements for the facilities, and to assess the impact of land-
22 use decisions on state-owned transportation facilities;

23 (iii) Facilities and services needs, including:

24 (A) An inventory of air, water, and ground transportation
25 facilities and services, including transit alignments and general
26 aviation airport facilities, to define existing capital facilities and
27 travel levels as a basis for future planning. This inventory must
28 include state-owned transportation facilities within the city or
29 county's jurisdictional boundaries;

30 (B) Level of service standards for all locally owned arterials and
31 transit routes to serve as a gauge to judge performance of the system.
32 These standards should be regionally coordinated;

33 (C) For state-owned transportation facilities, level of service
34 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,
35 to gauge the performance of the system. The purposes of reflecting
36 level of service standards for state highways in the local
37 comprehensive plan are to monitor the performance of the system, to
38 evaluate improvement strategies, and to facilitate coordination between

1 the county's or city's six-year street, road, or transit program and
2 the department of transportation's six-year investment program. The
3 concurrency requirements of (b) of this subsection do not apply to
4 transportation facilities and services of statewide significance except
5 for counties consisting of islands whose only connection to the
6 mainland are state highways or ferry routes. In these island counties,
7 state highways and ferry route capacity must be a factor in meeting the
8 concurrency requirements in (b) of this subsection;

9 (D) Specific actions and requirements for bringing into compliance
10 locally owned transportation facilities or services that are below an
11 established level of service standard;

12 (E) Forecasts of traffic for at least ten years based on the
13 adopted land use plan to provide information on the location, timing,
14 and capacity needs of future growth;

15 (F) Identification of state and local system needs to meet current
16 and future demands. Identified needs on state-owned transportation
17 facilities must be consistent with the statewide multimodal
18 transportation plan required under chapter 47.06 RCW;

19 (iv) Finance, including:

20 (A) An analysis of funding capability to judge needs against
21 probable funding resources;

22 (B) A multiyear financing plan based on the needs identified in the
23 comprehensive plan, the appropriate parts of which shall serve as the
24 basis for the six-year street, road, or transit program required by RCW
25 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795
26 for public transportation systems. The multiyear financing plan should
27 be coordinated with the six-year improvement program developed by the
28 department of transportation as required by RCW 47.05.030;

29 (C) If probable funding falls short of meeting identified needs, a
30 discussion of how additional funding will be raised, or how land use
31 assumptions will be reassessed to ensure that level of service
32 standards will be met;

33 (v) Intergovernmental coordination efforts, including an assessment
34 of the impacts of the transportation plan and land use assumptions on
35 the transportation systems of adjacent jurisdictions;

36 (vi) Demand-management strategies.

37 (b) After adoption of the comprehensive plan by jurisdictions
38 required to plan or who choose to plan under RCW 36.70A.040, local

1 jurisdictions must adopt and enforce ordinances which prohibit
2 development approval if the development causes the level of service on
3 a locally owned transportation facility to decline below the standards
4 adopted in the transportation element of the comprehensive plan, unless
5 transportation improvements or strategies to accommodate the impacts of
6 development are made concurrent with the development. These strategies
7 may include increased public transportation service, ride sharing
8 programs, demand management, and other transportation systems
9 management strategies. For the purposes of this subsection (6)
10 "concurrent with the development" shall mean that improvements or
11 strategies are in place at the time of development, or that a financial
12 commitment is in place to complete the improvements or strategies
13 within six years.

14 (c) The transportation element described in this subsection (6),
15 and the six-year plans required by RCW 35.77.010 for cities, RCW
16 36.81.121 for counties, RCW 35.58.2795 for public transportation
17 systems, and RCW 47.05.030 for the state, must be consistent.

18 (7) An economic development element establishing local goals,
19 policies, objectives, and provisions for economic growth and vitality
20 and a high quality of life. The element shall include: (a) A summary
21 of the local economy such as population, employment, payroll, sectors,
22 businesses, sales, and other information as appropriate; (b) a summary
23 of the strengths and weaknesses of the local economy defined as the
24 commercial and industrial sectors and supporting factors such as land
25 use, transportation, utilities, education, work force, housing, and
26 natural/cultural resources; and (c) an identification of policies,
27 programs, and projects to foster economic growth and development and to
28 address future needs. A city that has chosen to be a residential
29 community is exempt from the economic development element requirement
30 of this subsection.

31 (8) A park and recreation element that implements, and is
32 consistent with, the capital facilities plan element as it relates to
33 park and recreation facilities. The element shall include: (a)
34 Estimates of park and recreation demand for at least a ten-year period;
35 (b) an evaluation of facilities and service needs; and (c) an
36 evaluation of intergovernmental coordination opportunities to provide
37 regional approaches for meeting park and recreational demand.

1 (9) It is the intent that new or amended elements required after
2 January 1, 2002, be adopted concurrent with the scheduled update
3 provided in RCW 36.70A.130. Requirements to incorporate any such new
4 or amended elements shall be null and void until funds sufficient to
5 cover applicable local government costs are appropriated and
6 distributed by the state at least two years before local government
7 must update comprehensive plans as required in RCW 36.70A.130.

8 **Sec. 4.** RCW 36.81.121 and 1997 c 188 s 1 are each amended to read
9 as follows:

10 (1) At any time before adoption of the budget, the legislative
11 authority of each county, after one or more public hearings thereon,
12 shall prepare and adopt a comprehensive transportation program for the
13 ensuing six calendar years. If the county has adopted a comprehensive
14 plan pursuant to chapter 35.63 or 36.70 RCW, the inherent authority of
15 a charter county derived from its charter, or chapter 36.70A RCW, the
16 program shall be consistent with this comprehensive plan.

17 The program shall include proposed road and bridge construction
18 work and other transportation facilities and programs deemed
19 appropriate, and for those counties operating ferries shall also
20 include a separate section showing proposed capital expenditures for
21 ferries, docks, and related facilities. The program shall incorporate
22 transportation policy and infrastructure changes that promote
23 nonmotorized transit. Copies of the program shall be filed with the
24 county road administration board and with the state secretary of
25 transportation not more than thirty days after its adoption by the
26 legislative authority. The purpose of this section is to assure that
27 each county shall perpetually have available advanced plans looking to
28 the future for not less than six years as a guide in carrying out a
29 coordinated transportation program. The program may at any time be
30 revised by a majority of the legislative authority but only after a
31 public hearing thereon.

32 (2) Each six-year transportation program forwarded to the secretary
33 in compliance with subsection (1) of this section shall contain
34 information as to how a county will expend its moneys, including funds
35 made available pursuant to chapter 47.30 RCW, for nonmotorized
36 transportation purposes.

1 (3) Each six-year transportation program forwarded to the secretary
2 in compliance with subsection (1) of this section shall contain
3 information as to how a county shall act to preserve railroad right-of-
4 way in the event the railroad ceases to operate in the county's
5 jurisdiction.

6 (4) The six-year plan for each county shall specifically set forth
7 those projects and programs of regional significance for inclusion in
8 the transportation improvement program within that region.

9 **Sec. 5.** RCW 35.77.010 and 1994 c 179 s 1 and 1994 c 158 s 7 are
10 each reenacted and amended to read as follows:

11 (1) The legislative body of each city and town, pursuant to one or
12 more public hearings thereon, shall prepare and adopt a comprehensive
13 transportation program for the ensuing six calendar years. If the city
14 or town has adopted a comprehensive plan pursuant to chapter 35.63 or
15 35A.63 RCW, the inherent authority of a first class city derived from
16 its charter, or chapter 36.70A RCW, the program shall be consistent
17 with this comprehensive plan. The program shall incorporate
18 transportation policy and infrastructure changes that promote
19 nonmotorized transit.

20 The program shall be filed with the secretary of transportation not
21 more than thirty days after its adoption. Annually thereafter the
22 legislative body of each city and town shall review the work
23 accomplished under the program and determine current city
24 transportation needs. Based on these findings each such legislative
25 body shall prepare and after public hearings thereon adopt a revised
26 and extended comprehensive transportation program before July 1st of
27 each year, and each one-year extension and revision shall be filed with
28 the secretary of transportation not more than thirty days after its
29 adoption. The purpose of this section is to assure that each city and
30 town shall perpetually have available advanced plans looking to the
31 future for not less than six years as a guide in carrying out a
32 coordinated transportation program. The program may at any time be
33 revised by a majority of the legislative body of a city or town, but
34 only after a public hearing.

35 The six-year plan for each city or town shall specifically set
36 forth those projects and programs of regional significance for
37 inclusion in the transportation improvement program within that region.

1 (2) Each six-year transportation program forwarded to the secretary
2 in compliance with subsection (1) of this section shall contain
3 information as to how a city or town will expend its moneys, including
4 funds made available pursuant to chapter 47.30 RCW, for nonmotorized
5 transportation purposes.

6 (3) Each six-year transportation program forwarded to the secretary
7 in compliance with subsection (1) of this section shall contain
8 information as to how a city or town shall act to preserve railroad
9 right-of-way in the event the railroad ceases to operate in the city's
10 or town's jurisdiction.

11 **Sec. 6.** RCW 43.17.250 and 1999 c 164 s 601 are each amended to
12 read as follows:

13 (1) Whenever a state agency is considering awarding grants or loans
14 for a county, city, or town planning under RCW 36.70A.040 to finance
15 public facilities, it shall consider whether the county, city, or town
16 requesting the grant or loan has adopted a comprehensive plan and
17 development regulations as required by RCW 36.70A.040.

18 (2) When reviewing competing requests from counties, cities, or
19 towns planning under RCW 36.70A.040, a state agency considering
20 awarding grants or loans for public facilities shall accord additional
21 preference to those counties, cities, or towns that have adopted a
22 comprehensive plan and development regulations as required by RCW
23 36.70A.040. For the purposes of the preference accorded in this
24 section, a county, city, or town planning under RCW 36.70A.040 is
25 deemed to have satisfied the requirements for adopting a comprehensive
26 plan and development regulations specified in RCW 36.70A.040 if the
27 county, city, or town:

28 (a) Adopts or has adopted a comprehensive plan and development
29 regulations within the time periods specified in RCW 36.70A.040;

30 (b) Adopts or has adopted a comprehensive plan and development
31 regulations before submitting a request for a grant or loan if the
32 county, city, or town failed to adopt a comprehensive plan and/or
33 development regulations within the time periods specified in RCW
34 36.70A.040; or

35 (c) Demonstrates substantial progress toward adopting a
36 comprehensive plan or development regulations within the time periods
37 specified in RCW 36.70A.040. A county, city, or town that is more than

1 six months out of compliance with the time periods specified in RCW
2 36.70A.040 shall not be deemed to demonstrate substantial progress for
3 purposes of this section.

4 (3) The preference specified in subsection (2) of this section
5 applies only to competing requests for grants or loans from counties,
6 cities, or towns planning under RCW 36.70A.040. A request from a
7 county, city, or town planning under RCW 36.70A.040 shall be accorded
8 no additional preference based on subsection (2) of this section over
9 a request from a county, city, or town not planning under RCW
10 36.70A.040.

11 (4) When reviewing competing requests from counties, cities, or
12 towns planning under RCW 36.70A.040, a state agency considering
13 awarding grants or loans for public facilities shall also accord
14 additional preference to those counties, cities, or towns that have:

15 (a) Developed model policies to increase access to public
16 facilities for physical activity;

17 (b) Utilized urban planning approaches that promote physical
18 activity;

19 (c) Incorporated transportation policy and infrastructure changes
20 to promote nonmotorized transit; and

21 (d) Enhanced safety and perceived safety to improve community
22 access to walking and biking.

23 (5) Whenever a state agency is considering awarding grants or loans
24 for public facilities to a special district requesting funding for a
25 proposed facility located in a county, city, or town planning under RCW
26 36.70A.040, it shall consider whether the county, city, or town in
27 whose planning jurisdiction the proposed facility is located has
28 adopted a comprehensive plan and development regulations as required by
29 RCW 36.70A.040 and shall apply the preference specified in subsection
30 (2) of this section and restricted in subsection (3) of this section.

31 **Sec. 7.** RCW 79A.05.030 and 1999 c 249 s 302, 1999 c 155 s 1, and
32 1999 c 59 s 1 are each reenacted and amended to read as follows:

33 The commission shall:

34 (1) Have the care, charge, control, and supervision of all parks
35 and parkways acquired or set aside by the state for park or parkway
36 purposes.

1 (2) Adopt policies, and adopt, issue, and enforce rules pertaining
2 to the use, care, and administration of state parks and parkways. The
3 commission shall cause a copy of the rules to be kept posted in a
4 conspicuous place in every state park to which they are applicable, but
5 failure to post or keep any rule posted shall be no defense to any
6 prosecution for the violation thereof.

7 (3) Permit the use of state parks and parkways by the public under
8 such rules as shall be adopted.

9 (4) Clear, drain, grade, seed, and otherwise improve or beautify
10 parks and parkways, and erect structures, buildings, fireplaces, and
11 comfort stations and build and maintain paths, trails, and roadways
12 through or on parks and parkways.

13 (5) Grant concessions or leases in state parks and parkways, upon
14 such rentals, fees, or percentage of income or profits and for such
15 terms, in no event longer than fifty years, and upon such conditions as
16 shall be approved by the commission: PROVIDED, That leases exceeding
17 a twenty-year term shall require a unanimous vote of the commission:
18 PROVIDED FURTHER, That if, during the term of any concession or lease,
19 it is the opinion of the commission that it would be in the best
20 interest of the state, the commission may, with the consent of the
21 concessionaire or lessee, alter and amend the terms and conditions of
22 such concession or lease: PROVIDED FURTHER, That television station
23 leases shall be subject to the provisions of RCW 79A.05.085, only:
24 PROVIDED FURTHER, That the rates of such concessions or leases shall be
25 renegotiated at five-year intervals. No concession shall be granted
26 which will prevent the public from having free access to the scenic
27 attractions of any park or parkway.

28 (6) Employ such assistance as it deems necessary. Commission
29 expenses relating to its use of volunteer assistance shall be limited
30 to premiums or assessments for the insurance of volunteers by the
31 department of labor and industries, compensation of staff who assist
32 volunteers, materials and equipment used in authorized volunteer
33 projects, training, reimbursement of volunteer travel as provided in
34 RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to
35 volunteer recognition. The commission, at its discretion, may waive
36 commission fees otherwise applicable to volunteers. The commission
37 shall not use volunteers to replace or supplant classified positions.

1 The use of volunteers may not lead to the elimination of any employees
2 or permanent positions in the bargaining unit.

3 (7) By majority vote of its authorized membership select and
4 purchase or obtain options upon, lease, or otherwise acquire for and in
5 the name of the state such tracts of land, including shore and tide
6 lands, for park and parkway purposes as it deems proper. If the
7 commission cannot acquire any tract at a price it deems reasonable, it
8 may, by majority vote of its authorized membership, obtain title
9 thereto, or any part thereof, by condemnation proceedings conducted by
10 the attorney general as provided for the condemnation of rights of way
11 for state highways. Option agreements executed under authority of this
12 subsection shall be valid only if:

13 (a) The cost of the option agreement does not exceed one dollar;
14 and

15 (b) Moneys used for the purchase of the option agreement are from
16 (i) funds appropriated therefor, or (ii) funds appropriated for
17 undesignated land acquisitions, or (iii) funds deemed by the commission
18 to be in excess of the amount necessary for the purposes for which they
19 were appropriated; and

20 (c) The maximum amount payable for the property upon exercise of
21 the option does not exceed the appraised value of the property.

22 (8) Cooperate with the United States, or any county or city of this
23 state, in any matter pertaining to the acquisition, development,
24 redevelopment, renovation, care, control, or supervision of any park or
25 parkway, and enter into contracts in writing to that end. All parks or
26 parkways, to which the state contributed or in whose care, control, or
27 supervision the state participated pursuant to the provisions of this
28 section, shall be governed by the provisions hereof.

29 (9) Adopt policies that increase the number of people who have
30 access to free or low-cost recreational opportunities for physical
31 activity, including noncompetitive physical activity.

32 **Sec. 8.** RCW 28A.300.040 and 1999 c 348 s 6 are each amended to
33 read as follows:

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

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

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

4 (3) To prepare and have printed such forms, registers, courses of
5 study, rules for the government of the common schools, and such other
6 material and books as may be necessary for the discharge of the duties
7 of teachers and officials charged with the administration of the laws
8 relating to the common schools, and to distribute the same to
9 educational service district superintendents;

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

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

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

28 (7) To file all papers, reports and public documents transmitted to
29 the superintendent by the school officials of the several counties or
30 districts of the state, each year separately. Copies of all papers
31 filed in the superintendent's office, and the superintendent's official
32 acts, may, or upon request, shall be certified by the superintendent
33 and attested by the superintendent's official seal, and when so
34 certified shall be evidence of the papers or acts so certified to;

35 (8) To require annually, on or before the 15th day of August, of
36 the president, manager, or principal of every educational institution
37 in this state, a report as required by the superintendent of public

1 instruction; and it is the duty of every president, manager or
2 principal, to complete and return such forms within such time as the
3 superintendent of public instruction shall direct;

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

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

7 (11) To keep in the superintendent's office at the capital of the
8 state, all books and papers pertaining to the business of the
9 superintendent's office, and to keep and preserve in the
10 superintendent's office a complete record of statistics, as well as a
11 record of the meetings of the state board of education;

12 (12) With the assistance of the office of the attorney general, to
13 decide all points of law which may be submitted to the superintendent
14 in writing by any educational service district superintendent, or that
15 may be submitted to the superintendent by any other person, upon appeal
16 from the decision of any educational service district superintendent;
17 and the superintendent shall publish his or her rulings and decisions
18 from time to time for the information of school officials and teachers;
19 and the superintendent's decision shall be final unless set aside by a
20 court of competent jurisdiction;

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

23 (14) To deliver to his or her successor, at the expiration of the
24 superintendent's term of office, all records, books, maps, documents
25 and papers of whatever kind belonging to the superintendent's office or
26 which may have been received by the superintendent's for the use of the
27 superintendent's office;

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

30 (16) To promote the adoption of school-based curricula and policies
31 that provide quality, daily physical education for all students, and to
32 encourage policies that provide all students with opportunities for
33 physical activity outside of formal physical education classes;

34 (17) To perform such other duties as may be required by law.

35 **Sec. 9.** RCW 28A.320.015 and 1992 c 141 s 301 are each amended to
36 read as follows:

1 (1) The board of directors of each school district may exercise the
2 following:

3 (a) The broad discretionary power to determine and adopt written
4 policies not in conflict with other law that provide for the
5 development and implementation of programs, activities, services, or
6 practices that the board determines will:

7 (i) Promote the education and daily physical activity of
8 kindergarten through twelfth grade students in the public schools; or

9 (ii) Promote the effective, efficient, or safe management and
10 operation of the school district;

11 (b) Such powers as are expressly authorized by law; and

12 (c) Such powers as are necessarily or fairly implied in the powers
13 expressly authorized by law.

14 (2) Before adopting a policy under subsection (1)(a) of this
15 section, the school district board of directors shall comply with the
16 notice requirements of the open public meetings act, chapter 42.30 RCW,
17 and shall in addition include in that notice a statement that sets
18 forth or reasonably describes the proposed policy. The board of
19 directors shall provide a reasonable opportunity for public written and
20 oral comment and consideration of the comment by the board of
21 directors.

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