

HOUSE BILL REPORT

2SSB 6515

As Reported by House Committee On:
Community & Economic Development & Trade
Ways & Means

Title: An act relating to refocusing the mission of the department of commerce, including transferring programs.

Brief Description: Refocusing the department of commerce, including transferring programs.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kastama, Kilmer and Shin; by request of Washington State Department of Commerce).

Brief History:

Committee Activity:

Community & Economic Development & Trade: 2/17/10, 2/22/10 [DPA];
Ways & Means: 2/27/10 [DPA(WAYS w/o CEDT)].

**Brief Summary of Second Substitute Bill
(As Amended by House)**

- Directs the transfer of five programs and activities currently within the Department of Commerce (DCOM) to other state agencies.
- Requires the DCOM, with guidance of an advisory committee and information from a group of technical experts, to develop and present for legislative approval an updated state energy strategy and implementation report by December 1, 2010, and on subsequent specified dates.
- Directs the DCOM to create a central point of access for small business and entrepreneurial assistance, to examine mechanisms for industries to self-finance activities; and to establish a separate division for community services and housing programs.
- Requires the Legislature's economic development committees, in consultation with others, to develop a plan for 2011 legislative consideration to create a separate state agency focused on community services and housing.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass as amended. Signed by 6 members: Representatives Kenney, Chair; Maxwell, Vice Chair; Chase, Liias, Moeller and Probst.

Minority Report: Do not pass. Signed by 3 members: Representatives Smith, Ranking Minority Member; Orcutt and Parker.

Staff: Meg Van Schoorl (786-7105).

Background:

The Department of Community, Trade and Economic Development.

The Department of Community, Trade and Economic Development (DCTED) was created in 1994 through the consolidation of the Department of Community Development and the Department of Trade and Economic Development. The DCTED was responsible for promoting community and economic development statewide by assisting communities to increase their economic vitality and the quality of their citizen's lives, and assisting the state's businesses to maintain and increase their economic competitiveness while maintaining a healthy environment.

The Department of Commerce.

In 2009 legislation was enacted to create a state Department of Commerce (Department) as a successor agency to the DCTED. While the legislation did include sections changing the DCTED's name in many statutes, it did not contain policy decisions regarding the future of programs within the Department. Instead, the legislation directed the Department to consult with a broad range of stakeholders statewide and develop, by November 1, 2009, a report for the Governor and legislative committees.

That report was to include analysis and recommendations for statutory changes that would ensure that the Department would feature, among other elements: a concise core mission, accountability, leveraged resources, maximized partnerships, and increased local capacity building. The report was also to include recommendations for creating or consolidating programs important to meeting the Department's core mission, and for terminating or transferring programs that were inconsistent with the core mission. The Department produced the required report and submitted an agency request bill and budget to advance its policy and fiscal recommendations.

Agricultural Commodity Commissions.

There are 24 agricultural commodity commissions in Washington. Examples include the Washington Apple Commission, the Asparagus Commission, and the Wine Commission. Agricultural commodity commissions are agencies of state government. Each is governed by a board of directors made up of growers and overseen by the director of the Washington State Department of Agriculture. Agricultural commodity commissions are formed primarily to engage in research and marketing for their specific commodity. Under their statutory authorities, the commissions collect mandatory assessments levied against all commodity shipments at rates established through grower referenda.

Summary of Bill:

Findings, Mission, Direction (Section 1).

The Legislature affirms the Department's mission to grow and improve jobs, and the eight priorities identified in its 2009 report to the Legislature. The Legislature directs the Department to create a central point of access for small business and entrepreneurial assistance, and to collaborate with other agencies and partners over time on small business financing, regulatory, and technical assistance initiatives. The Legislature directs the Department to establish a separate division to contain community services and housing programs. Eighteen specific services or programs to be included in the division are identified, but the division is not limited to those named. The Department must also examine the assessment system used by agricultural commodity commissions as a model that other industries could use to self-finance their activities. The Legislature's economic development committees, in consultation with the Governor and the Department, must solicit stakeholder information and advice and develop for legislative consideration in 2011 a plan to establish a separate state government agency focused on community services and housing.

Program Transfers and Abolition (Parts I, II, III, V, VI and VII).

All powers, duties, and functions of the Department pertaining to five programs are transferred from the Department to other state agencies. Each transfer section includes common language regarding transfer of personnel, appropriations, apportionment of budgeted funds, documents, files, office equipment, and other tangible property from the Department to the receiving agency. The transfers are:

To the Department of Health (DOH).

County Public Health Assistance
Developmental Disabilities Endowment

To the Criminal Justice Training Commission (CJTC).

Drug Prosecution Assistance program

To the Washington Utilities and Transportation Commission (UTC).

Energy Facility Site Evaluation Council

To the Department of General Administration (GA).

State Building Code Council

Policy and planning assistance functions performed by the Department remain with it. Included in these functions are, to the extent funding is provided: (1) to develop and implement a strategic plan for enhancing energy efficiency in and reducing greenhouse gas emissions from homes, buildings, districts, and neighborhoods; and (2) to develop a methodology and implementation strategy for determining an energy performance score for residential buildings.

The *Municipal Research Council* is abolished and its powers, duties, and functions are transferred to the Department.

State Energy Strategy (Part IV).

Findings and goals are provided relating to: the need for the state to implement a comprehensive energy planning process; the national and world transition to the clean energy economy; maintaining competitive energy prices that are fair and reasonable for consumers and businesses; increasing competitiveness by fostering a clean energy economy and jobs; and meeting the state's obligations to reduce greenhouse gas emissions. Thirteen principles related to energy are provided. Nine are required to be used by the state to develop and implement the state energy strategy. Four are requirements for the Department pertaining to energy shortage emergencies, energy information and analysis, maximizing federal and other nonstate funding, and monitoring actions of all state agencies for consistent implementation of the state's energy policy. The state's 1994 statute containing seven energy policy goals is repealed.

By December 1, 2010, the Department must produce an updated state energy strategy and implementation report. By December 1, 2011, December 1, 2014, and every four years thereafter, the Department must produce a fully updated strategy and report. All strategies must be produced with the guidance of an advisory committee appointed by the Director of the Department (Director) to represent a balance of interests. These interests include: residential, commercial, industrial, and agricultural users; electric and natural gas utilities or organizations, both consumer-owned and investor-owned; liquid fuel and natural gas industries; local governments; labor; civic and environmental organizations; clean energy companies; energy research and development organizations; economic development organizations; and key public agencies and other interested stakeholders. Four legislators representing each of the two largest caucuses in the House and the Senate will be appointed by the House Speaker and Senate President as ex-officio members.

To facilitate Department and advisory committee decision-making, the Director must engage a group of scientific, engineering, economic, and other energy analysis experts to identify analytical needs and capabilities necessary to develop a state energy strategy and to provide unbiased information on the energy portfolio, future needs, growth scenarios, and improved productivity. The group is to be comprised of representatives of higher education research institutions, the Pacific Northwest National Laboratory, the Northwest Power and Conservation Council, and other organizations with recognized expertise.

The strategy must examine the state's entire energy system to the maximum extent feasible. The strategy must identify administrative actions, regulatory coordination, and recommendations for legislation. The Department and advisory committee must review related processes and relevant documents. The strategy must be consistent with and build upon all relevant statutorily-authorized energy, environmental, and other policies, goals, and programs. To avoid competition among state agencies, the Department must coordinate a search for external in-kind and financial support for the process.

Following a public hearing on the advisory committee's recommendations for revisions to the strategy, the written report must be produced by the Department, and conveyed to the Governor and appropriate legislative committees. The December 1, 2010, strategy and each subsequent update must be approved by the Legislature by concurrent resolution before they

are implemented. The advisory committee must be dissolved within three months of the report being conveyed.

Other (Part VIII).

The number of Department staff administering innovation and policy functions who are exempted from civil service provisions is capped at six.

The 1967 statute abolishing the State Census Board is decodified.

An effective date of July 1, 2010, is provided.

Amended Bill Compared to Second Substitute Bill:

The striking amendment directs the transfer of five programs and activities currently within the Department of Commerce to other state agencies. It also directs the Department to: (1) create a central point of access for small business and entrepreneurial assistance beginning in 2011 and in partnership with others over time to expand small business financing, technical, and regulatory assistance; (2) establish a separate division for community services and housing programs, and identifies 18 programs to be included; (3) examine the agricultural commodity commission assessment model as a means for other industries to self-finance activities; and (4) develop an updated state energy strategy and implementation report by December 1, 2010, with guidance from an advisory committee representing balanced interests. Additional interests beyond those provided in the Senate bill are: liquid fuel (rather than petroleum), clean energy companies, energy research and development organizations, labor, economic development organizations, and four legislators (ex-officio). The striking amendment requires the Director to engage a group of technical experts to provide energy information and analysis to facilitate decision making by the Department and advisory committee. It also provides subsequent strategy due dates and intervals, additional findings, revised goals and principles, and additional parameters for developing and implementing the strategy.

The striking amendment also requires the Legislature's economic development committees, consulting with others, to develop a plan for consideration in 2011 to create a separate agency for community services and housing programs. It also places a cap on the number of staff administering innovation and policy functions exempted from civil service.

Appropriation: None.

Fiscal Note: Available on 2SSB 6515. Requested on the striking amendment on 2/22/2010.

Effective Date of Amended Bill: The bill takes effect on July 1, 2010.

Staff Summary of Public Testimony:

(In support) The Senate bill gives broad discretion to the Department to reorganize to enable a focus on economic development and jobs. We prefer the less prescriptive approach of the Senate bill. We intend to create a division focused on community investment. Transferring programs out of the Department is about focusing on the mission; it is not a statement about the value of the transferred programs. There is an urgency to updating the energy strategy, but producing an energy strategy will be ongoing, whether the right interval is every two or every five years. The core energy staff is currently funded by the federal Recovery Act, but the state budget inadvertently cut in 2009 needs to be restored.

(In support of the non-energy sections of the bill and in support with amendments on the energy sections of the bill) We support the agency narrowing its focus to job creation so that it can play a role in kick-starting the economy. We are close to agreement on language that will enable us to support the bill. We support updating the state energy strategy. There is a need for a diverse advisory committee.

(In support with amendments) Retaining the current law that prohibits the Department from intervening in UTC proceedings sets the stage for reaching a successful conclusion on this energy section. The policy framework needs to be amended to promote new construction of biomass energy facilities, recognize cogeneration as a strategy, and reference carbon-neutral energy sources.

(With concerns) The public has not been involved sufficiently in the energy part of the bill so far. The state energy strategy, when developed, needs to come back to the Legislature for approval. We support the approach taken in the House bill that directs the Department to create a division of community services and housing, and that has legislative committees work with the Department and stakeholders over the interim to investigate establishing a separate agency for these programs for the future. Moving the Office of Crime Victims Advocacy and the associated programs to the Department of Labor and Industries is a legislative punt to avoid putting the Office in the Department of Social and Health Services (DSHS). The Special Needs Housing programs, such as Independent Youth Housing (IYH) and Housing Assistance for Persons with Mental Illness, should be kept together within the Department. Placing them in the DSHS is not a good fit. As a homeless, pregnant teen, I was assisted well by the IYH program housed at the Department. We like the prescriptive language in the House bill that places the New Americans program in the separate Commerce division. The Dispute Resolution Center should be placed in the separate Commerce division, as provided in the House bill. Community-based non-profit organizations deserve respect as employers as much as for-profit businesses.

(Opposed) Because there is no alignment between the mission of the Long Term Care Ombudsman and the Office of Financial Management, the Ombudsman function should be placed in the separate division at the Department. We oppose the Senate version and support the House version. The Housing programs should be kept together with other "like" programs in the Department. The working relationships are great with Commerce staff - no small program wants to go to the DSHS.

Persons Testifying: (In support) Rogers Weed, Department of Commerce; and Stan Bowman, American Institute of Architects Washington Council.

(In support of the non-energy sections of the bill and in support with amendments on the energy sections of the bill) Chris McCabe, Association of Washington Businesses.

(In support with amendments) Collin Sprague, Avista Corporation; and Bill Stauffacher, NW Pulp and Paper Association.

(With concerns) Kent Lopez, WRECA; Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs; Anna Shelton, Resolution Washington; Laurie Lippold, Mockingbird Society; Bryce Yadon, Washington Economic Development Association; Seth Dawson, Washington Association for Substance Abuse Prevention; Melanie Esteves, Foster Care Alliance; and Toby Guevin, One America.

(Opposed) Louise Ryan, State Long Term Care Ombudsman; and Nick Federici, Washington Low Income Housing Alliance.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Ways & Means and without amendment by Committee on Community & Economic Development & Trade. Signed by 14 members: Representatives Linville, Chair; Ericks, Vice Chair; Sullivan, Vice Chair; Cody, Conway, Darneille, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew and Seaquist.

Minority Report: Do not pass. Signed by 8 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Hinkle, Priest, Ross and Schmick.

Staff: Steve Smith (786-7178).

Summary of Recommendation of Committee On Ways & Means Compared to Recommendation of Committee On Community & Economic Development & Trade:

The Ways and Means Committee recommended that the Municipal Research Council (Council) be retained as an independent state agency rather than being abolished and its functions transferred to the Department of Commerce (DCOM). The Council members may not receive reimbursement from the Council for travel or any other expenses, and the Council must hold its meetings in cost-free venues. The Ways and Means Committee also recommended that current civil service exemptions for the DCOM energy policy staff be restored, and that separate civil service exemptions be given for up to 10 policy and innovation staff, including three exempted under current law.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect on July 1, 2010.

Staff Summary of Public Testimony:

(In support) We are most interested in the changes that affect programs currently housed at the Department of Commerce (DCOM). In the version of the bill before you, a new division is created for community services and housing. This new division could be a good home, and could spin off into its own office of community development, but moving the programs such as the Office of Crime Victims Advocacy to the Department of Labor and Industries where they have no compatibility and they do not do this kind of function, is costly and unnecessary in these difficult economic times. It does the least harm to very important community programs; and it does not, in our opinion, deflect the DCOM from its new mission, and encourage support of the bill as it is currently written.

We think that the most appropriate place for the Independent Youth Housing program is to remain at the DCOM. Prior to the amendment, this program was identified as being transferred to the Department of Social and Health Services (DSHS). We need to really look at a new division or office within the DSHS for community services, and that new place would really be the appropriate place for the Independent Youth Housing program.

If this version of the bill is not enacted, certain programs will be transferred into problematic places. Such transfers would be the Independent Youth Housing being transferred to the DSHS, the Long-Term Care Ombudsman being transferred to the Office of Financial Management, and the Community Mobilization program being transferred to the DSHS. The Senate bill would also require rapid decision-making on new homes if the proposed transfers were deemed to be too problematic. Attempting to find other agencies that would make good homes is difficult because currently many agencies are preoccupied with potential budget reductions of their own. In the case of the Long-Term Care Ombudsman, a new and more appropriate home may have already been found; however, that entity could be eliminated in pending legislation. There are too many moving pieces at the moment to find alternate homes for the programs.

Under the current version of the bill, housing programs would stay within the DCOM because the DCOM does a great job of administering these programs. There may be other places for these programs, but we need more time and analysis on how to best serve these vulnerable populations instead of attempting to figure this out in the hustle of a 60-day session.

(Opposed) None.

Persons Testifying: Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs; Laurie Lippold, Mockingbird Society; Seth Dawson, Washington State Association of Community Action, Washington State Coalition of the Homeless, and Washington State Association for Substance Abuse Prevention; and Nick Federici, Washington Low-Income Housing Alliance.

Persons Signed In To Testify But Not Testifying: None.