
HOUSE BILL 1739

State of Washington 61st Legislature 2009 Regular Session

By Representatives Wallace, Campbell, Williams, Moeller, Jacks, Pettigrew, and Ormsby

Read first time 01/28/09. Referred to Committee on Human Services.

1 AN ACT Relating to promoting accessible communities for persons
2 with disabilities; amending RCW 29A.46.260 and 38.52.070; reenacting
3 and amending RCW 46.16.381 and 43.79A.040; adding a new section to
4 chapter 50.40 RCW; adding a new section to chapter 36.01 RCW; creating
5 new sections; and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that when people who
8 have disabilities are welcomed and included as members of our
9 communities and provided with equal access to the opportunities
10 available to others, their participation enriches those communities,
11 enhances the strength of those communities' diversity, and contributes
12 toward the economic vitality of those communities. The legislature
13 further finds that more than nine hundred thousand Washington state
14 residents with disabilities continue to face barriers to full
15 participation that could be easily eliminated.

16 NEW SECTION. **Sec. 2.** (1) The accessible communities account is
17 created in the custody of the state treasurer. Two hundred dollars

1 from each penalty imposed under RCW 46.16.381 (7), (8), (9), and (11)
2 must be deposited into the account.

3 (2) The account is subject to the allotment procedures under
4 chapter 43.88 RCW, but an appropriation is not required for
5 expenditures. Only the commissioner may authorize expenditures from
6 the account.

7 (3) Expenditures from the account may be used for promoting greater
8 awareness of disability issues and improved access for and acceptance
9 of persons with disabilities in communities in the state of Washington,
10 including:

11 (a) Reimbursing travel, per diem, and reasonable accommodation or
12 meeting expenses for county accessible community advisory committees
13 and for the state and local work group, facilitated by the governor's
14 office, to develop a planning template for local emergency management
15 jurisdictions to identify and respond to the needs of persons with
16 disabilities in disasters as described in RCW 38.52.070;

17 (b) Establishing and maintaining an accessible communities web
18 site;

19 (c) Providing training or technical assistance for county
20 accessible community advisory committees; and

21 (d) A grant program for funding proposals developed and submitted
22 by county accessible community advisory committees to promote greater
23 awareness of disability issues and access for persons with disabilities
24 within the community.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 50.40 RCW
26 to read as follows:

27 (1) The governor's committee on disability issues and employment
28 shall:

29 (a) Determine eligibility of accessible community advisory
30 committees for reimbursement or for grant funding according to section
31 4(1) of this act; and

32 (b) Solicit proposals from active accessible community advisory
33 committees for projects to improve disability awareness and access for
34 persons with disabilities, and shall select projects for funding from
35 moneys available in the accessible communities account.

36 (2) The commissioner shall adopt rules to administer this section.

1 (3) The governor's committee on disability issues and employment
2 shall establish an accessible communities web site to provide the
3 following information: Guidance, technical assistance, reference
4 materials, and resource identification for local governments,
5 accessible community advisory committees, and public accommodations;
6 examples of best practices for local initiatives and activities to
7 promote greater awareness of disability issues and access for persons
8 with disabilities within the community; and a searchable listing of
9 local public accommodations that have taken steps to be more disability
10 friendly, including information on the specific access features
11 provided.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.01 RCW
13 to read as follows:

14 (1) A county that has an active accessible community advisory
15 committee established under RCW 29A.46.260 may be reimbursed from the
16 accessible communities account created in section 2 of this act for
17 travel, per diem, reasonable accommodation expenses for the
18 participation of that committee's members in committee meetings and
19 sponsored activities, and meeting room costs for the county's
20 accessible community advisory committee meetings.

21 (2) A county establishes that it has an active accessible community
22 advisory committee by submitting annual assurances to the governor's
23 committee on disability issues and employment that:

24 (a) Committee members include persons with a diverse range of
25 disabilities who are knowledgeable in identifying and eliminating
26 attitudinal, programmatic, and physical barriers encountered by persons
27 with disabilities.

28 (b) The committee is actively involved in the following activities:
29 Advising on addressing the needs of persons with disabilities in
30 emergency plans; advising the county and other local governments within
31 the county on access to programs services and activities, new
32 construction or renovation projects, sidewalks, other pedestrian routes
33 of travel, and disability parking enforcement; and developing local
34 initiatives and activities to promote greater awareness of disability
35 issues and access for persons with disabilities within the community.

36 (3) Adjacent counties may form joint accessible community advisory

1 committees, as long as no more than one of the participating counties
2 has a population greater than seventy thousand.

3 (4) A county that is required to establish and maintain an advisory
4 committee under RCW 29A.46.260 may incorporate the functions of that
5 committee into an active accessible community advisory committee.

6 **Sec. 5.** RCW 29A.46.260 and 2006 c 207 s 7 are each amended to read
7 as follows:

8 (1) The legislature finds that the elimination of polling places
9 resulting from the transition to vote by mail creates barriers that
10 restrict the ability of many voters with disabilities from achieving
11 the independence and privacy in voting provided by the accessible
12 voting devices required under the help America vote act. Counties
13 adopting a vote by mail system must take appropriate steps to mitigate
14 these impacts and to address the obligation to provide voters with
15 disabilities an equal opportunity to vote independently and privately,
16 to the extent that this can be achieved without incurring undue
17 administrative and financial burden.

18 (2) Each county shall establish and maintain an accessible
19 community advisory committee that includes persons with diverse
20 disabilities and persons with expertise in providing accommodations for
21 persons with disabilities. The committee shall assist election
22 officials in developing a plan to identify and implement changes to
23 improve the accessibility of elections for voters with disabilities.
24 The plan shall include recommendations for the following:

25 (a) The number of polling places that will be maintained in order
26 to ensure that people with disabilities have reasonable access to
27 accessible voting devices, and a written explanation for how the
28 determination was made;

29 (b) The locations of polling places, drop-off facilities, voting
30 centers, and other election-related functions necessary to maximize
31 accessibility to persons with disabilities;

32 (c) Outreach to voters with disabilities on the availability of
33 disability accommodation, including in-person disability access voting;

34 (d) Transportation of voting devices to locations convenient for
35 voters with disabilities in order to ensure reasonable access for
36 voters with disabilities; and

1 (e) Implementation of the provisions of the help America vote act
2 related to persons with disabilities.

3 Counties must update the plan at least annually. The election
4 review staff of the secretary of state shall review and evaluate the
5 plan in conformance with the review procedure identified in RCW
6 29A.04.570.

7 (3) Counties may form a joint accessible community advisory
8 committee to develop the plan identified in subsection (2) of this
9 section if (~~the total population of the joining counties does not~~
10 ~~exceed thirty thousand, and the counties are geographically adjacent~~))
11 no more than one of the participating counties has a population greater
12 than seventy thousand.

13 **Sec. 6.** RCW 46.16.381 and 2007 c 262 s 1 and 2007 c 44 s 1 are
14 each reenacted and amended to read as follows:

15 (1) The director shall grant special parking privileges to any
16 person who has a disability that limits or impairs the ability to walk
17 or involves acute sensitivity to light and meets one of the following
18 criteria, as determined by a licensed physician, an advanced registered
19 nurse practitioner licensed under chapter 18.79 RCW, or a physician
20 assistant licensed under chapter 18.71A or 18.57A RCW:

21 (a) Cannot walk two hundred feet without stopping to rest;

22 (b) Is severely limited in ability to walk due to arthritic,
23 neurological, or orthopedic condition;

24 (c) Has such a severe disability, that the person cannot walk
25 without the use of or assistance from a brace, cane, another person,
26 prosthetic device, wheelchair, or other assistive device;

27 (d) Uses portable oxygen;

28 (e) Is restricted by lung disease to such an extent that forced
29 expiratory respiratory volume, when measured by spirometry is less than
30 one liter per second or the arterial oxygen tension is less than sixty
31 mm/hg on room air at rest;

32 (f) Impairment by cardiovascular disease or cardiac condition to
33 the extent that the person's functional limitations are classified as
34 class III or IV under standards accepted by the American Heart
35 Association;

36 (g) Has a disability resulting from an acute sensitivity to
37 automobile emissions which limits or impairs the ability to walk. The

1 personal physician, advanced registered nurse practitioner, or
2 physician assistant of the applicant shall document that the disability
3 is comparable in severity to the others listed in this subsection;

4 (h) Is legally blind and has limited mobility; or

5 (i) Is restricted by a form of porphyria to the extent that the
6 applicant would significantly benefit from a decrease in exposure to
7 light.

8 (2) The applications for parking permits for persons with
9 disabilities and parking permits for persons with temporary
10 disabilities are official state documents. Knowingly providing false
11 information in conjunction with the application is a gross misdemeanor
12 punishable under chapter 9A.20 RCW. The following statement must
13 appear on each application form immediately below the physician's,
14 advanced registered nurse practitioner's, or physician assistant's
15 signature and immediately below the applicant's signature: "A parking
16 permit for a person with disabilities may be issued only for a medical
17 necessity that severely affects mobility or involves acute sensitivity
18 to light (RCW 46.16.381). Knowingly providing false information on
19 this application is a gross misdemeanor. The penalty is up to one year
20 in jail and a fine of up to \$5,000 or both."

21 (3) Persons who qualify for special parking privileges are entitled
22 to receive from the department of licensing a removable windshield
23 placard bearing the international symbol of access and an individual
24 serial number, along with a special identification card bearing the
25 name and date of birth of the person to whom the placard is issued, and
26 the placard's serial number. The special identification card shall be
27 issued to all persons who are issued parking placards, including those
28 issued for temporary disabilities, and special parking license plates
29 for persons with disabilities. The department shall design the placard
30 to be displayed when the vehicle is parked by suspending it from the
31 rearview mirror, or in the absence of a rearview mirror the card may be
32 displayed on the dashboard of any vehicle used to transport the person
33 with disabilities. Instead of regular motor vehicle license plates,
34 persons with disabilities are entitled to receive special license
35 plates under this section or RCW 46.16.385 bearing the international
36 symbol of access for one vehicle registered in the name of the person
37 with disabilities. Persons with disabilities who are not issued the
38 special license plates are entitled to receive a second special placard

1 upon submitting a written request to the department. Persons who have
2 been issued the parking privileges and who are using a vehicle or are
3 riding in a vehicle displaying the placard or special license plates
4 issued under this section or RCW 46.16.385 may park in places reserved
5 for persons with physical disabilities. The director shall adopt rules
6 providing for the issuance of special placards and license plates to
7 public transportation authorities, nursing homes licensed under chapter
8 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior
9 citizen centers, private nonprofit agencies as defined in chapter 24.03
10 RCW, and vehicles registered with the department as cabulances that
11 regularly transport persons with disabilities who have been determined
12 eligible for special parking privileges provided under this section.
13 The director may issue special license plates for a vehicle registered
14 in the name of the public transportation authority, nursing home,
15 boarding home, senior citizen center, private nonprofit agency, or
16 cabulance service if the vehicle is primarily used to transport persons
17 with disabilities described in this section. Public transportation
18 authorities, nursing homes, boarding homes, senior citizen centers,
19 private nonprofit agencies, and cabulance services are responsible for
20 insuring that the special placards and license plates are not used
21 improperly and are responsible for all fines and penalties for improper
22 use.

23 (4) Whenever the person with disabilities transfers or assigns his
24 or her interest in the vehicle, the special license plates shall be
25 removed from the motor vehicle. If another vehicle is acquired by the
26 person with disabilities and the vehicle owner qualifies for a special
27 plate, the plate shall be attached to the vehicle, and the director
28 shall be immediately notified of the transfer of the plate. If another
29 vehicle is not acquired by the person with disabilities, the removed
30 plate shall be immediately surrendered to the director.

31 (5) The special license plate shall be renewed in the same manner
32 and at the time required for the renewal of regular motor vehicle
33 license plates under this chapter. No special license plate may be
34 issued to a person who is temporarily disabled. A person who has a
35 condition expected to improve within six months may be issued a
36 temporary placard for a period not to exceed six months. If the
37 condition exists after six months a new temporary placard shall be
38 issued upon receipt of a new certification from the person's physician.

1 The permanent parking placard and identification card of a person with
2 disabilities shall be renewed at least every five years, as required by
3 the director, by satisfactory proof of the right to continued use of
4 the privileges. In the event of the permit holder's death, the parking
5 placard and identification card must be immediately surrendered to the
6 department. The department shall match and purge its database of
7 parking permits issued to persons with disabilities with available
8 death record information at least every twelve months.

9 (6) Additional fees shall not be charged for the issuance of the
10 special placards or the identification cards. No additional fee may be
11 charged for the issuance of the special license plates except the
12 regular motor vehicle registration fee and any other fees and taxes
13 required to be paid upon registration of a motor vehicle.

14 (7) Any unauthorized use of the special placard, special license
15 plate issued under this section or RCW 46.16.385, or identification
16 card is a traffic infraction with a monetary penalty of (~~two~~) four
17 hundred fifty dollars.

18 (8) It is a parking infraction, with a monetary penalty of (~~two~~)
19 four hundred fifty dollars for a person to park in, block, or otherwise
20 make inaccessible the access aisle located next to a space reserved for
21 persons with physical disabilities. The clerk of the court shall
22 report all violations related to this subsection to the department.

23 (9) It is a parking infraction, with a monetary penalty of (~~two~~)
24 four hundred fifty dollars for any person to park a vehicle in a
25 parking place provided on private property without charge or on public
26 property reserved for persons with physical disabilities without a
27 placard or special license plate issued under this section or RCW
28 46.16.385. If a person is charged with a violation, the person shall
29 not be determined to have committed an infraction if the person
30 produces in court or before the court appearance the placard or special
31 license plate issued under this section or RCW 46.16.385 required under
32 this section. A local jurisdiction providing nonmetered, on-street
33 parking places reserved for persons with physical disabilities may
34 impose by ordinance time restrictions of no less than four hours on the
35 use of these parking places. A local jurisdiction may impose by
36 ordinance time restrictions of no less than four hours on the use of
37 nonreserved, on-street parking spaces by vehicles displaying the

1 special parking placards or special license plates issued under this
2 section or RCW 46.16.385. All time restrictions must be clearly
3 posted.

4 (10) (~~The penalties~~) Two hundred dollars from each penalty
5 imposed under subsections (7), (8) (~~and~~), (9), and (11) of this
6 section shall be deposited in the accessible communities account
7 created in section 2 of this act. The remaining penalty amounts shall
8 be used by that local jurisdiction exclusively for law enforcement.
9 The court may also impose an additional penalty sufficient to reimburse
10 the local jurisdiction for any costs it may have incurred in removal
11 and storage of the improperly parked vehicle.

12 (11) Except as provided by subsection (2) of this section, it is a
13 traffic infraction with a monetary penalty of (~~two~~) four hundred
14 fifty dollars for any person willfully to obtain a special license
15 plate issued under this section or RCW 46.16.385, placard, or
16 identification card in a manner other than that established under this
17 section.

18 (12)(a) A law enforcement agency authorized to enforce parking laws
19 may appoint volunteers, with a limited commission, to issue notices of
20 infractions for violations of this section or RCW 46.61.581.
21 Volunteers must be at least twenty-one years of age. The law
22 enforcement agency appointing volunteers may establish any other
23 qualifications the agency deems desirable.

24 (b) An agency appointing volunteers under this section must provide
25 training to the volunteers before authorizing them to issue notices of
26 infractions.

27 (c) A notice of infraction issued by a volunteer appointed under
28 this subsection has the same force and effect as a notice of infraction
29 issued by a police officer for the same offense.

30 (d) A police officer or a volunteer may request a person to show
31 the person's identification card or special parking placard when
32 investigating the possibility of a violation of this section. If the
33 request is refused, the person in charge of the vehicle may be issued
34 a notice of infraction for a violation of this section.

35 (13) For second or subsequent violations of this section, in
36 addition to a monetary fine, the violator must complete a minimum of
37 forty hours of:

1 (a) Community restitution for a nonprofit organization that serves
2 persons having disabilities or disabling diseases; or

3 (b) Any other community restitution that may sensitize the violator
4 to the needs and obstacles faced by persons who have disabilities.

5 (14) The court may not suspend more than one-half of any fine
6 imposed under subsection (7), (8), (9), or (11) of this section.

7 (15) For the purposes of this section, "legally blind" means a
8 person who: (a) Has no vision or whose vision with corrective lenses
9 is so limited that the individual requires alternative methods or
10 skills to do efficiently those things that are ordinarily done with
11 sight by individuals with normal vision; or (b) has an eye condition of
12 a progressive nature which may lead to blindness.

13 **Sec. 7.** RCW 43.79A.040 and 2008 c 239 s 9, 2008 c 208 s 9, 2008 c
14 128 s 20, and 2008 c 122 s 24 are each reenacted and amended to read as
15 follows:

16 (1) Money in the treasurer's trust fund may be deposited, invested,
17 and reinvested by the state treasurer in accordance with RCW 43.84.080
18 in the same manner and to the same extent as if the money were in the
19 state treasury.

20 (2) All income received from investment of the treasurer's trust
21 fund shall be set aside in an account in the treasury trust fund to be
22 known as the investment income account.

23 (3) The investment income account may be utilized for the payment
24 of purchased banking services on behalf of treasurer's trust funds
25 including, but not limited to, depository, safekeeping, and
26 disbursement functions for the state treasurer or affected state
27 agencies. The investment income account is subject in all respects to
28 chapter 43.88 RCW, but no appropriation is required for payments to
29 financial institutions. Payments shall occur prior to distribution of
30 earnings set forth in subsection (4) of this section.

31 (4)(a) Monthly, the state treasurer shall distribute the earnings
32 credited to the investment income account to the state general fund
33 except under (b) and (c) of this subsection.

34 (b) The following accounts and funds shall receive their
35 proportionate share of earnings based upon each account's or fund's
36 average daily balance for the period: The Washington promise
37 scholarship account, the college savings program account, the

1 Washington advanced college tuition payment program account, the
2 accessible communities account, the agricultural local fund, the
3 American Indian scholarship endowment fund, the foster care scholarship
4 endowment fund, the foster care endowed scholarship trust fund, the
5 students with dependents grant account, the basic health plan self-
6 insurance reserve account, the contract harvesting revolving account,
7 the Washington state combined fund drive account, the commemorative
8 works account, the Washington international exchange scholarship
9 endowment fund, the toll collection account, the developmental
10 disabilities endowment trust fund, the energy account, the fair fund,
11 the family leave insurance account, the food animal veterinarian
12 conditional scholarship account, the fruit and vegetable inspection
13 account, the future teachers conditional scholarship account, the game
14 farm alternative account, the GET ready for math and science
15 scholarship account, the grain inspection revolving fund, the juvenile
16 accountability incentive account, the law enforcement officers' and
17 firefighters' plan 2 expense fund, the local tourism promotion account,
18 the pilotage account, the produce railcar pool account, the regional
19 transportation investment district account, the rural rehabilitation
20 account, the stadium and exhibition center account, the youth athletic
21 facility account, the self-insurance revolving fund, the sulfur dioxide
22 abatement account, the children's trust fund, the Washington horse
23 racing commission Washington bred owners' bonus fund account, the
24 Washington horse racing commission class C purse fund account, the
25 individual development account program account, the Washington horse
26 racing commission operating account (earnings from the Washington horse
27 racing commission operating account must be credited to the Washington
28 horse racing commission class C purse fund account), the life sciences
29 discovery fund, the Washington state heritage center account, the
30 reduced cigarette ignition propensity account, and the reading
31 achievement account. However, the earnings to be distributed shall
32 first be reduced by the allocation to the state treasurer's service
33 fund pursuant to RCW 43.08.190.

34 (c) The following accounts and funds shall receive eighty percent
35 of their proportionate share of earnings based upon each account's or
36 fund's average daily balance for the period: The advanced right-of-way
37 revolving fund, the advanced environmental mitigation revolving
38 account, the city and county advance right-of-way revolving fund, the

1 federal narcotics asset forfeitures account, the high occupancy vehicle
2 account, the local rail service assistance account, and the
3 miscellaneous transportation programs account.

4 (5) In conformance with Article II, section 37 of the state
5 Constitution, no trust accounts or funds shall be allocated earnings
6 without the specific affirmative directive of this section.

7 **Sec. 8.** RCW 38.52.070 and 1997 c 49 s 4 are each amended to read
8 as follows:

9 (1) Each political subdivision of this state is hereby authorized
10 and directed to establish a local organization or to be a member of a
11 joint local organization for emergency management in accordance with
12 the state comprehensive emergency management plan and program:
13 PROVIDED, That a political subdivision proposing such establishment
14 shall submit its plan and program for emergency management to the state
15 director and secure his or her recommendations thereon, and
16 verification of consistency with the state comprehensive emergency
17 management plan, in order that the plan of the local organization for
18 emergency management may be coordinated with the plan and program of
19 the state. Local comprehensive emergency management plans must specify
20 the use of the incident command system for
21 multiagency/multijurisdiction operations. Under the guidance and
22 supervision of the governor's emergency management council, the
23 governor's office will facilitate a state and local work group to
24 develop a planning template for local emergency management
25 jurisdictions to identify and respond to the needs of persons with
26 disabilities in disasters concerning issues such as: Notification;
27 medications, refrigeration, and backup power; access to mobility
28 devices and service animals while in transit or at shelters; and access
29 to information, to be completed and approved by the governor by July
30 2010. Local emergency management jurisdictions shall then work with
31 accessible community advisory committees or other local disability
32 organizations to complete the planning template and incorporate
33 necessary changes to local comprehensive emergency management plans by
34 2012. The local emergency planning effort must document the
35 participation of accessible community advisory committees or other
36 local disability organizations in developing the responses to these
37 issues. No political subdivision may be required to include in its

1 plan provisions for the emergency evacuation or relocation of residents
2 in anticipation of nuclear attack. If the director's recommendations
3 are adverse to the plan as submitted, and, if the local organization
4 does not agree to the director's recommendations for modification to
5 the proposal, the matter shall be referred to the council for final
6 action. The director may authorize two or more political subdivisions
7 to join in the establishment and operation of a joint local
8 organization for emergency management as circumstances may warrant, in
9 which case each political subdivision shall contribute to the cost of
10 emergency management upon such fair and equitable basis as may be
11 determined upon by the executive heads of the constituent subdivisions.
12 If in any case the executive heads cannot agree upon the proper
13 division of cost the matter shall be referred to the council for
14 arbitration and its decision shall be final. When two or more
15 political subdivisions join in the establishment and operation of a
16 joint local organization for emergency management each shall pay its
17 share of the cost into a special pooled fund to be administered by the
18 treasurer of the most populous subdivision, which fund shall be known
19 as the emergency management fund. Each local organization
20 or joint local organization for emergency management shall have a
21 director who shall be appointed by the executive head of the political
22 subdivision, and who shall have direct responsibility for the
23 organization, administration, and operation of such local organization
24 for emergency management, subject to the direction and control of such
25 executive officer or officers. In the case of a joint local
26 organization for emergency management, the director shall be appointed
27 by the joint action of the executive heads of the constituent political
28 subdivisions. Each local organization or joint local organization for
29 emergency management shall perform emergency management functions
30 within the territorial limits of the political subdivision within which
31 it is organized, and, in addition, shall conduct such functions outside
32 of such territorial limits as may be required pursuant to the
33 provisions of this chapter.

34 (2) In carrying out the provisions of this chapter each political
35 subdivision, in which any disaster as described in RCW 38.52.020
36 occurs, shall have the power to enter into contracts and incur
37 obligations necessary to combat such disaster, protecting the health
38 and safety of persons and property, and providing emergency assistance

1 to the victims of such disaster. Each political subdivision is
2 authorized to exercise the powers vested under this section in the
3 light of the exigencies of an extreme emergency situation without
4 regard to time-consuming procedures and formalities prescribed by law
5 (excepting mandatory constitutional requirements), including, but not
6 limited to, budget law limitations, requirements of competitive bidding
7 and publication of notices, provisions pertaining to the performance of
8 public work, entering into contracts, the incurring of obligations, the
9 employment of temporary workers, the rental of equipment, the purchase
10 of supplies and materials, the levying of taxes, and the appropriation
11 and expenditures of public funds.

12 NEW SECTION. **Sec. 9.** Section 7 of this act takes effect August 1,
13 2009.

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