

HOUSE BILL REPORT

E2SHB 1371

As Amended by the Senate

Title: An act relating to boards and commissions.

Brief Description: Addressing boards and commissions.

Sponsors: House Committee on Ways & Means (originally sponsored by Representatives Darneille and Hunt; by request of Governor Gregoire).

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/2/11, 2/17/11 [DPS];

Ways & Means: 2/24/11, 4/15/11 [DP2S(w/o sub SGTA)].

First Special Session

Floor Activity:

Passed House: 5/2/11, 57-38.

Senate Amended.

Passed Senate: 5/20/11, 37-5.

Brief Summary of Engrossed Second Substitute Bill

- Eliminates five boards, commissions, and similar entities; transfers some entities into agencies; and makes some entities advisory.
- Transfers appointment authority from the Governor for 18 entities.
- Makes permanent certain 2010 restrictions on allowances and travel, except for restrictions on the use of private facilities.
- Makes other changes to boards, commissions, and similar entities.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Hunt, Chair; Darneille, Dunshee, Hurst, McCoy and Miloscia.

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.

Minority Report: Do not pass. Signed by 4 members: Representatives Taylor, Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Alexander and Condotta.

Staff: Joan Elgee (786-7106).

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on State Government & Tribal Affairs. Signed by 19 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Carlyle, Cody, Dickerson, Haigh, Haler, Hinkle, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Seaquist, Springer and Sullivan.

Minority Report: Do not pass. Signed by 7 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Chandler, Schmick and Wilcox.

Staff: Wendy Polzin (786-7137).

Background:

In 1994 the Legislature directed the Governor to review and submit to the Legislature every odd-numbered year a report recommending which boards and commissions should be terminated or consolidated. In making a recommendation, the Governor must consider the following:

- whether the entity completed its work and is no longer of critical significance to effective state government;
- whether the work of the group directly affects public safety, welfare, or health;
- whether the work can be done by another state agency;
- what impact termination will have on costs;
- whether the work can be done by a non-public entity;
- whether termination will result in significant loss of expertise to state government;
- whether termination will result in operational efficiencies other than fiscal; and
- whether the work can be done by an ad hoc committee.

The Governor is required to make appointments to boards, commissions, and other entities, including citizen member appointments to over 200 entities.

In 2009 the Legislature eliminated 18 statutory boards, commissions, and similar entities, and the Governor eliminated a number of non-statutory entities by executive order. In 2010 the Legislature eliminated 45 statutory boards, commissions, and similar entities.

The Office of Financial Management (OFM) sets allowances for subsistence, lodging, and travel expenses for persons who are appointed to serve on boards, commissions, or similar groups. Part-time groups are identified as class one through class five for purposes of setting any additional compensation or allowances.

In 2010 the Legislature eliminated allowances for class one through three and class five groups if the cost is funded by the State General Fund. Exceptions are permitted. Class one through three and class five groups funded by sources other than the State General Fund are encouraged to reduce travel, lodging, and other costs. All classes were directed, if feasible, to use methods of conducting meetings that do not require members to travel and to use state facilities whenever possible for meetings that require members to physically be present. Approval of the Director of OFM is required to use private facilities for meetings. These restrictions apply to fiscal year 2011.

Summary of Engrossed Second Substitute Bill:

Elimination/Transfer/Duties/Appointment Authority.

The following entities are eliminated and in some cases duties are transferred to agencies:

- the Eastern State Hospital Board;
- the Firearms Range Advisory Committee;
- the Performance Agreement Committee;
- the Salmon Stamp Selection Committee;
- the Western State Hospital Board;
- the Home Care Quality Authority. Responsibility for the referral registry is transferred to the Department of Social and Health Services;
- the Migratory Waterfowl Art Committee. The responsibility to select the migratory bird stamp is transferred to the Department of Fish and Wildlife (DFW). The DFW must solicit recommendations from the public; and
- the Executive Ethics Board. The duties of the Executive Ethics Board are transferred to the Public Disclosure Commission and the Public Disclosure Commission is renamed the Public Disclosure and Ethics Commission.

The following entities are renamed advisory committees, and in some cases functions are limited to reflect the advisory role. For entities to which the Governor appoints the members, the appointing authority is changed.

- The Correctional Industries Board of Directors becomes the Correctional Industries Advisory Committee. Appointments are made by the Secretary of the Department of Corrections (DOC), and the Correctional Industries Advisory Committee makes recommendations to the Secretary of the DOC.
- The Hanford Area Economic Investment Fund Committee becomes the Hanford Area Economic Investment Fund Advisory Committee. Appointments are made by the Director of the Department of Commerce (COM), and the Hanford Area Economic Investment Fund Advisory Committee advises the Director of the COM.
- The Escrow Commission becomes the Escrow Advisory Committee.
- The Livestock Identification Advisory Board becomes the Livestock Identification Advisory Committee.

The Indeterminate Sentencing Review Board is created within the DOC. The Indeterminate Sentencing Review Board must exercise independent judgment when making decisions concerning offenders.

The Sentencing Guidelines Commission (SGC) becomes an advisory body to the Governor and the Legislature and most of the functions of the SGC are transferred to the Administrative Office of the Courts and the DOC. The Administrative Office of the Courts:

- serves as a sentencing clearinghouse and information center for the collection, preparation, analysis, and dissemination of information on state and local adult and juvenile sentencing practices; maintains a computerized adult and juvenile sentencing information system by individual superior court judge consisting of offender, offense, history, and sentence information entered from judgment and sentence forms for all adult felons; and annually publishes an adult sentencing manual, a juvenile disposition manual, and statistical summaries of adult felony sentencing and juvenile disposition data;
- receives juvenile court and juvenile detention facility records collected for research and data gathering functions; and
- appoints the staff for conducting criminal justice-related research and requests the DOC and the Department of Social and Health Services to provide administrative support for its data collection functions.

The DOC serves as the State Council for Interstate Adult Offender Supervision (Council), and provide staffing and support services for the Council. The Governor's designee, in addition to the Governor, appoints the SGC's voting members. The Sex Offender Policy Board and the advisory panel for the Corrections Mental Health Center at McNeil Island are eliminated.

The appointment authority of the Governor is also changed for the following entities:

- the Capitol Campus Design Advisory Committee (appointed by the Director of the Department of General Administration);
- the State Advisory Board of Plumbers (appointed by the Director of the Department of Labor and Industries);
- the Apprenticeship Council (appointed by the Director of the Department of Labor and Industries);
- the Boundary Review Board (Three positions appointed by the Governor are eliminated. The number of members appointed by counties, and also cities, is increased from three to four and the number of members appointed by the Boundary Review Board from special districts is increased from two to three.);
- the Commission on Pesticide Regulation (appointed by the Director of the Department of Agriculture);
- the Commute Trip Reduction Board (The Governor's representative is changed to a representative from the OFM, and other representatives are to be determined by the Secretary of Transportation.);
- the Community Economic Revitalization Board (appointed by the Director of the COM);
- the Emergency Management Council (appointed by the Adjutant General);
- the Emergency Medical Services and Trauma Care Steering Committee (appointed by the Secretary of Health);
- the Interstate Horse Racing Compact Committee (appointed by the Horse Racing Commission);

- the State Council on Aging (Appointments are made by the Area Agencies on Aging, except that the Governor continues to appoint a city and county member and up to five at-large members.);
- the Horse Park Authority Board (appointed by the Parks and Recreation Commission);
- the Home Inspector Advisory Licensing Board (appointed by the Director of the Department of Licensing);
- the Real Estate Appraiser Commission (appointed by the Director of the Department of Licensing); and
- the Productivity Board (appointed by the Secretary of State for the three Governor's appointments).

Other Agency Specific Provisions.

The Achievement Gap Oversight and Accountability Committee is renamed the Educational Opportunity Gap Oversight and Accountability Committee.

The Superintendent of Public Instruction may appoint advisory groups on subject matters within the superintendent's responsibilities or required as a condition to the receipt of federal funds. Members may be paid travel expenses. A person may receive an amount not to exceed \$100 for each day during which the member attends an official meeting or performs statutorily prescribed duties approved by the chair, if the person: (1) occupies a position, normally regarded as full-time as a certificated employee of a local school district; (2) is participating as part of their employment with the local school district; and (3) the meeting or duties are performed outside school days. The superintendent may reimburse local school districts for substitute certificated employees. A person may receive compensation from federal funds in an amount determined by personal service contract for groups required by federal law.

The requirement that the Quality Education Council meet no more than four times a year is eliminated.

The Horse Racing Commission is reduced from five to three members.

General Provisions.

The fiscal year 2011 restrictions on allowances and travel are made permanent, except for restrictions on use of private facilities. Members of boards, commissions, councils, or committees identified as class one through class three and class five groups may not receive allowances for subsistence, lodging, and travel if these costs are funded by the State General Fund. Exceptions must be approved by the OFM, the Chief Justice of the Supreme Court, and the House Chief Clerk or the Secretary of Senate, as appropriate. Those class one through class three and class five boards, commissions, councils, or committees funded by sources other than the State General Fund are encouraged to reduce travel, lodging, and other costs. All classes are directed to use methods of conducting meetings that do not require members to travel.

Except under a specific law to the contrary, agencies are prohibited from entering into personal service contracts with a member of any agency board, commission, council, committee, or other group formed to advise state government for services related to work done as a member of the group.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment deletes the provisions relating to: (1) the Indeterminate Sentencing Review Board; (2) the Sentencing Guidelines Commission (and Sex Offender Policy Board); and (3) the Executive Ethics Board. In addition, the amendment restores the restriction on meetings by the Quality Education Council, but provides that the limit is no more than four days, rather than four times, a year.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2011, except for section 94, relating to personal service contracts, and section 101, relating to advisory groups appointed by the Superintendent of Public Instruction, both of which take effect 90 days after adjournment of the session in which the bill is passed, and sections 118 through 121, relating to moving the Executive Ethics Boards from the Office of the Attorney General to the Public Disclosure and Ethics Committee, which takes effect January 1, 2012.

Staff Summary of Public Testimony (State Government & Tribal Affairs):

(In support) We are in very challenging budget times and need to make good decisions based on criteria. This bill is about cutting costs, reducing staff, and increasing efficiency to provide twenty-first century customer service. Complaints are not being heard about the 143 boards and commissions that have been eliminated or consolidated. This bill reduces by 14 percent the 2,600 appointments the Governor must make. The bill also eliminates agency authority to pay members unless the authority is specifically in statute.

(Opposed) Eliminating the Achievement Gap Commission will not save money. Washington is ranked in the bottom five of states for closing the gap. Most members pay their own way. The expertise and feedback of the Escrow Commission provides the only link between the Department of Financial Institutions and the public. Members do not receive compensation. Expertise and feedback is important. Removing the Real Estate Appraiser Commission could lower appraisal quality. The Real Estate Appraiser Commission helps keep the rules current. Fees from appraisers, and not the State General Fund, pay for the Real Estate Appraiser Commission. The Salmon Recovery Funding Board oversees the distribution of federal funds and has been integral to the efforts to restore salmon and comply with the Endangered Species Act. Elimination would only save about \$25,000, but removal of this board would not eliminate need for coordination. Livestock board members receive no compensation. It is the only entity giving input on livestock identification and implementing federal legislation. When you eliminate the Sentencing Guidelines Commission, you are also eliminating the Sexual Offenders Advisory Board, which is needed in light of a recent case. The SGC and the Sexual Offenders Advisory Board support evidence-based decision making.

The Well Drilling Technical Advisory Group should be retained because it cuts down on agency time and money by providing industry information to the Department of Ecology. Remove the Family Policy Council (FPC) from the bill. Eliminating the FPC would eliminate the main thrust for establishing public private partnerships, which the Governor's budget provides. We need to attract private funding and now is not the time to say no to the Gates Foundation and other entities. Eliminating the Arts Commission could have unintended consequences; the state could lose National Endowment for the Arts funds. State assets would also be at risk. There are over 4,500 pieces of art in the state's collection and the Arts Commission is responsible for their preservation. Only \$8,100 is for the actual support of the commission. The work of the Home Inspector Advisory Board will not be done in 2013. The Council for Children and Families has had a huge impact.

Staff Summary of Public Testimony (Ways & Means):

(In support) None.

(With concerns) The Governor appoints individuals to over 2,400 committees and boards, which requires a lot of time and effort. The Governor's Office relies on agencies for recommendations about who should be appointed to boards and commissions. The proposed bill preserves the Council for Children and Families and the Family Policy Council, but there is a bill in the works that would eliminate these entities but preserve their work in another form. If the Arts Commission is moved into the COM, the Arts Commission should be advisory and the COM would need to be named as an arts agency in order to receive federal funding. There are concerns about the appointment authority for the Indeterminate Sentencing Review Board. The Governor's Office suggests deleting the travel and private meeting space provisions, because there has been very little savings in the current fiscal year. There have been over 100 requests for exemptions, and all have been approved. The policy disproportionately impacts the Superintendent of Public Instruction and the Department of Social and Health Services, because the exemption only applies to State General Fund programs. The Legislature is encouraged to retain the Indeterminate Sentencing Review Board as its own agency. The fiscal assumptions for savings may be too high.

(Opposed) None.

Persons Testifying (State Government & Tribal Affairs): (In support) Representative Darnielle, prime sponsor; and Kathleen Drew, Governor's Policy Office.

(Opposed) John-Paul Chaisson-Coidenos, Washington Community Action Network; Phil Dryden and Joe Sargent, Escrow Association of Washington; Justin Slack, Appraisers' Coalition of Washington; Mary Howells, Real Estate Appraisers' Coalition of Washington; Don McIvor, Upper Columbia Salmon Recovery Board; Jack Fuld, Washington Cattlemen's Association; Dan Knoepfler, Washington Association for the Treatment of Sexual Abusers; Mike Krautkramer, Washington State Ground Water Association; Wendy McClure, Snohomish County Health and Safety Network; Kent Carlson, Washington State Arts Commission; Paul Neis, American Society of Home Inspectors; Mary Ellis Meraz, Community Café Council for Children; and Andrea Cobb, Office of Superintendent of Public Instruction.

Persons Testifying (Ways & Means): Kathleen Drew and Julie Murray, Office of the Governor; and Bob Cooper, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying (State Government & Tribal Affairs): (Opposed) Glen Smith and Paul Anderson, Washington State Groundwater Association; Cindy Finnie, Washington State Arts Commission; Andres Meraz, Community Café Council for Children; Bob Mitchell, Washington Realtors; Alison Halpern, State Noxious Weed Control Board; Tamara Warake, Escrow Association of Washington; Heather Hanson, Washington State Fairs Association; Melissa Johnson, Association of Alcoholism and Addictions Program; Bob Cooper, Washington Defender Association and Washington Association of Criminal Defense Lawyers; Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs; Audrey Levine and Amber Ulvenes, Midwives' Association of Washington State; Maureen Greeley, Evergreen Council on Problem Gambling; Dolores Chiechi, Recreational Gaming Association; Charlie Brown, Washington Asparagus Commission and Washington Athletic Trainers; and Don Foran, The Evergreen State College.

Persons Signed In To Testify But Not Testifying (Ways & Means): None.