
SUBSTITUTE HOUSE BILL 2221

State of Washington

54th Legislature

1996 Regular Session

By House Representative Government Operations (originally sponsored by Representatives Reams, Schoesler, Mastin, Koster, Campbell, Horn, L. Thomas, Sheahan, D. Schmidt, Elliot, Mitchell, Thompson, Stevens, Goldsmith, Backlund, Hargrove and McMahan)

Read first time 01/18/96.

1 AN ACT Relating to regulatory reform; amending RCW 76.09.010,
2 76.09.040, 48.02.060, 48.44.050, 48.46.200, 34.05.350, 34.05.380,
3 34.05.570, 4.84.340, and 43.41.110; adding a new section to chapter
4 43.22 RCW; adding new sections to chapter 34.05 RCW; adding a new
5 section to chapter 4.84 RCW; adding a new chapter to Title 43 RCW;
6 creating a new section; and declaring an emergency.

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

8

PART I

9

GRANTS OF RULE-MAKING AUTHORITY

10 **Sec. 101.** RCW 76.09.010 and 1993 c 443 s 1 are each amended to
11 read as follows:

12 (1) The legislature hereby finds and declares that the forest land
13 resources are among the most valuable of all resources in the state;
14 that a viable forest products industry is of prime importance to the
15 state's economy; that it is in the public interest for public and
16 private commercial forest lands to be managed consistent with sound
17 policies of natural resource protection; that coincident with
18 maintenance of a viable forest products industry, it is important to

1 afford protection to forest soils, fisheries, wildlife, water quantity
2 and quality, air quality, recreation, and scenic beauty.

3 (2) The legislature further finds and declares it to be in the
4 public interest of this state to create and maintain through the
5 adoption of this chapter a comprehensive state-wide system of laws and
6 forest practices regulations which will achieve the following purposes
7 and policies:

8 (a) Afford protection to, promote, foster and encourage timber
9 growth, and require such minimum reforestation of commercial tree
10 species on forest lands as will reasonably utilize the timber growing
11 capacity of the soil following current timber harvest;

12 (b) Afford protection to forest soils and public resources by
13 utilizing all reasonable methods of technology in conducting forest
14 practices;

15 (c) Recognize both the public and private interest in the
16 profitable growing and harvesting of timber;

17 (d) Promote efficiency by permitting maximum operating freedom
18 consistent with the other purposes and policies stated herein;

19 (e) Provide for regulation of forest practices so as to avoid
20 unnecessary duplication in such regulation;

21 (f) Provide for interagency input and intergovernmental and tribal
22 coordination and cooperation;

23 (g) Achieve compliance with all applicable requirements of federal
24 and state law with respect to nonpoint sources of water pollution from
25 forest practices;

26 (h) To consider reasonable land use planning goals and concepts
27 contained in local comprehensive plans and zoning regulations; and

28 (i) Foster cooperation among managers of public resources, forest
29 landowners, Indian tribes and the citizens of the state.

30 The authority of the board to adopt forest practices rules is
31 prescribed by this subsection (2) and RCW 76.09.040. The board may not
32 adopt forest practices rules based solely on any other section of law
33 stating a statute's intent or purpose, on the enabling provisions of
34 the statute establishing the agency, or on any combination of such
35 provisions.

36 (3) The legislature further finds and declares that it is also in
37 the public interest of the state to encourage forest landowners to
38 undertake corrective and remedial action to reduce the impact of mass
39 earth movements and fluvial processes.

1 (4) The legislature further finds and declares that it is in the
2 public interest that the applicants for state forest practice permits
3 should assist in paying for the cost of review and permitting necessary
4 for the environmental protection of these resources.

5 **Sec. 102.** RCW 76.09.040 and 1994 c 264 s 48 are each amended to
6 read as follows:

7 (1) Where necessary to accomplish the purposes and policies
8 specifically stated in RCW 76.09.010(2), and to implement the
9 provisions of this chapter, the board shall (~~promulgate~~) adopt forest
10 practices (~~regulations~~) rules pursuant to chapter 34.05 RCW and in
11 accordance with the procedures enumerated in this section that:

12 (a) Establish minimum standards for forest practices;

13 (b) Provide procedures for the voluntary development of resource
14 management plans which may be adopted as an alternative to the minimum
15 standards in (a) of this subsection if the plan is consistent with the
16 purposes and policies specifically stated in RCW 76.09.010(2) and the
17 plan meets or exceeds the objectives of the minimum standards;

18 (c) Set forth necessary administrative provisions; and

19 (d) Establish procedures for the collection and administration of
20 forest practice fees as set forth by this chapter.

21 Forest practices (~~regulations~~) rules pertaining to water quality
22 protection shall be (~~promulgated~~) adopted individually by the board
23 and by the department of ecology after they have reached agreement with
24 respect thereto. All other forest practices (~~regulations~~) rules
25 shall be (~~promulgated~~) adopted by the board.

26 Forest practices (~~regulations~~) rules shall be administered and
27 enforced by the department except as otherwise provided in this
28 chapter. Such (~~regulations~~) rules shall be (~~promulgated~~) adopted
29 and administered so as to give consideration to all purposes and
30 policies specifically set forth in RCW 76.09.010(2).

31 (~~(2)~~) (3) The board shall prepare proposed forest practices
32 (~~regulations~~) rules. In addition to any forest practices
33 (~~regulations~~) rules relating to water quality protection proposed by
34 the board, the department of ecology shall prepare proposed forest
35 practices (~~regulations~~) rules relating to water quality protection.

36 Prior to initiating the rule making process, the proposed
37 (~~regulations~~) rules shall be submitted for review and comments to the
38 department of fish and wildlife and to the counties of the state.

1 After receipt of the proposed forest practices (~~((regulations))~~) rules,
2 the department of fish and wildlife and the counties of the state shall
3 have thirty days in which to review and submit comments to the board,
4 and to the department of ecology with respect to its proposed
5 (~~((regulations))~~) rules relating to water quality protection. After the
6 expiration of such thirty day period the board and the department of
7 ecology shall jointly hold one or more hearings on the proposed
8 (~~((regulations))~~) rules pursuant to chapter 34.05 RCW. At such
9 hearing(s) any county may propose specific forest practices
10 (~~((regulations))~~) rules relating to problems existing within such county.
11 The board and the department of ecology may adopt such proposals if
12 they find the proposals are consistent with the purposes and policies
13 of this chapter.

14 NEW SECTION. Sec. 103. A new section is added to chapter 43.22
15 RCW to read as follows:

16 For rules adopted after the effective date of this section, the
17 director of the department of labor and industries may not rely solely
18 on a statute's statement of intent or purpose, on the enabling
19 provisions of the statute establishing the agency, or on any
20 combination of such provisions, for statutory authority to adopt any
21 rule: PROVIDED, That this section shall not apply to rules adopted
22 pursuant to chapter 39.12 RCW.

23 Sec. 104. RCW 48.02.060 and 1947 c 79 s .02.06 are each amended to
24 read as follows:

25 (1) The commissioner shall have the authority expressly conferred
26 upon him or her by or reasonably implied from the provisions of this
27 code.

28 (2) The commissioner shall execute his or her duties and shall
29 enforce the provisions of this code.

30 (3) The commissioner may:

31 (a) Make reasonable rules and regulations for effectuating any
32 provision of this code, except those relating to his or her election,
33 qualifications, or compensation: PROVIDED, That the commissioner may
34 not adopt rules after the effective date of this section that are based
35 solely on this statute, or on a statute's statement of intent or
36 purpose, or on the enabling provisions of the statute establishing the
37 agency, or any combination of such provisions, for statutory authority

1 to adopt any rule, except rules defining or clarifying terms in, or
2 procedures necessary to the implementation of a statute. No such rules
3 and regulations shall be effective prior to their being filed for
4 public inspection in the commissioner's office.

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

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

10 **Sec. 105.** RCW 48.44.050 and 1947 c 268 s 5 are each amended to
11 read as follows:

12 The insurance commissioner shall make reasonable regulations in aid
13 of the administration of this chapter which may include, but shall not
14 be limited to regulations concerning the maintenance of adequate
15 insurance, bonds, or cash deposits, information required of
16 registrants, and methods of expediting speedy and fair payments to
17 claimants: PROVIDED, That the commissioner may not adopt rules after
18 the effective date of this section that are based solely on this
19 section, a statute's statement of intent or purpose, or on the enabling
20 provisions of the statute establishing the agency, or any combination
21 of such provisions, for statutory authority to adopt any rule, except
22 rules defining or clarifying terms in, or procedures necessary to the
23 implementation of a statute.

24 NEW SECTION. **Sec. 106.** A new section is added to chapter 34.05
25 RCW under the subchapter heading "Part III" to read as follows:

26 No board or commission established under Title 18 RCW whose sole
27 function is to perform regulatory or licensing functions with respect
28 to a specific profession or occupation, other than a health-related
29 profession or occupation, may adopt or enforce a rule that establishes
30 education requirements in excess of a baccalaureate degree in order to
31 qualify for licensing.

32 **Sec. 107.** RCW 48.46.200 and 1975 1st ex.s. c 290 s 21 are each
33 amended to read as follows:

34 The commissioner may adopt, in accordance with the provisions of
35 the administrative procedure act, chapter 34.05 RCW, (~~promulgate~~)
36 rules and regulations as necessary or proper to carry out the

1 provisions of this chapter: PROVIDED, That the commissioner may not
2 adopt rules after the effective date of this section that are based
3 solely on this section, a statute's statement of intent or purpose, or
4 on the enabling provisions of the statute establishing the agency, or
5 any combination of such provisions, for statutory authority to adopt
6 any rule, except rules defining or clarifying terms in, or procedures
7 necessary to the implementation of a statute. Nothing in this chapter
8 shall be construed to prohibit the commissioner from requiring changes
9 in procedures previously approved by ((him)) the commissioner.

10 **PART II**

11 **RULE-MAKING REQUIREMENTS**

12 **Sec. 201.** RCW 34.05.350 and 1994 c 249 s 3 are each amended to
13 read as follows:

14 (1) If an agency for good cause finds:

15 (a) That immediate adoption, amendment, or repeal of a rule is
16 necessary for the preservation of ((the)) public health((7)) or safety,
17 ((or general welfare)) and that observing the time requirements of
18 notice and opportunity to comment upon adoption of a permanent rule
19 would be contrary to the public interest; or

20 (b) That state or federal law or federal rule or a federal deadline
21 for state receipt of federal funds requires immediate adoption of a
22 rule,

23 the agency may dispense with those requirements and adopt, amend, or
24 repeal the rule on an emergency basis. The agency's finding and a
25 concise statement of the reasons for its finding shall be incorporated
26 in the order for adoption of the emergency rule or amendment filed with
27 the office of the code reviser under RCW 34.05.380 and with the rules
28 review committee.

29 (2) An emergency rule adopted under this section takes effect upon
30 filing with the code reviser, unless a later date is specified in the
31 order of adoption, and may not remain in effect for longer than one
32 hundred twenty days after filing. Identical or substantially similar
33 emergency rules may not be adopted in sequence unless conditions have
34 changed or the agency has filed notice of its intent to adopt the rule
35 as a permanent rule, and is actively undertaking the appropriate
36 procedures to adopt the rule as a permanent rule. This section does
37 not relieve any agency from compliance with any law requiring that its

1 permanent rules be approved by designated persons or bodies before they
2 become effective.

3 (3) Within seven days after the rule is adopted, any person may
4 petition the governor requesting the immediate repeal of a rule adopted
5 on an emergency basis by any department listed in RCW 43.17.010.
6 Within seven days after submission of the petition, the governor shall
7 either deny the petition in writing, stating his or her reasons for the
8 denial, or order the immediate repeal of the rule. In ruling on the
9 petition, the governor shall consider only whether the conditions in
10 subsection (1) of this section were met such that adoption of the rule
11 on an emergency basis was necessary. If the governor orders the repeal
12 of the emergency rule, any sanction imposed based on that rule is void.
13 This subsection shall not be construed to prohibit adoption of any rule
14 as a permanent rule.

15 (4) In adopting an emergency rule, the agency shall comply with
16 section 4 of this act or provide a written explanation for its failure
17 to do so.

18 **Sec. 202.** RCW 34.05.380 and 1989 c 175 s 11 are each amended to
19 read as follows:

20 (1) Each agency shall file in the office of the code reviser a
21 certified copy of all rules it adopts, except for rules contained in
22 tariffs filed with or published by the Washington utilities and
23 transportation commission. The code reviser shall place upon each rule
24 a notation of the time and date of filing and shall keep a permanent
25 register of filed rules open to public inspection. In filing a rule,
26 each agency shall use the standard form prescribed for this purpose by
27 the code reviser.

28 (2) Emergency rules adopted under RCW 34.05.350 become effective
29 upon filing unless a later date is specified in the order of adoption.
30 All other rules become effective upon the expiration of thirty days
31 after the date of filing, unless a later date is required by statute or
32 specified in the order of adoption.

33 (3) A rule may become effective immediately upon its filing with
34 the code reviser or on any subsequent date earlier than that
35 established by subsection (2) of this section, if the agency
36 establishes that effective date in the adopting order and finds that:

37 (a) Such action is required by the state or federal Constitution,
38 a statute, or court order;

1 (b) The rule only delays the effective date of another rule that is
2 not yet effective; or

3 (c) The earlier effective date is necessary because of imminent
4 peril to the public health, safety, or welfare.

5 The finding and a brief statement of the reasons therefor required
6 by this subsection shall be made a part of the order adopting the rule.

7 (4) With respect to a rule made effective pursuant to subsection
8 (3) of this section, each agency shall make reasonable efforts to make
9 the effective date known to persons who may be affected by it.

10 (5) No rule, adopted by any of the following agencies, is effective
11 for more than seven years after its adoption or seven years after the
12 effective date of this section, whichever is later: Department of
13 ecology, employment security department, department of labor and
14 industries, department of revenue, department of licensing, department
15 of health, department of fish and wildlife, or the office of the
16 insurance commissioner. A rule made ineffective under this subsection
17 may be readopted according to the procedures established in this
18 chapter.

19 NEW SECTION. Sec. 203. A new section is added to chapter 34.05
20 RCW under the subchapter heading "Part III" to read as follows:

21 The department of ecology, employment security department,
22 department of labor and industries, department of revenue, department
23 of licensing, department of health, department of fish and wildlife,
24 and the office of the insurance commissioner shall review their
25 respective rules within seven years of the effective date of this
26 section.

27 NEW SECTION. Sec. 204. A new section is added to chapter 34.05
28 RCW under the subchapter heading "Part III" to read as follows:

29 Each state agency shall prepare an annual fiscal year agenda for
30 significant legislative rules under development. The agenda shall be
31 adopted not later than June 30th. The agenda shall be made available
32 upon request to any person and shall be published by the agency in the
33 Washington State Register. The agenda shall also be submitted to the
34 director of financial management and to any other state agency that may
35 reasonably be expected to have an interest in the subject of rules that
36 will be developed.

1 NEW SECTION. Sec. 205. A new section is added to chapter 34.05
2 RCW under the subchapter heading "Part III" to read as follows:

3 Any agency having rules that postpone full compliance with their
4 requirements beyond ninety days after the effective date of this
5 section shall prepare a small business economic impact statement, as
6 defined in RCW 19.85.020(2), on such rules before requiring full
7 compliance with the rules.

8 NEW SECTION. Sec. 206. A new section is added to chapter 34.05
9 RCW under the subchapter heading "Part III" to read as follows:

10 (1) The legislature finds that when agencies use interpretive
11 statements, policy statements, and directives instead of adopting
12 rules, public notice and participation suffers. The legislature
13 recognizes that the regulatory reform act was enacted to allow for
14 responsible rule making and increase the public's opportunity to have
15 input on the development of a rule. The legislature therefore declares
16 that it is in the public interest to put limits on the use of agency
17 interpretive statements, policy statements, and directives.

18 (2) An agency must cause to be published in the state register the
19 subject matter of any new interpretive statement, policy statement, or
20 directive at least twenty days before it takes effect.

21 (3) An agency must make the full text of a new interpretive
22 statement, policy statement, or directive available at the public
23 libraries throughout the state.

24 (4) If the joint administrative rules review committee determines
25 that an interpretive statement, policy statement, or directive should
26 have been adopted as a rule, then the statement or directive is void.

27 **PART III**
28 **JUDICIAL REVIEW**

29 **Sec. 301.** RCW 34.05.570 and 1995 c 403 s 802 are each amended to
30 read as follows:

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

33 (a) Except as provided in subsection (2) of this section, the
34 burden of demonstrating the invalidity of agency action is on the party
35 asserting invalidity;

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

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

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

9 (2) Review of rules. (a) A rule may be reviewed by petition for
10 declaratory judgment filed pursuant to this subsection or in the
11 context of any other review proceeding under this section. In an
12 action challenging the validity of a rule, the agency shall be made a
13 party to the proceeding.

14 (b) The validity of any rule may be determined upon petition for a
15 declaratory judgment addressed to the superior court of Thurston
16 county, when it appears that the rule, or its threatened application,
17 interferes with or impairs or immediately threatens to interfere with
18 or impair the legal rights or privileges of the petitioner. The burden
19 of demonstrating the validity of any rule is on the agency. The
20 declaratory judgment order may be entered whether or not the petitioner
21 has first requested the agency to pass upon the validity of the rule in
22 question.

23 (c) In a proceeding involving review of a rule, the court shall
24 declare the rule invalid only if it finds that: The rule violates
25 constitutional provisions; the rule exceeds the statutory authority of
26 the agency; the rule was adopted without compliance with statutory
27 rule-making procedures; or the rule is arbitrary and capricious.

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

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

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

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

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

38 (e) The order is not supported by evidence that is substantial when
39 viewed in light of the whole record before the court, which includes

1 the agency record for judicial review, supplemented by any additional
2 evidence received by the court under this chapter;

3 (f) The agency has not decided all issues requiring resolution by
4 the agency;

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

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

13 (i) The order is arbitrary or capricious.

14 (4) Review of other agency action.

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

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

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

30 (i) Unconstitutional;

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

33 (iii) Arbitrary or capricious; or

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

36

PART IV

37

FEES AND EXPENSES

1 NEW SECTION. **Sec. 401.** A new section is added to chapter 4.84 RCW
2 to read as follows:

3 If an agency chooses to appeal a decision of the superior court
4 rendered under chapter 34.05 RCW, the agency shall pay the subsequent
5 fees and other expenses incurred by the qualified party or parties that
6 prevailed in superior court. The amount awarded to a qualified party
7 in an appeal under this section may not exceed the amount that may be
8 awarded by a superior court to a qualified party under RCW 4.84.350.
9 Payment of any fees and other expenses under this chapter shall be paid
10 out of moneys from the agency's appropriation for administration and
11 support services and not out of moneys for program activities or
12 service delivery.

13 **Sec. 402.** RCW 4.84.340 and 1995 c 403 s 902 are each amended to
14 read as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout RCW 4.84.340 through 4.84.360 and section
17 401 of this act.

18 (1) "Agency" means any state board, commission, department,
19 institution of higher education, or officer, authorized by law to make
20 rules or to conduct adjudicative proceedings, except those in the
21 legislative or judicial branches, the governor, or the attorney general
22 except to the extent otherwise required by law.

23 (2) "Agency action" means agency action as defined by chapter 34.05
24 RCW.

25 (3) "Fees and other expenses" includes the reasonable expenses of
26 expert witnesses, the reasonable cost of a study, analysis, engineering
27 report, test, or project that is found by the court to be necessary for
28 the preparation of the party's case, and reasonable attorneys' fees.
29 Reasonable attorneys' fees shall be based on the prevailing market
30 rates for the kind and quality of services furnished, except that (a)
31 no expert witness shall be compensated at a rate in excess of the
32 highest rates of compensation for expert witnesses paid by the state of
33 Washington, and (b) attorneys' fees shall not be awarded in excess of
34 one hundred fifty dollars per hour unless the court determines that an
35 increase in the cost of living or a special factor, such as the limited
36 availability of qualified attorneys for the proceedings involved,
37 justifies a higher fee.

1 (4) "Judicial review" means a judicial review as defined by chapter
2 34.05 RCW.

3 (5) "Qualified party" means (a) an individual whose net worth did
4 not exceed one million dollars at the time the initial petition for
5 judicial review was filed or (b) a sole owner of an unincorporated
6 business, or a partnership, corporation, association, or organization
7 whose net worth did not exceed five million dollars at the time the
8 initial petition for judicial review was filed, except that an
9 organization described in section 501(c)(3) of the federal internal
10 revenue code of 1954 as exempt from taxation under section 501(a) of
11 the code and a cooperative association as defined in section 15(a) of
12 the agricultural marketing act (12 U.S.C. 1141J(a)), may be a party
13 regardless of the net worth of such organization or cooperative
14 association.

15 **PART V**

16 **REGULATORY IMPACT NOTES**

17 **Sec. 501.** RCW 43.41.110 and 1981 2nd ex.s. c 4 s 13 are each
18 amended to read as follows:

19 The office of financial management shall:

20 (1) Provide technical assistance to the governor and the
21 legislature in identifying needs and in planning to meet those needs
22 through state programs and a plan for expenditures.

23 (2) Perform the comprehensive planning functions and processes
24 necessary or advisable for state program planning and development,
25 preparation of the budget, inter-departmental and inter-governmental
26 coordination and cooperation, and determination of state capital
27 improvement requirements.

28 (3) Provide assistance and coordination to state agencies and
29 departments in their preparation of plans and programs.

30 (4) Provide general coordination and review of plans in functional
31 areas of state government as may be necessary for receipt of federal or
32 state funds.

33 (5) Participate with other states or subdivisions thereof in
34 interstate planning.

35 (6) Encourage educational and research programs that further
36 planning and provide administrative and technical services therefor.

1 (7) Carry out the provisions of RCW 43.62.010 through 43.62.050
2 relating to the state census.

3 (8) Be the official state participant in the federal-state
4 cooperative program for local population estimates and as such certify
5 all city and county special censuses to be considered in the allocation
6 of state and federal revenues.

7 (9) Be the official state center for processing and dissemination
8 of federal decennial or quinquennial census data in cooperation with
9 other state agencies.

10 (10) Be the official state agency certifying annexations,
11 incorporations, or disincorporations to the United States bureau of the
12 census.

13 (11) Review all United States bureau of the census population
14 estimates used for federal revenue sharing purposes and provide a
15 liaison for local governments with the United States bureau of the
16 census in adjusting or correcting revenue sharing population estimates.

17 (12) Provide fiscal notes depicting the expected fiscal impact of
18 proposed legislation in accordance with chapter 43.88A RCW.

19 (13) Provide regulatory impact notes depicting the expected
20 regulatory impact of proposed legislation on businesses in accordance
21 with sections 502 through 506 of this act.

22 (14) Be the official state agency to estimate and manage the cash
23 flow of all public funds as provided in chapter 43.88 RCW. To this
24 end, the office shall adopt such rules as are necessary to manage the
25 cash flow of public funds.

26 NEW SECTION. **Sec. 502.** The legislature hereby recognizes the
27 necessity of developing a uniform and coordinated procedure for
28 determining the expected regulatory impact of bills and resolutions on
29 businesses. The legislature also recognizes that developing the
30 statements of regulatory impact, which shall be known as regulatory
31 impact notes, requires the designation of a state agency to be
32 principally responsible for the notes.

33 NEW SECTION. **Sec. 503.** (1) The office of financial management
34 shall, in cooperation with appropriate legislative committees and
35 legislative staff, establish a procedure to provide regulatory impact
36 notes on the expected impact of bills and resolutions that increase or

1 decrease regulations on the operation of businesses subject to the
2 state's business and occupation taxes levied in chapter 82.04 RCW.

3 (2) A regulatory impact note shall be prepared on the basis of a
4 sample of businesses that are regulated by the bill or resolution. The
5 regulatory impact note shall contain an estimate of the fiscal impact
6 to the affected businesses for the biennium in which the bill or
7 resolution will take effect as well as a cumulative forecast of the
8 fiscal impact for the succeeding two fiscal years. If it is determined
9 that no dollar estimate is possible, the regulatory impact note shall
10 contain a statement to that effect.

11 (3) In establishing the regulatory impact procedure called for
12 under this chapter, the office of financial management shall coordinate
13 the development of regulatory impact notes with all state agencies
14 affected.

15 NEW SECTION. **Sec. 504.** (1) After a regulatory impact note that
16 depicts the expected regulatory impact of a bill or resolution is
17 prepared and approved as to form, accuracy, and completeness by the
18 office of financial management, copies shall be filed immediately with:

19 (a) The chair of the committee to which the bill or resolution was
20 referred upon introduction in the house of origin;

21 (b) The senate committee on ways and means, or its successor; and

22 (c) The house of representatives committees on revenue and
23 appropriations, or their successors.

24 (2) Whenever possible, the regulatory impact note shall be provided
25 before or at the time the bill or resolution is first heard by the
26 committee of reference in the house of origin.

27 (3) If a regulatory impact note has been prepared for a bill or
28 resolution, a copy of the regulatory impact note shall be placed in the
29 bill books or otherwise attached to the bill or resolution and shall
30 remain with the bill or resolution throughout the legislative process
31 insofar as possible.

32 NEW SECTION. **Sec. 505.** If requested by a legislator, the office
33 of financial management shall also provide a regulatory impact note on
34 a legislative proposal. The regulatory impact note shall be returned
35 to the requesting legislator, and copies shall be filed with the
36 appropriate legislative committees under section 504 of this act at the
37 time the proposed legislation is introduced in either house.

1 NEW SECTION. **Sec. 506.** Nothing in this chapter prevents either
2 house of the legislature from acting on a bill or resolution before it
3 as otherwise provided by the state Constitution, by law, and by the
4 rules and joint rules of the senate and house of representatives, nor
5 shall the lack of a regulatory impact note as provided in this chapter
6 or an error in the accuracy of the note affect the validity of a
7 measure otherwise duly passed by the legislature.

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9

PART VI
MISCELLANEOUS

10 NEW SECTION. **Sec. 601.** Part headings used in this act do not
11 constitute any part of the law.

12 NEW SECTION. **Sec. 602.** Sections 502 through 506 of this act shall
13 constitute a new chapter in Title 43 RCW.

14 NEW SECTION. **Sec. 603.** Section 206 of this act is necessary for
15 the immediate preservation of the public peace, health, or safety, or
16 support of the state government and its existing public institutions,
17 and shall take effect immediately.

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