
HOUSE BILL 2276

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Taylor, Overstreet, Orcutt, Kristiansen, Short, Smith, Johnson, Rivers, Buys, Harris, Schmick, Shea, Condotta, Haler, Warnick, and Alexander

Read first time 01/11/12. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to administrative procedures to promote
2 accountability and economic relief; amending RCW 34.05.310, 34.05.313,
3 34.05.320, 34.05.570, 28A.300.040, 41.50.050, 43.06A.030, 43.19.011,
4 43.21A.064, 43.24.016, 43.27A.090, 43.30.215, 43.31C.060, 43.33.040,
5 43.33A.110, 43.59.070, 43.61.040, 43.63A.475, 43.70.580, 43.101.085,
6 43.115.040, 43.117.050, 43.155.040, 43.160.050, 43.163.100, 43.180.040,
7 43.200.070, 43.210.060, 43.250.090, 43.320.040, 43.330.040, 47.01.071,
8 48.02.060, 48.44.050, 48.46.200, 66.08.0501, 77.04.055, and 80.01.040;
9 reenacting and amending RCW 34.05.328; adding new sections to chapter
10 34.05 RCW; adding a new section to chapter 43.17 RCW; adding a new
11 chapter to Title 1 RCW; creating new sections; and declaring an
12 emergency.

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

14 NEW SECTION. **Sec. 1.** A new section is added to chapter 34.05 RCW
15 to read as follows:

16 This act may be known and cited as the regulatory freedom and
17 accountability act.

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

3 The legislature finds that Washington families, workers, and
4 employers continue to struggle to make ends meet as the recession
5 starting in December 2007 continues into 2012. As families and
6 employers have streamlined their budgets and services, so should state
7 government. Government continues to increase the burden on citizens
8 and employers through perpetual alteration and expansion of rules. The
9 Washington Administrative Code has grown by 2,778 pages between 2001
10 and 2009 (15,138 pages to 17,916 pages). In 2010, 1,438 new, permanent
11 rules were adopted, 2,609 rules were amended, 459 emergency rule
12 filings were made, and 1,154 rules were repealed.

13 The constant changing of rules provides uncertainty to citizens
14 and employers and adds additional costs to taxpayers as agencies hold
15 public meetings and telephone conferences, and employees spend untold
16 hours working on drafts for rules. Furthermore, continual proposal of
17 new rules distracts employers from being productive in their respective
18 businesses due to a need to comment against these proposed rules. Most
19 agencies do not track the number of hours employees spend on rule
20 making nor do they track the cost to the agency to do this task. One
21 way to reduce millions of dollars in employee and administrative costs
22 is to impose a moratorium on formal and informal rule making by state
23 agencies except in certain specified instances. This moratorium is to
24 last for three years or until the state is no longer facing financial
25 deficits.

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

28 (1) Agency rule making is suspended until the later of July 1,
29 2015, or such time as the economic and revenue forecast council reports
30 for three consecutive quarters that state revenue collections have
31 increased above the official forecast adopted pursuant to RCW 82.33.010
32 on or before February 20th in an even-numbered year or March 20th in an
33 odd-numbered year, except in the following cases:

- 34 (a) A rule is needed to implement a federal law;
35 (b) A rule is needed to implement the terms of a governor-declared
36 state of emergency;

1 (c) A rule is needed by the department of health to respond to a
2 public health emergency;

3 (d) A rule is needed to set the times for the taking of wildlife,
4 fish, or shellfish pursuant to RCW 77.12.047(1)(a); or

5 (e) Legislation enacted after January 1, 2012, specifically directs
6 that rule making be undertaken. Rules adopted under this subsection
7 (1)(e) must be approved by the legislature in the ensuing legislative
8 session before the rule may take effect.

9 (2) This section does not prohibit an agency from repealing rules.

10 **Sec. 4.** RCW 34.05.310 and 2011 c 298 s 20 are each amended to read
11 as follows:

12 (1) The provisions of this section are subject to section 3 of this
13 act.

14 (2)(a) To meet the intent of providing greater public access to
15 administrative rule making and to promote consensus among interested
16 parties, agencies must solicit comments from the public on a subject of
17 possible rule making before filing with the code reviser a notice of
18 proposed rule making under RCW 34.05.320. The agency must prepare a
19 statement of inquiry that:

20 (i) Identifies the specific statute or statutes authorizing the
21 agency to adopt rules on this subject;

22 (ii) Discusses why rules on this subject may be needed and what
23 they might accomplish;

24 (iii) Identifies other federal and state agencies that regulate
25 this subject, and describes the process whereby the agency would
26 coordinate the contemplated rule with these agencies;

27 (iv) Discusses the process by which the rule might be developed,
28 including, but not limited to, negotiated rule making, pilot rule
29 making, or agency study;

30 (v) Specifies the process by which interested parties can
31 effectively participate in the decision to adopt a new rule and
32 formulation of a proposed rule before its publication.

33 (b) The statement of inquiry must be filed with the code reviser
34 for publication in the state register at least thirty days before the
35 date the agency files notice of proposed rule making under RCW
36 34.05.320 and the statement, or a summary of the information contained

1 in that statement, must be sent to any party that has requested receipt
2 of the agency's statements of inquiry.

3 ~~((+2))~~ (3) Agencies are encouraged to develop and use new
4 procedures for reaching agreement among interested parties before
5 publication of notice and the adoption hearing on a proposed rule.
6 Examples of new procedures include, but are not limited to:

7 (a) Negotiated rule making by which representatives of an agency
8 and of the interests that are affected by a subject of rule making,
9 including, where appropriate, county and city representatives, seek to
10 reach consensus on the terms of the proposed rule and on the process by
11 which it is negotiated; and

12 (b) Pilot rule making which includes testing the feasibility of
13 complying with or administering draft new rules or draft amendments to
14 existing rules through the use of volunteer pilot groups in various
15 areas and circumstances, as provided in RCW 34.05.313 or as otherwise
16 provided by the agency.

17 ~~((+3))~~ (4)(a) An agency must make a determination whether
18 negotiated rule making, pilot rule making, or another process for
19 generating participation from interested parties prior to development
20 of the rule is appropriate.

21 (b) An agency must include a written justification in the rule-
22 making file if an opportunity for interested parties to participate in
23 the rule-making process prior to publication of the proposed rule has
24 not been provided.

25 ~~((+4))~~ (5) This section does not apply to:

26 (a) Emergency rules adopted under RCW 34.05.350;

27 (b) Rules relating only to internal governmental operations that
28 are not subject to violation by a nongovernment party;

29 (c) Rules adopting or incorporating by reference without material
30 change federal statutes or regulations, Washington state statutes,
31 rules of other Washington state agencies, shoreline master programs
32 other than those programs governing shorelines of statewide
33 significance, or, as referenced by Washington state law, national
34 consensus codes that generally establish industry standards, if the
35 material adopted or incorporated regulates the same subject matter and
36 conduct as the adopting or incorporating rule;

37 (d) Rules that only correct typographical errors, make address or

1 name changes, or clarify language of a rule without changing its
2 effect;

3 (e) Rules the content of which is explicitly and specifically
4 dictated by statute;

5 (f) Rules that set or adjust fees under the authority of RCW
6 19.02.075 or that set or adjust fees or rates pursuant to legislative
7 standards, including fees set or adjusted under the authority of RCW
8 19.80.045; or

9 (g) Rules that adopt, amend, or repeal:

10 (i) A procedure, practice, or requirement relating to agency
11 hearings; or

12 (ii) A filing or related process requirement for applying to an
13 agency for a license or permit.

14 **Sec. 5.** RCW 34.05.313 and 1995 c 403 s 303 are each amended to
15 read as follows:

16 (1) The provisions of this section are subject to section 3 of this
17 act.

18 (2) During the development of a rule or after its adoption, an
19 agency may develop methods for measuring or testing the feasibility of
20 complying with or administering the rule and for identifying simple,
21 efficient, and economical alternatives for achieving the goal of the
22 rule. A pilot project shall include public notice, participation by
23 volunteers who are or will be subject to the rule, a high level of
24 involvement from agency management, reasonable completion dates, and a
25 process by which one or more parties may withdraw from the process or
26 the process may be terminated. Volunteers who agree to test a rule and
27 attempt to meet the requirements of the draft rule, to report
28 periodically to the proposing agency on the extent of their ability to
29 meet the requirements of the draft rule, and to make recommendations
30 for improving the draft rule shall not be obligated to comply fully
31 with the rule being tested nor be subject to any enforcement action or
32 other sanction for failing to comply with the requirements of the draft
33 rule.

34 ((+2)) (3) An agency conducting a pilot rule project authorized
35 under subsection ((+1)) (2) of this section may waive one or more
36 provisions of agency rules otherwise applicable to participants in such
37 a pilot project if the agency first determines that such a waiver is in

1 the public interest and necessary to conduct the project. Such a
2 waiver may be only for a stated period of time, not to exceed the
3 duration of the project.

4 ~~((3))~~ (4) The findings of the pilot project should be widely
5 shared and, where appropriate, adopted as amendments to the rule.

6 ~~((4))~~ (5) If an agency conducts a pilot rule project in lieu of
7 meeting the requirements of the regulatory fairness act, chapter 19.85
8 RCW, the agency shall ensure the following conditions are met:

9 (a) If over ten small businesses are affected, there shall be at
10 least ten small businesses in the test group and at least one-half of
11 the volunteers participating in the pilot test group shall be small
12 businesses.

13 (b)(i) If there are at least one hundred businesses affected, the
14 participation by small businesses in the test group shall be as
15 follows:

16 (A) Not less than twenty percent of the small businesses must
17 employ twenty-six to fifty employees;

18 (B) Not less than twenty percent of the small businesses must
19 employ eleven to twenty-six employees; and

20 (C) Not less than twenty percent of the small businesses must
21 employ zero to ten employees.

22 (ii) If there do not exist a sufficient number of small businesses
23 in each size category set forth in (b)(i) of this subsection willing to
24 participate in the pilot project to meet the minimum requirements of
25 that subsection, then the agency must comply with this section to the
26 maximum extent practicable.

27 (c) The agency may not terminate the pilot project before
28 completion.

29 (d) Before filing the notice of proposed rule making pursuant to
30 RCW 34.05.320, the agency must prepare a report of the pilot rule
31 project that includes:

32 (i) A description of the difficulties small businesses had in
33 complying with the pilot rule;

34 (ii) A list of the recommended revisions to the rule to make
35 compliance with the rule easier or to reduce the cost of compliance
36 with the rule by the small businesses participating in the pilot rule
37 project;

1 (iii) A written statement explaining the options it considered to
2 resolve each of the difficulties described and a statement explaining
3 its reasons for not including a recommendation by the pilot test group
4 to revise the rule; and

5 (iv) If the agency was unable to meet the requirements set forth in
6 (b)(i) of this subsection, a written explanation of why it was unable
7 to do so and the steps the agency took to include small businesses in
8 the pilot project.

9 **Sec. 6.** RCW 34.05.320 and 2004 c 31 s 2 are each amended to read
10 as follows:

11 (1) The provisions of this section are subject to section 3 of this
12 act.

13 (2) At least twenty days before the rule-making hearing at which
14 the agency receives public comment regarding adoption of a rule, the
15 agency shall cause notice of the hearing to be published in the state
16 register. The publication constitutes the proposal of a rule. The
17 notice shall include all of the following:

18 (a) A title, a description of the rule's purpose, and any other
19 information which may be of assistance in identifying the rule or its
20 purpose;

21 (b) Citations of the statutory authority for adopting the rule and
22 the specific statute the rule is intended to implement;

23 (c) A short explanation of the rule, its purpose, and anticipated
24 effects, including in the case of a proposal that would modify existing
25 rules, a short description of the changes the proposal would make, and
26 a statement of the reasons supporting the proposed action;

27 (d) The agency personnel, with their office location and telephone
28 number, who are responsible for the drafting, implementation, and
29 enforcement of the rule;

30 (e) The name of the person or organization, whether private,
31 public, or governmental, proposing the rule;

32 (f) Agency comments or recommendations, if any, regarding statutory
33 language, implementation, enforcement, and fiscal matters pertaining to
34 the rule;

35 (g) Whether the rule is necessary as the result of federal law or
36 federal or state court action, and if so, a citation to such law or
37 court decision;

1 (h) When, where, and how persons may present their views on the
2 proposed rule;

3 (i) The date on which the agency intends to adopt the rule;

4 (j) A copy of the small business economic impact statement prepared
5 under chapter 19.85 RCW, or an explanation for why the agency did not
6 prepare the statement;

7 (k) A statement indicating whether RCW 34.05.328 applies to the
8 rule adoption; and

9 (l) If RCW 34.05.328 does apply, a statement indicating that a copy
10 of the preliminary cost-benefit analysis described in RCW
11 34.05.328(~~(1)~~) (2)(c) is available.

12 (~~(2)~~) (3)(a) Upon filing notice of the proposed rule with the
13 code reviser, the adopting agency shall have copies of the notice on
14 file and available for public inspection. Except as provided in (b) of
15 this subsection, the agency shall forward three copies of the notice to
16 the rules review committee.

17 (b) A pilot of at least ten agencies, including the departments of
18 labor and industries, fish and wildlife, revenue, ecology, retirement
19 systems, and health, shall file the copies required under this
20 subsection, as well as under RCW 34.05.350 and 34.05.353, with the
21 rules review committee electronically for a period of four years from
22 June 10, 2004. The office of regulatory assistance shall negotiate the
23 details of the pilot among the agencies, the legislature, and the code
24 reviser.

25 (~~(3)~~) (4) No later than three days after its publication in the
26 state register, the agency shall cause either a copy of the notice of
27 proposed rule adoption, or a summary of the information contained on
28 the notice, to be mailed to each person, city, and county that has made
29 a request to the agency for a mailed copy of such notices. An agency
30 may charge for the actual cost of providing a requesting party mailed
31 copies of these notices.

32 (~~(4)~~) (5) In addition to the notice required by subsections
33 (~~(1)~~) (2) and (~~(2)~~) (3) of this section, an institution of higher
34 education shall cause the notice to be published in the campus or
35 standard newspaper of the institution at least seven days before the
36 rule-making hearing.

1 **Sec. 7.** RCW 34.05.328 and 2011 c 298 s 21 and 2011 c 149 s 1 are
2 each reenacted and amended to read as follows:

3 (1) The provisions of this section are subject to section 3 of this
4 act.

5 (2) Before adopting a rule described in subsection (~~(+5)~~) (7) of
6 this section, an agency must:

7 (a) Clearly state in detail the general goals and specific
8 objectives of the statute that the rule implements;

9 (b) Determine that the rule is needed to achieve the general goals
10 and specific objectives stated under (a) of this subsection, and
11 analyze alternatives to rule making and the consequences of not
12 adopting the rule;

13 (c) Provide notification in the notice of proposed rule making
14 under RCW 34.05.320 that a preliminary cost-benefit analysis is
15 available. The preliminary cost-benefit analysis must fulfill the
16 requirements of the cost-benefit analysis under (d) of this subsection.
17 If the agency files a supplemental notice under RCW 34.05.340, the
18 supplemental notice must include notification that a revised
19 preliminary cost-benefit analysis is available. A final cost-benefit
20 analysis must be available when the rule is adopted under RCW
21 34.05.360;

22 (d) Determine that the probable benefits of the rule are greater
23 than its probable costs, taking into account both the qualitative and
24 quantitative benefits and costs and the specific directives of the
25 statute being implemented;

26 (e) Determine, after considering alternative versions of the rule
27 and the analysis required under (b), (c), and (d) of this subsection,
28 that the rule being adopted is the least burdensome alternative for
29 those required to comply with it that will achieve the general goals
30 and specific objectives stated under (a) of this subsection;

31 (f) Determine that the rule does not require those to whom it
32 applies to take an action that violates requirements of another federal
33 or state law;

34 (g) Determine that the rule does not impose more stringent
35 performance requirements on private entities than on public entities
36 unless required to do so by federal or state law;

37 (h) Determine if the rule differs from any federal regulation or

1 statute applicable to the same activity or subject matter and, if so,
2 determine that the difference is justified by the following:

3 (i) A state statute that explicitly allows the agency to differ
4 from federal standards; or

5 (ii) Substantial evidence that the difference is necessary to
6 achieve the general goals and specific objectives stated under (a) of
7 this subsection; ~~((and))~~

8 (i) Coordinate the rule, to the maximum extent practicable, with
9 other federal, state, and local laws applicable to the same activity or
10 subject matter; and

11 (j) Receive the governor's signature on the final rule.

12 ~~((+2))~~ (3) In making its determinations pursuant to subsection
13 ~~((+1))~~ (2)(b) through (h) of this section, the agency must place in
14 the rule-making file documentation of sufficient quantity and quality
15 so as to persuade a reasonable person that the determinations are
16 justified.

17 ~~((+3))~~ (4) Before adopting rules described in subsection ~~((+5))~~
18 (7) of this section, an agency must place in the rule-making file a
19 rule implementation plan for rules filed under each adopting order.
20 The plan must describe how the agency intends to:

21 (a) Implement and enforce the rule, including a description of the
22 resources the agency intends to use;

23 (b) Inform and educate affected persons about the rule;

24 (c) Promote and assist voluntary compliance; and

25 (d) Evaluate whether the rule achieves the purpose for which it was
26 adopted, including, to the maximum extent practicable, the use of
27 interim milestones to assess progress and the use of objectively
28 measurable outcomes.

29 ~~((+4))~~ (6) The adoption of rules described in subsection (7) of
30 this section must be made before December 1st of any year, and the
31 rules may not take effect before the end of the regular legislative
32 session in the next year.

33 (7) After adopting a rule described in subsection ~~((+5))~~ (7) of
34 this section regulating the same activity or subject matter as another
35 provision of federal or state law, an agency must do all of the
36 following:

37 (a) Coordinate implementation and enforcement of the rule with the

1 other federal and state entities regulating the same activity or
2 subject matter by making every effort to do one or more of the
3 following:

- 4 (i) Deferring to the other entity;
- 5 (ii) Designating a lead agency; or
- 6 (iii) Entering into an agreement with the other entities specifying
7 how the agency and entities will coordinate implementation and
8 enforcement.

9 If the agency is unable to comply with this subsection (~~(4)~~)
10 (6)(a), the agency must report to the legislature pursuant to (b) of
11 this subsection;

12 (b) Report to the joint administrative rules review committee:

- 13 (i) The existence of any overlap or duplication of other federal or
14 state laws, any differences from federal law, and any known overlap,
15 duplication, or conflict with local laws; and
- 16 (ii) Make recommendations for any legislation that may be necessary
17 to eliminate or mitigate any adverse effects of such overlap,
18 duplication, or difference.

19 (~~(5)~~) (7)(a) Except as provided in (b) of this subsection, this
20 section applies to:

21 (i) Significant legislative rules of the departments of ecology,
22 labor and industries, health, revenue, social and health services, and
23 natural resources, the employment security department, the forest
24 practices board, the office of the insurance commissioner, and to the
25 legislative rules of the department of fish and wildlife implementing
26 chapter 77.55 RCW; and

27 (ii) Any rule of any agency, if this section is voluntarily made
28 applicable to the rule by the agency, or is made applicable to the rule
29 by a majority vote of the joint administrative rules review committee
30 within forty-five days of receiving the notice of proposed rule making
31 under RCW 34.05.320.

32 (b) This section does not apply to:

33 (i) Emergency rules adopted under RCW 34.05.350;

34 (ii) Rules relating only to internal governmental operations that
35 are not subject to violation by a nongovernment party;

36 (iii) Rules adopting or incorporating by reference without material
37 change federal statutes or regulations, Washington state statutes,
38 rules of other Washington state agencies, shoreline master programs

1 other than those programs governing shorelines of statewide
2 significance, or, as referenced by Washington state law, national
3 consensus codes that generally establish industry standards, if the
4 material adopted or incorporated regulates the same subject matter and
5 conduct as the adopting or incorporating rule;

6 (iv) Rules that only correct typographical errors, make address or
7 name changes, or clarify language of a rule without changing its
8 effect;

9 (v) Rules the content of which is explicitly and specifically
10 dictated by statute;

11 (vi) Rules that set or adjust fees under the authority of RCW
12 19.02.075 or that set or adjust fees or rates pursuant to legislative
13 standards, including fees set or adjusted under the authority of RCW
14 19.80.045;

15 (vii) Rules of the department of social and health services
16 relating only to client medical or financial eligibility and rules
17 concerning liability for care of dependents; or

18 (viii) Rules of the department of revenue that adopt a uniform
19 expiration date for reseller permits as authorized in RCW 82.32.780 and
20 82.32.783.

21 (c) For purposes of this subsection:

22 (i) A "procedural rule" is a rule that adopts, amends, or repeals
23 (A) any procedure, practice, or requirement relating to any agency
24 hearings; (B) any filing or related process requirement for making
25 application to an agency for a license or permit; or (C) any policy
26 statement pertaining to the consistent internal operations of an
27 agency.

28 (ii) An "interpretive rule" is a rule, the violation of which does
29 not subject a person to a penalty or sanction, that sets forth the
30 agency's interpretation of statutory provisions it administers.

31 (iii) A "significant legislative rule" is a rule other than a
32 procedural or interpretive rule that (A) adopts substantive provisions
33 of law pursuant to delegated legislative authority, the violation of
34 which subjects a violator of such rule to a penalty or sanction; (B)
35 establishes, alters, or revokes any qualification or standard for the
36 issuance, suspension, or revocation of a license or permit; or (C)
37 adopts a new, or makes significant amendments to, a policy or
38 regulatory program.

1 (d) In the notice of proposed rule making under RCW 34.05.320, an
2 agency must state whether this section applies to the proposed rule
3 pursuant to (a)(i) of this subsection, or if the agency will apply this
4 section voluntarily.

5 ((+6+)) (8) By January 31, 1996, and by January 31st of each even-
6 numbered year thereafter, the office of regulatory assistance, after
7 consulting with state agencies, counties, and cities, and business,
8 labor, and environmental organizations, must report to the governor and
9 the legislature regarding the effects of this section on the regulatory
10 system in this state. The report must document:

11 (a) The rules proposed to which this section applied and to the
12 extent possible, how compliance with this section affected the
13 substance of the rule, if any, that the agency ultimately adopted;

14 (b) The costs incurred by state agencies in complying with this
15 section;

16 (c) Any legal action maintained based upon the alleged failure of
17 any agency to comply with this section, the costs to the state of such
18 action, and the result;

19 (d) The extent to which this section has adversely affected the
20 capacity of agencies to fulfill their legislatively prescribed mission;

21 (e) The extent to which this section has improved the acceptability
22 of state rules to those regulated; and

23 (f) Any other information considered by the office of financial
24 management to be useful in evaluating the effect of this section.

25 NEW SECTION. **Sec. 8.** The legislature finds that many citizens,
26 employers, and local governments are struggling with nonemergency
27 regulatory burdens resulting in the loss of time, resources, employees,
28 and the ability to create job growth. At a time when state agencies
29 should be looking for ways to reduce the negative impacts of
30 nonemergency rules, they continue to produce a flow of new and
31 unnecessary changes to the Washington Administrative Code that are
32 stunting economic recovery in Washington state.

33 The citizens of Washington state elect state lawmakers to represent
34 them and, in turn, hold them accountable for their actions and the
35 outcomes of state government. If state agencies are placing costly
36 nonemergency regulatory burdens on citizens, it is the duty of state

1 lawmakers to address these problems directly within the legislative
2 process.

3 The governor has acknowledged, through Executive Order 10-06,
4 "Suspending Non-Critical Rule Development and Adoption," that "in a
5 time of severe budget constraints, small businesses and governments
6 find it more difficult to monitor and respond to proposed changes in
7 rules and policies" and "a stable and predictable regulatory and policy
8 environment will conserve resources for small businesses and local
9 governments and promote economic recovery."

10 State agencies currently must provide economic impact statements in
11 a select few instances under the regulatory fairness act. In 2011, an
12 estimated thirty statements were filed with the code reviser's office
13 despite the fact that there were thousands of changes to rules. The
14 system is set up so that even if there are economic and time burdens
15 placed on citizens, employers, or local governments, state agencies may
16 still go forward and enact the rules. This is detrimental to the
17 economic growth of Washington state.

18 The legislature intends to prevent regulatory bodies from having
19 the authority to place costly burdens on citizens, employers, and local
20 governments that will further damage Washington state's economy.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 34.05 RCW
22 to read as follows:

23 (1) Before adoption of a rule, an agency must determine whether
24 compliance with the rule will result in a specified economic impact.
25 If the agency determines that a rule will result in a specified
26 economic impact, the agency must provide notification and may not
27 enforce the rule until the rule is enacted into law by the legislature.

28 (2) Not later than one hundred eighty days after the effective date
29 of this section, and annually thereafter, each agency shall determine
30 whether any of its rules has resulted in a specified economic impact in
31 the preceding year. If such a determination is made, the agency must
32 provide notification, and may no longer enforce the rule until the rule
33 is enacted into law by the legislature.

34 (3)(a) For purposes of this section, "provide notification" means
35 transmit the proposed or existing rule determined to result in a
36 specified economic impact and the findings supporting such a
37 determination, including relevant public comments in the case of a

1 proposed rule, to the code reviser for publication in the state
2 register and to the appropriate committees of the senate and the house
3 of representatives.

4 (b) For purposes of this section, "specified economic impact" means
5 any of the following:

6 (i) Costs to any individual of one thousand dollars or more in a
7 year; or

8 (ii) Costs to any business, partnership, corporation, association,
9 or public or private organization, but not including state government,
10 of five thousand dollars or more in a year.

11 (4) Any person may commence an action in the superior court either
12 for an injunction or writ of mandamus for compliance of this section.

13 NEW SECTION. **Sec. 10.** The legislature finds that there have been
14 instances where regulatory agencies discovered actions by a regulated
15 entity that are in error after reports have been accepted and approved
16 or inspections have been conducted and approved. Retroactively
17 applying fines after governmental approval creates an unfriendly
18 business environment and can place unexpected financial burdens on
19 businesses. Businesses should be able to rely on government approval
20 and acceptance of reports and inspections and not risk penalties when
21 mistakes are made by government personnel or contractors. It is the
22 intent of the legislature that regulated parties who have received
23 acceptance and approval by the regulating government authority should
24 not be subsequently fined or penalized, but should be encouraged to
25 correct action that is deemed in error or violates reporting or
26 inspection requirements during the next reporting period. The
27 regulating authority should notify the regulated party of the violation
28 to prevent future violations.

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

31 (1) An agency may not issue a fine or impose a penalty on a person
32 if:

33 (a) An inspection is approved by an official of the agency
34 requiring the inspection and a subsequent reevaluation of the approved
35 inspection by the regulating agency identifies a violation by the
36 regulated party; or

1 (b) Documentation required under an agency's reporting requirements
2 is submitted to the agency by a regulated party and is accepted and
3 approved by the regulating agency and a subsequent reevaluation of the
4 approved documentation identifies a violation based on failure to
5 provide required documentation or information.

6 (2) A rule adopted under this chapter may not authorize the
7 imposition of a civil fine on a person based on the following
8 circumstances if:

9 (a) An inspection is approved by an official of the agency
10 requiring the inspection and a subsequent reevaluation of the approved
11 inspection by the regulating agency identifies a violation by the
12 regulated party; or

13 (b) Documentation required under an agency's reporting requirements
14 is submitted to the agency by a regulated party and is accepted and
15 approved by the regulating agency and a subsequent reevaluation of the
16 approved documentation identifies a violation based on failure to
17 provide required documentation or information.

18 (3) Violations identified after an inspection or documentation has
19 been approved may be remedied through technical assistance provided to
20 the regulated party allowing correction of the circumstances of the
21 violation for future reporting periods or inspections.

22 **Sec. 12.** RCW 34.05.570 and 2004 c 30 s 1 are each amended to read
23 as follows:

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

26 (a) The burden of demonstrating the invalidity of agency action is
27 on the party asserting invalidity;

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

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

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

36 (2) Review of rules. (a) A rule may be reviewed by petition for
37 declaratory judgment filed pursuant to this subsection or in the

1 context of any other review proceeding under this section. In an
2 action challenging the validity of a rule, the agency shall be made a
3 party to the proceeding.

4 (b)~~((+i+))~~ The validity of any rule may be determined upon petition
5 for a declaratory judgment addressed to the superior court of Thurston
6 county, when it appears that the rule, or its threatened application,
7 interferes with or impairs or immediately threatens to interfere with
8 or impair the legal rights or privileges of the petitioner. The
9 declaratory judgment order may be entered whether or not the petitioner
10 has first requested the agency to pass upon the validity of the rule in
11 question.

12 ~~((+ii) From June 10, 2004, until July 1, 2008+~~

13 ~~(+A+))~~ (i) If the petitioner's residence or principal place of
14 business is within the geographical boundaries of the third division of
15 the court of appeals as defined by RCW 2.06.020(3), the petition may be
16 filed in the superior court of Spokane, Yakima, or Thurston county; and

17 ~~((+B+))~~ (ii) If the petitioner's residence or principal place of
18 business is within the geographical boundaries of district three of the
19 first division of the court of appeals as defined by RCW 2.06.020(1),
20 the petition may be filed in the superior court of Whatcom or Thurston
21 county.

22 (c) In a proceeding involving review of a rule, the court shall
23 declare the rule invalid only if it finds that: The rule violates
24 constitutional provisions; the rule exceeds the statutory authority of
25 the agency; the rule was adopted without compliance with statutory
26 rule-making procedures; or the rule is arbitrary and capricious. For
27 purposes of this subsection, in determining whether a rule exceeds the
28 agency's statutory authority, the court must also consider whether the
29 rule exceeds the limited delegation under section 48 of this act.

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

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

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

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

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

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

6 (f) The agency has not decided all issues requiring resolution by
7 the agency;

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

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

16 (i) The order is arbitrary or capricious.

17 (4) Review of other agency action.

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

20 (b) A person whose rights are violated by an agency's failure to
21 perform a duty that is required by law to be performed may file a
22 petition for review pursuant to RCW 34.05.514, seeking an order
23 pursuant to this subsection requiring performance. Within twenty days
24 after service of the petition for review, the agency shall file and
25 serve an answer to the petition, made in the same manner as an answer
26 to a complaint in a civil action. The court may hear evidence,
27 pursuant to RCW 34.05.562, on material issues of fact raised by the
28 petition and answer.

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

33 (i) Unconstitutional;

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

36 (iii) Arbitrary or capricious; or

37 (iv) Taken by persons who were not properly constituted as agency
38 officials lawfully entitled to take such action.

1 **Sec. 13.** RCW 28A.300.040 and 2011 1st sp.s. c 43 s 302 are each
2 amended to read as follows:

3 (1) In addition to any other powers and duties as provided by law,
4 the powers and duties of the superintendent of public instruction shall
5 be:

6 ~~((+1))~~ (a) To have supervision over all matters pertaining to the
7 public schools of the state;

8 ~~((+2))~~ (b) To report to the governor and the legislature such
9 information and data as may be required for the management and
10 improvement of the schools;

11 ~~((+3))~~ (c) To prepare and have printed such forms, registers,
12 courses of study, rules for the government of the common schools, and
13 such other material and books as may be necessary for the discharge of
14 the duties of teachers and officials charged with the administration of
15 the laws relating to the common schools, and to distribute the same to
16 educational service district superintendents;

17 ~~((+4))~~ (d) To travel, without neglecting his or her other official
18 duties as superintendent of public instruction, for the purpose of
19 attending educational meetings or conventions, of visiting schools, and
20 of consulting educational service district superintendents or other
21 school officials;

22 ~~((+5))~~ (e) To prepare and from time to time to revise a manual of
23 the Washington state common school code, copies of which shall be made
24 available online and which shall be sold at approximate actual cost of
25 publication and distribution per volume to public and nonpublic
26 agencies or individuals, said manual to contain Titles 28A and 28C RCW,
27 rules related to the common schools, and such other matter as the state
28 superintendent or the state board of education shall determine;

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

37 ~~((+7))~~ (g) To require annually, on or before the 15th day of
38 August, of the president, manager, or principal of every educational

1 institution in this state, a report as required by the superintendent
2 of public instruction; and it is the duty of every president, manager,
3 or principal, to complete and return such forms within such time as the
4 superintendent of public instruction shall direct;

5 ~~((+8))~~ (h) To keep in the superintendent's office a record of all
6 teachers receiving certificates to teach in the common schools of this
7 state;

8 ~~((+9))~~ (i) To issue certificates as provided by law;

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

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

23 ~~((+12))~~ (l) To administer oaths and affirmations in the discharge
24 of the superintendent's official duties;

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

30 ~~((+14))~~ (n) To administer family services and programs to promote
31 the state's policy as provided in RCW 74.14A.025;

32 ~~((+15))~~ (o) To promote the adoption of school-based curricula and
33 policies that provide quality, daily physical education for all
34 students, and to encourage policies that provide all students with
35 opportunities for physical activity outside of formal physical
36 education classes;

37 ~~((+16))~~ (p) To perform such other duties as may be required by
38 law.

1 (2) For rules adopted under the provisions of this chapter after
2 August 1, 2012, the superintendent of public instruction may adopt only
3 rules derived from a specific grant of legislative authority. The
4 rules must include the specific statutory section or sections from
5 which the grant of authority is derived, and may not rely solely on a
6 section of law stating a statute's intent or purpose or the general
7 enabling provisions establishing the office of the superintendent of
8 public instruction.

9 **Sec. 14.** RCW 41.50.050 and 1995 c 239 s 317 are each amended to
10 read as follows:

11 The director shall:

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

14 (2) Have free access to all files and records of various funds
15 assigned to the department and inspect and audit the files and records
16 as deemed necessary;

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

19 (4) Submit an annual written report of the activities of the
20 department to the governor and the chairs of the appropriate
21 legislative committees with one copy to the staff of each of the
22 committees, including recommendations for statutory changes the
23 director believes to be desirable;

24 (5) Adopt (~~such~~) rules (~~and regulations~~) as are necessary to
25 carry out the powers, duties, and functions of the department pursuant
26 to the provisions of chapter 34.05 RCW. For rules adopted under the
27 provisions of this chapter after August 1, 2012, the director may adopt
28 only rules derived from a specific grant of legislative authority. The
29 rules must include the specific statutory section or sections from
30 which the grant of authority is derived, and may not rely solely on a
31 section of law stating a statute's intent or purpose or the general
32 enabling provisions establishing the department.

33 **Sec. 15.** RCW 43.06A.030 and 1996 c 131 s 4 are each amended to
34 read as follows:

35 The ombudsman shall perform the following duties:

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

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

10 (3) Monitor the procedures as established, implemented, and
11 practiced by the department to carry out its responsibilities in
12 delivering family and children's services with a view toward
13 appropriate preservation of families and ensuring children's health and
14 safety;

15 (4) Review periodically the facilities and procedures of state
16 institutions serving children, and state-licensed facilities or
17 residences;

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

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

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

25 (8) Adopt rules necessary to implement this chapter. For rules
26 adopted under the provisions of this chapter after August 1, 2012, the
27 ombudsman may adopt only rules derived from a specific grant of
28 legislative authority. The rules must include the specific statutory
29 section or sections from which the grant of authority is derived, and
30 may not rely solely on a section of law stating a statute's intent or
31 purpose or the general enabling provisions establishing the department
32 or the ombudsman's office.

33 NEW SECTION. Sec. 16. A new section is added to chapter 43.17 RCW
34 to read as follows:

35 For rules adopted under the provisions of this chapter after August
36 1, 2012, the director of each department may adopt only rules derived
37 from a specific grant of legislative authority. The rules must include

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

5 **Sec. 17.** RCW 43.19.011 and 2011 1st sp.s. c 43 s 201 are each
6 amended to read as follows:

7 (1) The director of enterprise services shall supervise and
8 administer the activities of the department of enterprise services and
9 shall advise the governor and the legislature with respect to matters
10 under the jurisdiction of the department.

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

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

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

18 (c) Appoint deputy and assistant directors and such other special
19 assistants as may be needed to administer the department. These
20 employees are exempt from the provisions of chapter 41.06 RCW;

21 (d) Adopt rules in accordance with chapter 34.05 RCW and perform
22 all other functions necessary and proper to carry out the purposes of
23 this chapter. For rules adopted under the provisions of this chapter
24 after August 1, 2012, the director may adopt only rules derived from a
25 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 department;

30 (e) Delegate powers, duties, and functions as the director deems
31 necessary for efficient administration, but the director shall be
32 responsible for the official acts of the officers and employees of the
33 department;

34 (f) Apply for grants from public and private entities, and receive
35 and administer any grant funding received for the purpose and intent of
36 this chapter; and

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

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

3 **Sec. 18.** RCW 43.21A.064 and 1997 c 443 s 2 are each amended to
4 read as follows:

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

7 (1) The supervision of public waters within the state and their
8 appropriation, diversion, and use, and of the various officers
9 connected therewith;

10 (2) Insofar as may be necessary to (~~assure~~) ensure safety to life
11 or property, the director shall inspect the construction of all dams,
12 canals, ditches, irrigation systems, hydraulic power plants, and all
13 other works, systems, and plants pertaining to the use of water, and
14 may require such necessary changes in the construction or maintenance
15 of said works, to be made from time to time, as will reasonably secure
16 safety to life and property;

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

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

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

31 (6) The director shall keep such records as may be necessary for
32 the recording of the financial transactions and statistical data
33 thereof, and shall procure all necessary documents, forms, and blanks.
34 The director shall keep a seal of the office, and all certificates
35 covering any of the director's acts or the acts of the director's
36 office, or the records and files of that office, under such seal, shall
37 be taken as evidence thereof in all courts;

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

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

6 (9) The director shall establish and (~~promulgate~~) adopt rules
7 governing the administration of chapter 90.03 RCW. For rules adopted
8 under the provisions of this chapter after August 1, 2012, the director
9 may adopt only rules derived from a specific grant of legislative
10 authority. The rules must include the specific statutory section or
11 sections from which the grant of authority is derived, and may not rely
12 solely on a section of law stating a statute's intent or purpose or the
13 general enabling provisions establishing the department;

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

16 **Sec. 19.** RCW 43.24.016 and 1999 c 240 s 4 are each amended to read
17 as follows:

18 (1) The director of licensing shall supervise and administer the
19 activities of the department of licensing and shall advise the governor
20 and the legislature with respect to matters under the jurisdiction of
21 the department.

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

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

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

28 (c) Appoint a deputy director and such assistant directors, special
29 assistants, and administrators as may be needed to administer the
30 department. These employees are exempt from the provisions of chapter
31 41.06 RCW;

32 (d) Adopt rules in accordance with chapter 34.05 RCW and perform
33 all other functions necessary to carry out the responsibilities of the
34 department. For rules adopted under the provisions of this chapter
35 after August 1, 2012, the director may adopt only rules derived from a
36 specific grant of legislative authority. The rules must include the
37 specific statutory section or sections from which the grant of

1 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;

4 (e) Delegate powers, duties, and functions as the director deems
5 necessary for efficient administration, but the director is responsible
6 for the official acts of the officers and employees of the department;
7 and

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

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

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

20 **Sec. 20.** RCW 43.27A.090 and 1988 c 127 s 25 are each amended to
21 read as follows:

22 The department shall be empowered as follows:

23 (1) To represent the state at, and fully participate in, the
24 activities of any basin or regional commission, interagency committee,
25 or any other joint interstate or federal-state agency, committee or
26 commission, or publicly financed entity engaged in the planning,
27 development, administration, management, conservation or preservation
28 of the water resources of the state.

29 (2) To prepare the views and recommendations of the state of
30 Washington on any project, plan or program relating to the planning,
31 development, administration, management, conservation and preservation
32 of any waters located in or affecting the state of Washington,
33 including any federal permit or license proposal, and appear on behalf
34 of, and present views and recommendations of the state at any
35 proceeding, negotiation or hearing conducted by the federal government,
36 interstate agency, state or other agency.

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

6 (4) To cooperate with appropriate agencies of the federal
7 government and/or agencies of other states, to enter into contracts,
8 and to make appropriate contributions to federal or interstate projects
9 and programs and governmental bodies to carry out the provisions of
10 this chapter.

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

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

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

30 (8) To assemble and correlate state, local and federal laws,
31 regulations, plans, programs and policies affecting the beneficial use,
32 disposal, pollution, control or conservation of water, river basin
33 development, flood prevention, parks, reservations, forests, wildlife
34 refuges, drainage and sanitary systems, waste disposal, water works,
35 watershed protection and development, soil conservation, power
36 facilities and area and municipal water supply needs, and recommend
37 suitable legislation or other action to the legislature, the congress

1 of the United States, or any city, municipality, or to responsible
2 state, local or federal executive departments or agencies.

3 (9) To cooperate with federal, state, regional, interstate and
4 local public and private agencies in the making of plans for drainage,
5 flood control, use, conservation, allocation and distribution of
6 existing water supplies and the development of new water resource
7 projects.

8 (10) To encourage, assist and advise regional, and city and
9 municipal agencies, officials or bodies responsible for planning in
10 relation to water aspects of their programs, and coordinate local water
11 resources activities, programs, and plans.

12 (11) To (~~promulgate such~~) adopt rules (~~and regulations~~) as are
13 necessary to carry out the purposes of this chapter. For rules adopted
14 under the provisions of this chapter after August 1, 2012, the
15 department may adopt only rules derived from a specific grant of
16 legislative authority. The rules must include the specific statutory
17 section or sections from which the grant of authority is derived, and
18 may not rely solely on a section of law stating a statute's intent or
19 purpose or the general enabling provisions establishing the department.

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

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

28 **Sec. 21.** RCW 43.30.215 and 2011 c 355 s 1 are each amended to read
29 as follows:

30 The board shall:

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

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

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

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

5 (5) Constitute the board on geographic names as provided for in RCW
6 43.30.291 through 43.30.295; and

7 (6) Adopt and enforce rules as may be deemed necessary and proper
8 for carrying out the powers, duties, and functions imposed upon it by
9 this chapter. For rules adopted under the provisions of this chapter
10 after August 1, 2012, the board may adopt only 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 board or the department.

16 **Sec. 22.** RCW 43.31C.060 and 2000 c 212 s 7 are each amended to
17 read as follows:

18 The department must administer this chapter and has the following
19 powers and duties:

20 (1) To monitor the implementation of chapter 212, Laws of 2000 and
21 submit reports evaluating the effectiveness of the program and any
22 suggestions for legislative changes to the governor and legislature by
23 December 1, 2000;

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

27 (3) To provide information and appropriate assistance to persons
28 desiring to locate and operate a business in a community empowerment
29 zone;

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

35 (5) To develop rules necessary for the administration of this
36 chapter. For rules adopted under the provisions of this chapter after
37 August 1, 2012, the department may adopt only 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 department.

6 **Sec. 23.** RCW 43.33.040 and 2009 c 549 s 5112 are each amended to
7 read as follows:

8 The state finance committee may (~~make~~) adopt appropriate rules
9 (~~and regulations~~) for the performance of its duties. The state
10 treasurer shall act as chair of the committee. For rules adopted under
11 the provisions of this chapter after August 1, 2012, the state finance
12 committee may adopt only 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 state
17 finance committee.

18 **Sec. 24.** RCW 43.33A.110 and 1994 c 154 s 310 are each amended to
19 read as follows:

20 The state investment board may (~~make~~) adopt appropriate rules
21 (~~and regulations~~) for the performance of its duties. The board shall
22 establish investment policies and procedures designed exclusively to
23 maximize return at a prudent level of risk. However, in the case of
24 the department of labor and industries' accident, medical aid, and
25 reserve funds, the board shall establish investment policies and
26 procedures designed to attempt to limit fluctuations in industrial
27 insurance premiums and, subject to this purpose, to maximize return at
28 a prudent level of risk. The board shall adopt rules to ensure that
29 its members perform their functions in compliance with chapter 42.52
30 RCW. Rules adopted by the board shall be adopted pursuant to chapter
31 34.05 RCW.

32 For rules adopted under the provisions of this chapter after August
33 1, 2012, the state investment board may adopt only rules derived from
34 a specific grant of legislative authority. The rules must include the
35 specific statutory section or sections from which the grant of

1 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 state investment board.

4 **Sec. 25.** RCW 43.59.070 and 1967 ex.s. c 147 s 8 are each amended
5 to read as follows:

6 The director shall be secretary of the commission and shall be
7 responsible for carrying into effect the commission's orders and rules
8 (~~((and regulations promulgated))~~) adopted by the commission. The
9 director shall also be authorized to employ such staff as is necessary
10 pursuant to the provisions of chapter 41.06 RCW. The commission shall
11 adopt (~~((such))~~) rules (~~((and regulations))~~) as shall be necessary to carry
12 into effect the purposes of this chapter.

13 For rules adopted under the provisions of this chapter after August
14 1, 2012, the Washington state traffic safety commission may adopt only
15 rules derived from a specific grant of legislative authority. The
16 rules must include the specific statutory section or sections from
17 which the grant of authority is derived, and may not rely solely on a
18 section of law stating a statute's intent or purpose or the general
19 enabling provisions establishing the commission.

20 **Sec. 26.** RCW 43.61.040 and 1977 c 75 s 60 are each amended to read
21 as follows:

22 The director of veterans affairs shall (~~((make such))~~) adopt rules
23 (~~((and regulations))~~) as may be necessary to carry out the purposes of
24 this chapter. For rules adopted under the provisions of this chapter
25 after August 1, 2012, the director of veterans affairs may adopt only
26 rules derived from a specific grant of legislative authority. The
27 rules must include the specific statutory section or sections from
28 which the grant of authority is derived, and may not rely solely on a
29 section of law stating a statute's intent or purpose or the general
30 enabling provisions establishing the department of veterans affairs.

31 The department shall furnish information, advice, and assistance to
32 veterans and coordinate all programs and services in the field of
33 veterans' claims service, education, health, vocational guidance and
34 placement, and services not provided by some other agency of the state
35 or by the federal government. The director shall submit a report of
36 the departments' activities hereunder each year to the governor.

1 **Sec. 27.** RCW 43.63A.475 and 1993 c 124 s 2 are each amended to
2 read as follows:

3 The department shall adopt all rules under chapter 34.05 RCW
4 necessary to implement chapter 124, Laws of 1993, giving due
5 consideration to standards and regulations adopted by the secretary of
6 housing and urban development under the National Manufactured Housing
7 Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C.
8 Secs. 5401-5426) for manufactured housing construction and safety
9 standards. For rules adopted under the provisions of this chapter
10 after August 1, 2012, the department of commerce may adopt only rules
11 derived from a specific grant of legislative authority. The rules must
12 include the specific statutory section or sections from which the grant
13 of 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 commerce.

16 **Sec. 28.** RCW 43.70.580 and 1995 c 43 s 3 are each amended to read
17 as follows:

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

21 (1) Identify, as part of the public health improvement plan, the
22 key health outcomes sought for the population and the capacity needed
23 by the public health system to fulfill its responsibilities in
24 improving health outcomes.

25 (2)(a) Distribute state funds that, in conjunction with local
26 revenues, are intended to improve the capacity of the public health
27 system. The distribution methodology shall encourage system-wide
28 effectiveness and efficiency and provide local health jurisdictions
29 with the flexibility both to determine governance structures and
30 address their unique needs.

31 (b) Enter into with each local health jurisdiction performance-
32 based contracts that establish clear measures of the degree to which
33 the local health jurisdiction is attaining the capacity necessary to
34 improve health outcomes. The contracts negotiated between the local
35 health jurisdictions and the department of health must identify the
36 specific measurable progress that local health jurisdictions will make
37 toward achieving health outcomes. A community assessment conducted by

1 the local health jurisdiction according to the public health
2 improvement plan, which shall include the results of the comprehensive
3 plan prepared according to RCW 70.190.130, will be used as the basis
4 for identifying the health outcomes. The contracts shall include
5 provisions to encourage collaboration among local health jurisdictions.
6 State funds shall be used solely to expand and complement, but not to
7 supplant city and county government support for public health programs.

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

10 (4) Adopt rules necessary to carry out the purposes of chapter 43,
11 Laws of 1995. For rules adopted under the provisions of this chapter
12 after August 1, 2012, the department may adopt only rules derived from
13 a specific grant of legislative authority. The rules must include the
14 specific statutory section or sections from which the grant of
15 authority is derived, and may not rely solely on a section of law
16 stating a statute's intent or purpose or the general enabling
17 provisions establishing the department.

18 (5) Biennially, within the public health improvement plan, evaluate
19 the effectiveness of the public health system, assess the degree to
20 which the public health system is attaining the capacity to improve the
21 status of the public's health, and report progress made by each local
22 health jurisdiction toward improving health outcomes.

23 **Sec. 29.** RCW 43.101.085 and 2006 c 22 s 1 are each amended to read
24 as follows:

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

27 (1) Adopt, amend, or repeal rules as necessary to carry out this
28 chapter. For rules adopted under the provisions of this chapter after
29 August 1, 2012, the commission may adopt only rules derived from a
30 specific grant of legislative authority. The rules must include the
31 specific statutory section or sections from which the grant of
32 authority is derived, and may not rely solely on a section of law
33 stating a statute's intent or purpose or the general enabling
34 provisions establishing the commission;

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

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

4 (4) Appoint members of a hearings board as provided under RCW
5 43.101.380;

6 (5) Enter into contracts for professional services determined by
7 the commission to be necessary for adequate enforcement of this
8 chapter;

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

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

13 (8) Employ such investigative, administrative, and clerical staff
14 as necessary for the enforcement of this chapter; and

15 (9) ~~((To))~~ Grant, deny, or revoke certification of tribal police
16 officers whose tribal governments have agreed to participate in the
17 tribal police officer certification process.

18 **Sec. 30.** RCW 43.115.040 and 2009 c 549 s 5170 are each amended to
19 read as follows:

20 The commission shall have the following powers and duties:

21 (1) Elect one of its members to serve as chair;

22 (2) Adopt rules ~~((and regulations))~~ pursuant to chapter 34.05 RCW.
23 For rules adopted under the provisions of this chapter after August 1,
24 2012, the commission may adopt only rules derived from a specific grant
25 of legislative authority. The rules must include the specific
26 statutory section or sections from which the grant of authority is
27 derived, and may not rely solely on a section of law stating a
28 statute's intent or purpose or the general enabling provisions
29 establishing the commission;

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

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

36 (5) Advise the legislature on issues of concern to the Hispanic
37 community;

1 (6) Establish relationships with state agencies, local governments,
2 and private sector organizations that promote equal opportunity and
3 benefits for Hispanics; and

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

8 **Sec. 31.** RCW 43.117.050 and 2009 c 549 s 5172 are each amended to
9 read as follows:

10 The commission shall:

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

13 (2) Adopt rules (~~and regulations~~) pursuant to chapter 34.05 RCW.
14 For rules adopted under the provisions of this chapter after August 1,
15 2012, the commission may adopt only rules derived from a specific grant
16 of legislative authority. The rules must include the specific
17 statutory section or sections from which the grant of authority is
18 derived, and may not rely solely on a section of law stating a
19 statute's intent or purpose or the general enabling provisions
20 establishing the commission;

21 (3) Meet at the call of the chair or the call of a majority of its
22 members, but in no case less often than once during any three month
23 period;

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

26 **Sec. 32.** 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;

1 (4) Adopt rules under chapter 34.05 RCW as necessary to carry out
2 the purposes of this chapter. For rules adopted under the provisions
3 of this chapter after August 1, 2012, the board may adopt only rules
4 derived from a specific grant of legislative authority. The rules must
5 include the specific statutory section or sections from which the grant
6 of authority is derived, and may not rely solely on a section of law
7 stating a statute's intent or purpose or the general enabling
8 provisions establishing the board;

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

11 **Sec. 33.** RCW 43.160.050 and 2008 c 327 s 4 are each amended to
12 read as follows:

13 The board may:

14 (1) Adopt bylaws for the regulation of its affairs and the conduct
15 of its business.

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

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

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

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

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

28 (7) Enter into agreements or other transactions with and accept
29 grants and the cooperation of any governmental agency in furtherance of
30 this chapter.

31 (8) Adopt rules under chapter 34.05 RCW as necessary to carry out
32 the purposes of this chapter. For rules adopted under the provisions
33 of this chapter after August 1, 2012, the board may adopt only rules
34 derived from a specific grant of legislative authority. The rules must
35 include the specific statutory section or sections from which the grant
36 of authority is derived, and may not rely solely on a section of law

1 stating a statute's intent or purpose or the general enabling
2 provisions establishing the board.

3 (9) Do all acts and things necessary or convenient to carry out the
4 powers expressly granted or implied under this chapter.

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

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

9 (1) Maintain an office or offices;

10 (2) Sue and be sued in its own name, and plead and be impleaded;

11 (3) Engage consultants, agents, attorneys, and advisers, contract
12 with federal, state, and local governmental entities for services, and
13 hire such employees, agents and other personnel as the authority deems
14 necessary, useful, or convenient to accomplish its purposes;

15 (4) Make and execute all manner of contracts, agreements and
16 instruments and financing documents with public and private parties as
17 the authority deems necessary, useful, or convenient to accomplish its
18 purposes;

19 (5) Acquire and hold real or personal property, or any interest
20 therein, in the name of the authority, and to sell, assign, lease,
21 encumber, mortgage, or otherwise dispose of the same in such manner as
22 the authority deems necessary, useful, or convenient to accomplish its
23 purposes;

24 (6) Open and maintain accounts in qualified public depositaries and
25 otherwise provide for the investment of any funds not required for
26 immediate disbursement, and provide for the selection of investments;

27 (7) Appear in its own behalf before boards, commissions,
28 departments, or agencies of federal, state, or local government;

29 (8) Procure such insurance in such amounts and from such insurers
30 as the authority deems desirable, including, but not limited to,
31 insurance against any loss or damage to its property or other assets,
32 public liability insurance for injuries to persons or property, and
33 directors and officers liability insurance;

34 (9) Apply for and accept subventions, grants, loans, advances, and
35 contributions from any source of money, property, labor, or other
36 things of value, to be held, used and applied as the authority deems
37 necessary, useful, or convenient to accomplish its purposes;

- 1 (10) Establish guidelines for the participation by eligible banking
2 organizations in programs conducted by the authority under this
3 chapter;
- 4 (11) Act as an agent, by agreement, for federal, state, or local
5 governmental entities to carry out the programs authorized in this
6 chapter;
- 7 (12) Establish, revise, and collect such fees and charges as the
8 authority deems necessary, useful, or convenient to accomplish its
9 purposes;
- 10 (13) Make such expenditures as are appropriate for paying the
11 administrative costs and expenses of the authority in carrying out the
12 provisions of this chapter: PROVIDED, That expenditures with respect
13 to the economic development financing programs of the authority shall
14 not be made from funds of the state;
- 15 (14) Establish such reserves and special funds, and controls on
16 deposits to and disbursements from them, as the authority deems
17 necessary, useful, or convenient to accomplish its purposes;
- 18 (15) Give assistance to public bodies by providing information,
19 guidelines, forms, and procedures for implementing their financing
20 programs;
- 21 (16) Prepare, publish and distribute, with or without charge, such
22 studies, reports, bulletins, and other material as the authority deems
23 necessary, useful, or convenient to accomplish its purposes;
- 24 (17) Delegate any of its powers and duties if consistent with the
25 purposes of this chapter;
- 26 (18) Adopt rules concerning its exercise of the powers authorized
27 by this chapter. For rules adopted under the provisions of this
28 chapter after August 1, 2012, the authority may adopt only rules
29 derived from a specific grant of legislative authority. The rules must
30 include the specific statutory section or sections from which the grant
31 of authority is derived, and may not rely solely on a section of law
32 stating a statute's intent or purpose or the general enabling
33 provisions establishing the authority; and
- 34 (19) Exercise any other power the authority deems necessary,
35 useful, or convenient to accomplish its purposes and exercise the
36 powers expressly granted in this chapter.

1 **Sec. 35.** RCW 43.180.040 and 1995 c 399 s 98 are each amended to
2 read as follows:

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

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

11 (a) The state treasurer, ex officio;

12 (b) The director of ~~((community, trade, and economic development))~~
13 commerce, ex officio;

14 (c) An elected local government official, ex officio, with
15 experience in local housing programs, who shall be appointed by the
16 governor with the consent of the senate;

17 (d) A representative of housing consumer interests, appointed by
18 the governor with the consent of the senate;

19 (e) A representative of labor interests, appointed by the governor,
20 with the consent of the senate, after consultation with representatives
21 of organized labor;

22 (f) A representative of low-income persons, appointed by the
23 governor with the consent of the senate;

24 (g) Five members of the public appointed by the governor, with the
25 consent of the senate, on the basis of geographic distribution and
26 their expertise in housing, real estate, finance, energy efficiency, or
27 construction, one of whom shall be appointed by the governor as chair
28 of the commission and who shall serve on the commission and as chair of
29 the commission at the pleasure of the governor.

30 The term of the persons appointed by the governor, other than the
31 chair, shall be four years from the date of their appointment, except
32 that the terms of three of the initial appointees shall be for two
33 years from the date of their appointment. The governor shall designate
34 the appointees who will serve the two-year terms. An appointee may be
35 removed by the governor for cause pursuant to RCW 43.06.070 and
36 43.06.080. The governor shall fill any vacancy in an appointed
37 position by appointment for the remainder of the unexpired term. If
38 the department of ~~((community development))~~ commerce is abolished, the

1 resulting vacancy shall be filled by a state official who shall be
2 appointed to the commission by the governor. If this official occupies
3 an office or position for which senate confirmation is not required,
4 then his or her appointment to the commission shall be subject to the
5 consent of the senate. The members of the commission shall be
6 compensated in accordance with RCW 43.03.240 and may be reimbursed,
7 solely from the funds of the commission, for expenses incurred in the
8 discharge of their duties under this chapter, subject to the provisions
9 of RCW 43.03.050 and 43.03.060. A majority of the commission
10 constitutes a quorum. Designees shall be appointed in such manner and
11 shall exercise such powers as are specified by the rules of the
12 commission.

13 (3) The commission may adopt an official seal and may select from
14 its membership a vice chair, a secretary, and a treasurer. The
15 commission shall establish rules concerning its exercise of the powers
16 authorized by this chapter. The rules shall be adopted in conformance
17 with chapter 34.05 RCW. For rules adopted under the provisions of this
18 chapter after August 1, 2012, the commission may adopt only rules
19 derived from a specific grant of legislative authority. The rules must
20 include the specific statutory section or sections from which the grant
21 of authority is derived, and may not rely solely on a section of law
22 stating a statute's intent or purpose or the general enabling
23 provisions establishing the commission.

24 **Sec. 36.** RCW 43.200.070 and 1989 c 322 s 5 are each amended to
25 read as follows:

26 The department of ecology shall adopt such rules as are necessary
27 to carry out responsibilities under this chapter. The department of
28 ecology is authorized to adopt such rules as are necessary to carry out
29 its responsibilities under chapter 43.145 RCW. For rules adopted under
30 the provisions of this chapter after August 1, 2012, the department of
31 ecology may adopt only 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 of ecology.

1 **Sec. 37.** RCW 43.210.060 and 1995 c 399 s 108 are each amended to
2 read as follows:

3 The department of (~~community, trade, and economic development or~~
4 ~~its statutory successor~~) commerce shall adopt rules under chapter
5 34.05 RCW as necessary to carry out the purposes of this chapter. For
6 rules adopted under the provisions of this chapter after August 1,
7 2012, the department of commerce may adopt only rules derived from a
8 specific grant of legislative authority. The rules must include the
9 specific statutory section or sections from which the grant of
10 authority is derived, and may not rely solely on a section of law
11 stating a statute's intent or purpose or the general enabling
12 provisions establishing the department of commerce.

13 **Sec. 38.** RCW 43.250.090 and 1986 c 294 s 9 are each amended to
14 read as follows:

15 The state finance committee shall administer this chapter and adopt
16 appropriate rules. For rules adopted under the provisions of this
17 chapter after August 1, 2012, the state finance committee may adopt
18 only rules derived from a specific grant of legislative authority. The
19 rules must include the specific statutory section or sections from
20 which the grant of authority is derived, and may not rely solely on a
21 section of law stating a statute's intent or purpose or the general
22 enabling provisions establishing the state finance committee.

23 **Sec. 39.** RCW 43.320.040 and 1993 c 472 s 5 are each amended to
24 read as follows:

25 The director of financial institutions may adopt any rules, under
26 chapter 34.05 RCW, necessary to implement the powers and duties of the
27 director under this chapter. For rules adopted under the provisions of
28 this chapter after August 1, 2012, the director of financial
29 institutions may adopt only rules derived from a specific grant of
30 legislative authority. The rules must include the specific statutory
31 section or sections from which the grant of authority is derived, and
32 may not rely solely on a section of law stating a statute's intent or
33 purpose or the general enabling provisions establishing the department
34 of financial institutions.

1 **Sec. 40.** RCW 43.330.040 and 1993 c 280 s 6 are each amended to
2 read as follows:

3 (1) The director shall supervise and administer the activities of
4 the department and shall advise the governor and the legislature with
5 respect to community and economic development matters affecting the
6 state.

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

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

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

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

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

18 (e) Prepare and submit budgets for the department for executive and
19 legislative action;

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

22 (g) Adopt rules in accordance with chapter 34.05 RCW and perform
23 all other functions necessary and proper to carry out the purposes of
24 this chapter. For rules adopted under the provisions of this chapter
25 after August 1, 2012, the director may adopt only rules derived from a
26 specific grant of legislative authority. The rules must include the
27 specific statutory section or sections from which the grant of
28 authority is derived, and may not rely solely on a section of law
29 stating a statute's intent or purpose or the general enabling
30 provisions establishing the department;

31 (h) Delegate powers, duties, and functions as the director deems
32 necessary for efficient administration, but the director shall be
33 responsible for the official acts of the officers and employees of the
34 department; and

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

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

1 (4) The director may request information and assistance from all
2 other agencies, departments, and officials of the state, and may
3 reimburse such agencies, departments, or officials if such a request
4 imposes any additional expenses upon any such agency, department, or
5 official.

6 (5) The director shall, in carrying out the responsibilities of
7 office, consult with governmental officials, private groups, and
8 individuals and with officials of other states. All state agencies and
9 their officials and the officials of any political subdivision of the
10 state shall cooperate with and give such assistance to the department,
11 including the submission of requested information, to allow the
12 department to carry out its purposes under this chapter.

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

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

27 **Sec. 41.** RCW 47.01.071 and 2007 c 516 s 4 are each amended to read
28 as follows:

29 The transportation commission shall have the following functions,
30 powers, and duties:

31 (1) To propose policies to be adopted by the governor and the
32 legislature designed to assure the development and maintenance of a
33 comprehensive and balanced statewide transportation system which will
34 meet the needs of the people of this state for safe and efficient
35 transportation services. Wherever appropriate, the policies shall
36 provide for the use of integrated, intermodal transportation systems.

1 The policies must be aligned with the goals established in RCW
2 47.04.280. To this end the commission shall:

3 (a) Develop transportation policies which are based on the
4 policies, goals, and objectives expressed and inherent in existing
5 state laws;

6 (b) Inventory the adopted policies, goals, and objectives of the
7 local and area-wide governmental bodies of the state and define the
8 role of the state, regional, and local governments in determining
9 transportation policies, in transportation planning, and in
10 implementing the state transportation plan;

11 (c) Establish a procedure for review and revision of the state
12 transportation policy and for submission of proposed changes to the
13 governor and the legislature; and

14 (d) Integrate the statewide transportation plan with the needs of
15 the elderly and persons with disabilities, and coordinate federal and
16 state programs directed at assisting local governments to answer such
17 needs;

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

22 (3) In conjunction with the provisions under RCW 47.01.075, to
23 provide for public involvement in transportation designed to elicit the
24 public's views both with respect to adequate transportation services
25 and appropriate means of minimizing adverse social, economic,
26 environmental, and energy impact of transportation programs;

27 (4) By December 2010, to prepare a comprehensive and balanced
28 statewide transportation plan consistent with the state's growth
29 management goals and based on the transportation policy goals provided
30 under RCW 47.04.280 and applicable state and federal laws. The plan
31 must reflect the priorities of government developed by the office of
32 financial management and address regional needs, including multimodal
33 transportation planning. The plan must, at a minimum: (a) Establish
34 a vision for the development of the statewide transportation system;
35 (b) identify significant statewide transportation policy issues; and
36 (c) recommend statewide transportation policies and strategies to the
37 legislature to fulfill the requirements of subsection (1) of this
38 section. The plan must be the product of an ongoing process that

1 involves representatives of significant transportation interests and
2 the general public from across the state. Every four years, the plan
3 shall be reviewed and revised, and submitted to the governor and the
4 house of representatives and senate standing committees on
5 transportation.

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

9 (5) By December 2007, the office of financial management shall
10 submit a baseline report on the progress toward attaining the policy
11 goals under RCW 47.04.280 in the 2005-2007 fiscal biennium. By October
12 1, 2008, beginning with the development of the 2009-2011 biennial
13 transportation budget, and by October 1st biennially thereafter, the
14 office of financial management shall submit to the legislature and the
15 governor a report on the progress toward the attainment by state
16 transportation agencies of the state transportation policy goals and
17 objectives prescribed by statute, appropriation, and governor
18 directive. The report must, at a minimum, include the degree to which
19 state transportation programs have progressed toward the attainment of
20 the policy goals established under RCW 47.04.280, as measured by the
21 objectives and performance measures established by the office of
22 financial management under RCW 47.04.280;

23 (6) To propose to the governor and the legislature prior to the
24 convening of each regular session held in an odd-numbered year a
25 recommended budget for the operations of the commission as required by
26 RCW 47.01.061;

27 (7) To adopt (~~such~~) rules as may be necessary to carry out
28 reasonably and properly those functions expressly vested in the
29 commission by statute. For rules adopted under the provisions of this
30 chapter after August 1, 2012, the commission may adopt only rules
31 derived from a specific grant of legislative authority. The rules must
32 include the specific statutory section or sections from which the grant
33 of authority is derived, and may not rely solely on a section of law
34 stating a statute's intent or purpose or the general enabling
35 provisions establishing the department;

36 (8) To contract with the office of financial management or other
37 appropriate state agencies for administrative support, accounting

1 services, computer services, and other support services necessary to
2 carry out its other statutory duties;

3 (9) To conduct transportation-related studies and policy analysis
4 to the extent directed by the legislature or governor in the biennial
5 transportation budget act, or as otherwise provided in law, and subject
6 to the availability of amounts appropriated for this specific purpose;
7 and

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

11 **Sec. 42.** RCW 48.02.060 and 2010 c 27 s 1 are each amended to read
12 as follows:

13 (1) The commissioner has the authority expressly conferred upon him
14 or her by or reasonably implied from the provisions of this code.

15 (2) The commissioner must execute his or her duties and must
16 enforce the provisions of this code.

17 (3) The commissioner may:

18 (a) (~~Make~~) Adopt reasonable rules for effectuating any provision
19 of this code, except those relating to his or her election,
20 qualifications, or compensation. Rules are not effective prior to
21 their being filed for public inspection in the commissioner's office.
22 For rules adopted under the provisions of this chapter after August 1,
23 2012, the commissioner may adopt only rules derived from a specific
24 grant of legislative authority. The rules must include the specific
25 statutory section or sections from which the grant of authority is
26 derived, and may not rely solely on a section of law stating a
27 statute's intent or purpose or the general enabling provisions
28 establishing the office of the insurance commissioner.

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

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

34 (4) When the governor proclaims a state of emergency under RCW
35 43.06.010(12), the commissioner may issue an order that addresses any
36 or all of the following matters related to insurance policies issued in
37 this state:

- 1 (a) Reporting requirements for claims;
2 (b) Grace periods for payment of insurance premiums and performance
3 of other duties by insureds;
4 (c) Temporary postponement of cancellations and nonrenewals; and
5 (d) Medical coverage to ensure access to care.

6 (5) An order by the commissioner under subsection (4) of this
7 section may remain effective for not more than sixty days unless the
8 commissioner extends the termination date for the order for an
9 additional period of not more than thirty days. The commissioner may
10 extend the order if, in the commissioner's judgment, the circumstances
11 warrant an extension. An order of the commissioner under subsection
12 (4) of this section is not effective after the related state of
13 emergency is terminated by proclamation of the governor under RCW
14 43.06.210. The order must specify, by line of insurance:

15 (a) The geographic areas in which the order applies, which must be
16 within but may be less extensive than the geographic area specified in
17 the governor's proclamation of a state of emergency and must be
18 specific according to an appropriate means of delineation, such as the
19 United States postal service zip codes or other appropriate means; and

20 (b) The date on which the order becomes effective and the date on
21 which the order terminates.

22 (6) The commissioner may adopt rules that establish general
23 criteria for orders issued under subsection (4) of this section and may
24 adopt emergency rules applicable to a specific proclamation of a state
25 of emergency by the governor.

26 (7) The rule-making authority set forth in subsection (6) of this
27 section does not limit or affect the rule-making authority otherwise
28 granted to the commissioner by law.

29 **Sec. 43.** RCW 48.44.050 and 1947 c 268 s 5 are each amended to read
30 as follows:

31 The insurance commissioner shall ~~((make))~~ adopt reasonable
32 ~~((regulations))~~ rules in aid of the administration of this chapter
33 which may include, but shall not be limited to ~~((regulations))~~ rules
34 concerning the maintenance of adequate insurance, bonds, or cash
35 deposits, information required of registrants, and methods of
36 expediting speedy and fair payments to claimants. For rules adopted
37 under the provisions of this chapter after August 1, 2012, the

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

7 **Sec. 44.** RCW 48.46.200 and 2009 c 549 s 7153 are each amended to
8 read as follows:

9 The commissioner may, in accordance with the provisions of the
10 administrative procedure act, chapter 34.05 RCW, (~~promulgate~~) adopt
11 rules (~~and regulations~~) as necessary or proper to carry out the
12 provisions of this chapter. For rules adopted under the provisions of
13 this chapter after August 1, 2012, the commissioner may adopt only
14 rules derived from a specific grant of legislative authority. The
15 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 office of the insurance
19 commissioner. Nothing in this chapter shall be construed to prohibit
20 the commissioner from requiring changes in procedures previously
21 approved by him or her.

22 **Sec. 45.** RCW 66.08.0501 and 1997 c 321 s 56 are each amended to
23 read as follows:

24 The liquor control board may adopt appropriate rules pursuant to
25 chapter 34.05 RCW for the purpose of carrying out the provisions of
26 chapter 321, Laws of 1997. For rules adopted under the provisions of
27 this chapter after August 1, 2012, the liquor control board may adopt
28 only rules derived from a specific grant of legislative authority. The
29 rules must include the specific statutory section or sections from
30 which the grant of authority is derived, and may not rely solely on a
31 section of law stating a statute's intent or purpose or the general
32 enabling provisions establishing the liquor control board.

33 **Sec. 46.** RCW 77.04.055 and 2000 c 107 s 204 are each amended to
34 read as follows:

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

4 (a) Review and prescribe basic goals and objectives related to
5 those policies; and

6 (b) Review the performance of the department in implementing fish
7 and wildlife policies.

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

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

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

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

19 (5) The commission shall adopt rules to implement the state's fish
20 and wildlife laws. For rules adopted under the provisions of this
21 chapter after August 1, 2012, the commission may adopt only rules
22 derived from a specific grant of legislative authority. The rules must
23 include the specific statutory section or sections from which the grant
24 of 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 the commission or the department.

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

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

32 **Sec. 47.** RCW 80.01.040 and 2007 c 234 s 1 are each amended to read
33 as follows:

34 The utilities and transportation commission shall:

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

1 (2) Regulate in the public interest, as provided by the public
2 service laws, all persons engaging in the transportation of persons or
3 property within this state for compensation.

4 (3) Regulate in the public interest, as provided by the public
5 service laws, the rates, services, facilities, and practices of all
6 persons engaging within this state in the business of supplying any
7 utility service or commodity to the public for compensation.

8 (4) ~~((Make))~~ Adopt rules ~~((and regulations))~~ necessary to carry out
9 its other powers and duties. For rules adopted under the provisions of
10 this chapter after August 1, 2012, the commission may adopt only rules
11 derived from a specific grant of legislative authority. The rules must
12 include the specific statutory section or sections from which the grant
13 of 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 commission.

16 NEW SECTION. Sec. 48. A new section is added to chapter 34.05 RCW
17 to read as follows:

18 When delegating authority to an agency through legislation, the
19 legislature, unless it specifically states otherwise, limits its
20 delegation of authority to:

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

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

25 NEW SECTION. Sec. 49. The legislature finds that this nation and
26 this state were founded as constitutional republican forms of
27 government with democratically elected representatives enacting and
28 implementing laws consistent with those constitutions to promote the
29 general welfare of all the people. All elected officials take an oath
30 to uphold the constitutions. The role of government was intended to
31 remain as limited as possible in order to expand the liberties of the
32 people as far as possible. Over the past few decades, legislative and
33 executive branches have gone far beyond their original purposes and
34 powers, and have grown to the extent that the economic and regulatory
35 burdens placed upon the people is becoming unbearable and is infringing
36 on the rights of law-abiding citizens to enjoy their property, their

1 freedoms, and the fruits of their labors. The legislature further
2 finds that the United States congress has frequently ignored its own
3 House rule XIII 3(d) which requires "Each report of a committee on a
4 public bill or public joint resolution shall contain the following:
5 (1) A statement citing the specific powers granted to congress in the
6 Constitution to enact the law proposed by the bill or resolution." The
7 legislature intends by this chapter to ensure that all laws and rules
8 adopted by the federal and state governments are firmly grounded in
9 their respective constitutions so that those governments might return
10 to their proper realms and focus on the essential services that best
11 strike the balance between the need for government and the need for
12 people to be free.

13 NEW SECTION. **Sec. 50.** (1) Every bill, act, ordinance, resolution,
14 or rule adopted or enacted by a legislative or executive body, or the
15 people, shall include the citation of the express language from the
16 federal or state Constitution that provides the specific authority for
17 the provisions included in the bill, act, ordinance, resolution, or
18 rule.

19 (2) Every bill, act, ordinance, resolution, or rule adopted or
20 enacted by a legislative or executive body, or the people, shall limit
21 the provisions of the bill, act, ordinance, resolution, or rule to the
22 express language included in the citation from the federal or state
23 Constitution that provides the specific authority such provisions.

24 (3) Every bill, act, ordinance, resolution, or rule adopted or
25 enacted by a legislative or executive body, or the people, shall
26 include a brief rationale as how the provisions of the bill, act,
27 ordinance, resolution, or rule are provided specific authority in the
28 express language of the federal or state Constitution cited, including
29 the language of the text itself, a reasonable construction and
30 extension of the text, the intent as best can be ascertained of those
31 who adopted the text, and the historical understanding and context in
32 which the text was adopted.

33 NEW SECTION. **Sec. 51.** Sections 49 and 50 of this act constitute
34 a new chapter in Title 1 RCW.

1 NEW SECTION. **Sec. 52.** If any part of this act is found to be in
2 conflict with federal requirements that are a prescribed condition to
3 the allocation of federal funds to the state, the conflicting part of
4 this act is inoperative solely to the extent of the conflict and with
5 respect to the agencies directly affected, and this finding does not
6 affect the operation of the remainder of this act in its application to
7 the agencies concerned. Rules adopted under this act must meet federal
8 requirements that are a necessary condition to the receipt of federal
9 funds by the state.

10 NEW SECTION. **Sec. 53.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 54.** Sections 2 through 7 of this act are
15 necessary for the immediate preservation of the public peace, health,
16 or safety, or support of the state government and its existing public
17 institutions, and take effect immediately.

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