
SENATE BILL 6010

State of Washington

53rd Legislature

1994 Regular Session

By Senators Fraser and Sutherland

Read first time 01/10/94. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to scientific review; amending RCW 70.105D.030 and
2 70.94.039; adding a new chapter to Title 43 RCW; and repealing RCW
3 43.21A.170, 43.21A.180, 43.21A.190, 43.21A.200, and 43.21A.210.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Scientific research and findings are a necessary part of the
7 identification of public health and environmental quality problems and
8 the development of responses by governmental agencies to those
9 problems;

10 (b) State and local agencies have limited funding available to
11 conduct basic scientific research relating to public health and
12 environmental problems, and therefore must rely extensively upon
13 scientific information available from other sources, such as research
14 conducted by colleges and universities, the private sector, and the
15 federal government;

16 (c) While there are many existing mechanisms for the sharing of
17 scientific information and peer review of scientific findings, these
18 mechanisms could be strengthened as between units of Washington state

1 government and local government and the public universities and
2 colleges in the state; and

3 (d) A means for achieving greater peer review of findings and
4 conclusions of state agencies and units of local government that may be
5 the basis for the development of actions to address public health and
6 environmental problems is to establish a more consistent procedure to
7 obtain the views of those scientists employed by the state's colleges
8 and universities with expertise related to the issue of concern.

9 (2) Therefore it is the intent of the legislature by this chapter
10 to establish a procedure for sharing scientific views and information
11 on subjects identified by certain state agencies with jurisdiction over
12 public health and environmental quality issues, and to make the
13 procedure available on an optional basis to local governments. This
14 sharing of views and information shall be on an advisory basis only,
15 and shall not affect the jurisdiction of agencies participating in
16 these procedures within their statutory authority to adopt rules or
17 take other actions.

18 NEW SECTION. **Sec. 2.** (1) There is created the science and
19 environmental policy panel for the purpose of coordinating the
20 scientific peer review procedures described in section 3 of this act.
21 The science information coordinators appointed by the agencies
22 identified in subsection (3) of this section and the colleges and
23 universities listed in subsection (4) of this section shall participate
24 on the panel.

25 (2) The panel shall schedule an initial meeting by November 1,
26 1994, for the purpose of establishing the procedures for scientific
27 peer review, and the coordination and sharing of review
28 responsibilities among the colleges and universities participating in
29 the reviews. Thereafter the panel as a whole shall meet no more
30 frequently than annually, and shall do so solely for the purpose of
31 modifying and improving the general procedures for scientific peer
32 review. The departments of ecology and health shall jointly organize
33 and staff the initial meeting of the panel. At the initial meeting the
34 panel shall establish its operating procedures and determine staffing
35 responsibilities among the participating agencies and higher education
36 institutions.

1 (3) By September 1, 1994, the chief executive official of the
2 following agencies shall appoint a science information coordinator to
3 perform the responsibilities under this chapter:

- 4 (a) Department of ecology;
- 5 (b) Department of health;
- 6 (c) Department of labor and industries;
- 7 (d) Department of natural resources;
- 8 (e) Department of agriculture;
- 9 (f) Department of fish and wildlife;
- 10 (g) Department of transportation;
- 11 (h) Puget sound water quality authority;
- 12 (i) Washington state senate; and
- 13 (j) Washington state house of representatives.

14 (4) By September 1, 1994, the presidents of the following colleges
15 and universities shall appoint a science information coordinator to
16 perform the responsibilities under this chapter:

- 17 (a) University of Washington;
- 18 (b) Washington State University;
- 19 (c) Western Washington University;
- 20 (d) Eastern Washington University;
- 21 (e) Central Washington University;
- 22 (f) The Evergreen State College.

23 (5) The members of the science and environmental policy panel shall
24 be reimbursed for travel and other expenses of participating in panel
25 meetings under policies and budget sources applicable through the
26 agency or higher education institution by whom they are employed.

27 NEW SECTION. **Sec. 3.** (1) The panel shall develop procedures for
28 providing scientific information and peer review by specialists at the
29 higher education institutions if requested by state agencies through
30 their science information coordinators. These procedures are to be
31 considered as supplemental to other science information consultation
32 mechanisms and, except as otherwise provided expressly in this chapter,
33 shall not affect any such mechanisms. The panel procedures shall
34 facilitate timely and thorough consultation and peer review, and shall
35 take advantage of available data management and network systems
36 providing scientific research and literature on subjects relevant to
37 proposed agency actions. In developing the procedures the panel should
38 address:

1 (a) The methods for identifying persons at the universities with
2 expertise in the subject being reviewed and obtaining their
3 participation in the review and consultation;

4 (b) The procedure by which state agencies may request assistance in
5 obtaining existing scientific research data;

6 (c) Strengthening existing information sharing systems in order to
7 keep state agencies apprised of current research results relevant to
8 their programs;

9 (d) The procedure by which the senate and the house of
10 representatives may request scientific consultation on subjects under
11 their review;

12 (e) The procedure for local government information and consultation
13 requests pursuant to section 4 of this act; and

14 (f) Methods to include private scientific research institutions in
15 the consultation procedures.

16 (2) By January 1, 1995, the agencies specified in section 2(3)(a)
17 through (h) of this act shall adopt rules specifying the types of
18 agency actions, proposed rules, or proposed policies for which the
19 procedures for scientific peer review will be initiated. At a minimum
20 these rules shall include proposed actions, policies, or rules that:

21 (a) Require the preparation of an environmental impact statement
22 under chapter 43.21C RCW;

23 (b) Are likely, if adopted, to result in a cumulative economic
24 impact of one million dollars or more; or

25 (c) Would modify an existing emission standard or limitation.

26 This subsection and the rules adopted under this section define
27 only those proposed actions for which the consultation procedures are
28 required, and the agencies may choose to use the review procedures for
29 any other proposed action.

30 (3) The rules adopted under subsection (2) of this section shall
31 include a method of providing notice to interested parties of the
32 initiation of a science information review, and the manner in which
33 copies of consultation documents may be obtained.

34 NEW SECTION. **Sec. 4.** (1) A unit of local government may seek
35 scientific consultation under this chapter where the governing body of
36 the county in which the local government is situated has appointed a
37 scientific information coordinator. The local government shall make

1 the request through such coordinator under the procedures established
2 by the science and environmental policy panel.

3 (2) To encourage the participation of local governments in the
4 scientific consultation mechanisms of this chapter, the Washington
5 state association of counties may appoint a representative to
6 participate on the science and environmental policy panel.

7 **Sec. 5.** RCW 70.105D.030 and 1989 c 2 s 3 are each amended to read
8 as follows:

9 (1) The department may exercise the following powers in addition to
10 any other powers granted by law:

11 (a) Investigate, provide for investigating, or require potentially
12 liable persons to investigate any releases or threatened releases of
13 hazardous substances, including but not limited to inspecting,
14 sampling, or testing to determine the nature or extent of any release
15 or threatened release. If there is a reasonable basis to believe that
16 a release or threatened release of a hazardous substance may exist, the
17 department's authorized employees, agents, or contractors may enter
18 upon any property and conduct investigations. The department shall
19 give reasonable notice before entering property unless an emergency
20 prevents such notice. The department may by subpoena require the
21 attendance or testimony of witnesses and the production of documents or
22 other information that the department deems necessary;

23 (b) Conduct, provide for conducting, or require potentially liable
24 persons to conduct remedial actions (including investigations under (a)
25 of this subsection) to remedy releases or threatened releases of
26 hazardous substances. In carrying out such powers, the department's
27 authorized employees, agents, or contractors may enter upon property.
28 The department shall give reasonable notice before entering property
29 unless an emergency prevents such notice. In conducting, providing for,
30 or requiring remedial action, the department shall give preference to
31 permanent solutions to the maximum extent practicable and shall provide
32 for or require adequate monitoring to ensure the effectiveness of the
33 remedial action;

34 (c) Indemnify contractors retained by the department for carrying
35 out investigations and remedial actions, but not for any contractor's
36 reckless or wilful misconduct;

1 (d) Carry out all state programs authorized under the federal
2 cleanup law and the federal resource, conservation, and recovery act,
3 42 U.S.C. Sec. 6901 et seq., as amended;

4 (e) Classify substances as hazardous substances for purposes of RCW
5 70.105D.020(5) and classify substances and products as hazardous
6 substances for purposes of RCW 82.21.020(1); and

7 (f) Take any other actions necessary to carry out the provisions of
8 this chapter, including the power to adopt rules under chapter 34.05
9 RCW.

10 (2) The department shall immediately implement all provisions of
11 this chapter to the maximum extent practicable, including investigative
12 and remedial actions where appropriate. The department, within nine
13 months after March 1, 1989, shall adopt, and thereafter enforce, rules
14 under chapter 34.05 RCW to:

15 (a) Provide for public participation, including at least (i) the
16 establishment of regional citizen's advisory committees, (ii) public
17 notice of the development of investigative plans or remedial plans for
18 releases or threatened releases, and (iii) concurrent public notice of
19 all compliance orders, enforcement orders, or notices of violation;

20 (b) Establish a hazard ranking system for hazardous waste sites;

21 (c) Establish reasonable deadlines not to exceed ninety days for
22 initiating an investigation of a hazardous waste site after the
23 department receives information that the site may pose a threat to
24 human health or the environment and other reasonable deadlines for
25 remedying releases or threatened releases at the site; and

26 (d) Publish and periodically update minimum cleanup standards for
27 remedial actions at least as stringent as the cleanup standards under
28 section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621, and at
29 least as stringent as all applicable state and federal laws, including
30 health-based standards under state and federal law.

31 (3) Before November 1st of each even-numbered year, the department
32 shall develop, with public notice and hearing, and submit to the ways
33 and means and appropriate standing environmental committees of the
34 senate and house of representatives a ranked list of projects and
35 expenditures recommended for appropriation from both the state and
36 local toxics control accounts. The department shall also provide the
37 legislature and the public each year with an accounting of the
38 department's activities supported by appropriations from the state
39 toxics control account, including a list of known hazardous waste sites

1 and their hazard rankings, actions taken and planned at each site, how
2 the department is meeting its top two management priorities under RCW
3 70.105.150, and all funds expended under this chapter.

4 (4) The department (~~((shall establish a scientific advisory board to
5 render advice to the department))~~) may use the procedures developed by
6 the science and environmental policy panel to obtain scientific peer
7 review with respect to the hazard ranking system, cleanup standards,
8 remedial actions, deadlines for remedial actions, monitoring, the
9 classification of substances as hazardous substances for purposes of
10 RCW 70.105D.020(5) and the classification of substances or products as
11 hazardous substances for purposes of RCW 82.21.020(1). (~~(The board
12 shall consist of five independent members to serve staggered three-year
13 terms. No members may be employees of the department. Members shall
14 be reimbursed for travel expenses as provided in RCW 43.03.050 and
15 43.03.060.)~~)

16 (5) The department shall establish a program to identify potential
17 hazardous waste sites and to encourage persons to provide information
18 about hazardous waste sites.

19 **Sec. 6.** RCW 70.94.039 and 1991 c 199 s 314 are each amended to
20 read as follows:

21 (~~((1) The science advisory board is hereby created to advise))~~ The
22 department may use the procedures of the science and environmental
23 policy panel to obtain scientific peer review on procedures for
24 assessing and managing the risks associated with air contaminant
25 emissions. (~~(The board shall consist of five members knowledgeable in
26 the fields of risk assessment or risk management. Members shall be
27 appointed by the director of the department. The board shall be
28 staffed by the department.~~)

29 (2) The board shall:

30 (a) ~~Advise the department on the most appropriate methods for
31 identifying and measuring cancer risks or other chronic health effects
32 resulting from exposure to air contaminant emissions; and~~

33 (b) ~~Identify, evaluate, and recommend procedures relating to
34 managing the risks associated with exposure to air contaminant
35 emissions.~~

36 (3) ~~In fulfilling its duties under subsection (2) of this section,
37 the board shall consider all appropriate studies and reports relating
38 to risk assessment or risk management including but not limited to~~

1 reports authorized by the federal clean air act from the national
2 academy of sciences and the risk assessment and risk management
3 commission.

4 (4) Members shall be compensated as provided in RCW 43.03.250 and
5 shall be reimbursed for travel expenses as provided in RCW 43.03.050
6 and 43.03.060.

7 (5) The duties of the board shall terminate on July 1, 1996.))

8 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each
9 repealed, effective July 1, 1994:

- 10 (1) RCW 43.21A.170 and 1989 1st ex.s. c 9 s 217, 1988 c 36 s 15,
11 1985 c 466 s 50, 1979 c 141 s 68, & 1970 ex.s. c 62 s 17;
12 (2) RCW 43.21A.180 and 1984 c 287 s 76, 1975-'76 2nd ex.s. c 34 s
13 100, & 1970 ex.s. c 62 s 18;
14 (3) RCW 43.21A.190 and 1988 c 127 s 24 & 1970 ex.s. c 62 s 19;
15 (4) RCW 43.21A.200 and 1977 c 75 s 47 & 1970 ex.s. c 62 s 20; and
16 (5) RCW 43.21A.210 and 1970 ex.s. c 62 s 21.

17 NEW SECTION. **Sec. 8.** Sections 1 through 4 of this act shall
18 constitute a new chapter in Title 43 RCW.

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