

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2386**

Chapter 206, Laws of 1996

54th Legislature  
1996 Regular Session

TEXT OF LAW OR RULE--TECHNICAL ASSISTANCE PROGRAMS

EFFECTIVE DATE: 6/6/96 - Except sections 6-8 which become effective on 1/1/97.

Passed by the House March 7, 1996  
Yeas 96 Nays 2

CLYDE BALLARD  
**Speaker of the  
House of Representatives**

Passed by the Senate March 7, 1996  
Yeas 49 Nays 0

JOEL PRITCHARD  
**President of the Senate**

Approved March 28, 1996

MIKE LOWRY  
**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2386** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN  
**Chief Clerk**

FILED

March 28, 1996 - 4:25 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2386**

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AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

**State of Washington                      54th Legislature                      1996 Regular Session**

**By** House Committee on Government Operations (originally sponsored by Representatives D. Schmidt, Dyer, Thompson, Radcliff, Hargrove, Sheahan, Chappell, Cairnes, Cooke, Crouse, Scheuerman, Campbell, Honeyford, Buck, Huff, Elliot, Clements, Foreman, Quall, Backlund, Hymes, Costa, Mulliken and McMahan)

Read first time 01/26/96.

1            AN ACT Relating to providing the text of laws and rules as a part  
2 of state agency technical assistance programs; amending RCW 43.05.030,  
3 43.05.060, 43.05.090, 43.05.100, and 34.05.230; adding a new section to  
4 chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding  
5 a new section to chapter 36.70 RCW; adding a new section to chapter  
6 36.70B RCW; adding a new section to chapter 43.110 RCW; adding a new  
7 section to chapter 43.330 RCW; creating a new section; and providing an  
8 effective date.

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

10            NEW SECTION.    **Sec. 1.** The legislature finds that many individuals  
11 and small businesses who are required to comply with laws and agency  
12 rules often do not have access to the Revised Code of Washington, the  
13 Washington Administrative Code, the United States Code, or the Code of  
14 Federal Regulations. In this case, those informed of violations do not  
15 know whether, or to what extent, the cited law or agency rule actually  
16 applies to their situation. In order to facilitate greater  
17 understanding of the law and agency rules, the legislature finds that  
18 those who make the effort to obtain technical assistance from a  
19 regulatory agency, and those who are issued a notice of correction,

1 should be given the text of the specific section or subsection of the  
2 law or agency rule they are alleged to have violated.

3 **Sec. 2.** RCW 43.05.030 and 1995 c 403 s 604 are each amended to  
4 read as follows:

5 (1) For the purposes of this chapter, a technical assistance visit  
6 is a visit by a regulatory agency to a facility, business, or other  
7 location that:

8 (a) Has been requested or is voluntarily accepted; and

9 (b) Is declared by the regulatory agency at the beginning of the  
10 visit to be a technical assistance visit.

11 (2) A technical assistance visit also includes a consultative visit  
12 pursuant to RCW 49.17.250.

13 (3) During a technical assistance visit, or within a reasonable  
14 time thereafter, a regulatory agency shall inform the owner or operator  
15 of the facility of any violations of law or agency rules identified by  
16 the agency as follows:

17 (a) A description of the condition that is not in compliance and  
18 (~~(a specific citation to)~~) the text of the specific section or  
19 subsection of the applicable state or federal law or rule;

20 (b) A statement of what is required to achieve compliance;

21 (c) The date by which the agency requires compliance to be  
22 achieved;

23 (d) Notice of the means to contact any technical assistance  
24 services provided by the agency or others; and

25 (e) Notice of when, where, and to whom a request to extend the time  
26 to achieve compliance for good cause may be filed with the agency.

27 **Sec. 3.** RCW 43.05.060 and 1995 c 403 s 607 are each amended to  
28 read as follows:

29 (1) If in the course of any site inspection or visit that is not a  
30 technical assistance visit, the department of ecology becomes aware of  
31 conditions that are not in compliance with applicable laws and rules  
32 enforced by the department and are not subject to civil penalties as  
33 provided for in RCW 43.05.070, the department may issue a notice of  
34 correction to the responsible party that shall include:

35 (a) A description of the condition that is not in compliance and  
36 (~~(a specific citation to)~~) the text of the specific section or  
37 subsection of the applicable state or federal law or rule;

1 (b) A statement of what is required to achieve compliance;  
2 (c) The date by which the department requires compliance to be  
3 achieved;

4 (d) Notice of the means to contact any technical assistance  
5 services provided by the department or others; and

6 (e) Notice of when, where, and to whom a request to extend the time  
7 to achieve compliance for good cause may be filed with the department.

8 (2) A notice of correction is not a formal enforcement action, is  
9 not subject to appeal, and is a public record.

10 (3) If the department issues a notice of correction, it shall not  
11 issue a civil penalty for the violations identified in the notice of  
12 correction unless the responsible party fails to comply with the  
13 notice.

14 **Sec. 4.** RCW 43.05.090 and 1995 c 403 s 610 are each amended to  
15 read as follows:

16 (1) Following a consultative visit pursuant to RCW 49.17.250, the  
17 department of labor and industries shall issue a report to the employer  
18 that the employer shall make available to its employees. The report  
19 shall contain:

20 (a) A description of the condition that is not in compliance and  
21 ~~((a specific citation to))~~ the text of the specific section or  
22 subsection of the applicable state or federal law or rule;

23 (b) A statement of what is required to achieve compliance;

24 (c) The date by which the department requires compliance to be  
25 achieved;

26 (d) Notice of means to contact technical assistance services  
27 provided by the department; and

28 (e) Notice of when, where, and to whom a request to extend the time  
29 to achieve compliance for good cause may be filed with the department.

30 (2) Following a compliance inspection pursuant to RCW 49.17.120,  
31 the department of labor and industries shall issue a citation for  
32 violations of industrial safety and health standards. The citation  
33 shall not assess a penalty if the violations:

34 (a) Are determined not to be of a serious nature;

35 (b) Have not been previously cited;

36 (c) Are not willful; and

37 (d) Do not have a mandatory penalty under chapter 49.17 RCW.

1       **Sec. 5.** RCW 43.05.100 and 1995 c 403 s 611 are each amended to  
2 read as follows:

3       (1) If in the course of any inspection or visit that is not a  
4 technical assistance visit, the department of agriculture, fish and  
5 wildlife, health, licensing, or natural resources becomes aware of  
6 conditions that are not in compliance with applicable laws and rules  
7 enforced by the department and are not subject to civil penalties as  
8 provided for in RCW 43.05.110, the department may issue a notice of  
9 correction to the responsible party that shall include:

10       (a) A description of the condition that is not in compliance and  
11 (~~a specific citation to~~) the text of the specific section or  
12 subsection of the applicable state or federal law or rule;

13       (b) A statement of what is required to achieve compliance;

14       (c) The date by which the department requires compliance to be  
15 achieved;

16       (d) Notice of the means to contact any technical assistance  
17 services provided by the department or others; and

18       (e) Notice of when, where, and to whom a request to extend the time  
19 to achieve compliance for good cause may be filed with the department.

20       (2) A notice of correction is not a formal enforcement action, is  
21 not subject to appeal, and is a public record.

22       (3) If the department issues a notice of correction, it shall not  
23 issue a civil penalty for the violations identified in the notice of  
24 correction unless the responsible party fails to comply with the  
25 notice.

26       NEW SECTION. **Sec. 6.** A new section is added to chapter 35.21 RCW  
27 to read as follows:

28       (1) A property owner may make a written request for a statement of  
29 restrictions applicable to a single parcel, tract, lot, or block of  
30 real property to the city or town in which the real property is  
31 located.

32       (2) Within thirty days of the receipt of the request, the city or  
33 town shall provide the owner with a statement of restrictions as  
34 described in subsection (3) of this section.

35       (3) The statement of restrictions shall include the following:

36       (a) The zoning currently applicable to the real property;

37       (b) Pending zoning changes currently advertised for public hearing  
38 that would be applicable to the real property; and

1 (c) Any designations made by the city or town pursuant to chapter  
2 36.70A RCW of any portion of the real property as agricultural land,  
3 forest land, mineral resource land, wetland, an area with a critical  
4 recharging effect on aquifers used for potable water, a fish and  
5 wildlife habitat conservation area, a frequently flooded area, and as  
6 a geological hazardous area.

7 (4) If a city or town fails to provide the statement of  
8 restrictions within thirty days after receipt of the written request,  
9 the owner shall be awarded recovery of all attorneys' fees and costs  
10 incurred in any successful application for a writ of mandamus to compel  
11 production of a statement.

12 (5) For purposes of this section:

13 (a) "Owner" means any vested owner or any person holding the  
14 buyer's interest under a recorded real estate contract in which the  
15 seller is the vested owner; and

16 (b) "Real property" means a parcel, tract, lot or block: (i)  
17 Containing a single-family residence that is occupied by the owner or  
18 a member of his or her family, or rented to another by the owner; or  
19 (ii) five acres or less in size.

20 (6) This section does not affect the vesting of permits or  
21 development rights.

22 Nothing in this section shall be deemed to create any liability on  
23 the part of a city or town to pay damages for a violation of this  
24 section.

25 NEW SECTION. **Sec. 7.** A new section is added to chapter 35A.21 RCW  
26 to read as follows:

27 (1) A property owner may make a written request for a statement of  
28 restrictions applicable to a single parcel, tract, lot, or block of  
29 real property to the code city in which the real property is located.

30 (2) Within thirty days of the receipt of the request, the code city  
31 shall provide the owner, by registered mail, with a statement of  
32 restrictions as described in subsection (3) of this section.

33 (3) The statement of restrictions shall include the following:

34 (a) The zoning currently applicable to the real property;

35 (b) Pending zoning changes currently advertised for public hearing  
36 that would be applicable to the real property;

37 (c) Any designations made by the code city pursuant to chapter  
38 36.70A RCW of any portion of the real property as agricultural land,

1 forest land, mineral resource land, wetland, an area with a critical  
2 recharging effect on aquifers used for potable water, a fish and  
3 wildlife habitat conservation area, a frequently flooded area, and as  
4 a geological hazardous area; and

5 (d) If information regarding the designations listed in (c) of this  
6 subsection are not readily available, inform the owner of the procedure  
7 by which the owner can obtain that site-specific information from the  
8 code city.

9 (4) If a code city fails to provide the statement of restrictions  
10 within thirty days after receipt of the written request, the owner  
11 shall be awarded recovery of all attorneys' fees and costs incurred in  
12 any successful application for a writ of mandamus to compel production  
13 of a statement.

14 (5) For purposes of this section:

15 (a) "Owner" means any vested owner or any person holding the  
16 buyer's interest under a recorded real estate contract in which the  
17 seller is the vested owner; and

18 (b) "Real property" means a parcel, tract, lot or block: (i)  
19 Containing a single-family residence that is occupied by the owner or  
20 a member of his or her family, or rented to another by the owner; or  
21 (ii) five acres or less in size.

22 (6) This section does not affect the vesting of permits or  
23 development rights.

24 Nothing in this section shall be deemed to create any liability on  
25 the part of a code city.

26 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70 RCW  
27 to read as follows:

28 (1) A property owner may make a written request for a statement of  
29 restrictions applicable to a single parcel, tract, lot, or block of  
30 real property located in an unincorporated portion of a county to the  
31 county in which the real property is located.

32 (2) Within thirty days of the receipt of the request, the county  
33 shall provide the owner, by registered mail, with a statement of  
34 restrictions as described in subsection (3) of this section.

35 (3) The statement of restrictions shall include the following:

36 (a) The zoning currently applicable to the real property;

37 (b) Pending zoning changes currently advertised for public hearing  
38 that would be applicable to the real property;

1 (c) Any designations made by the county pursuant to chapter 36.70A  
2 RCW of any portion of the real property as agricultural land, forest  
3 land, mineral resource land, wetland, an area with a critical  
4 recharging effect on aquifers used for potable water, a fish and  
5 wildlife habitat conservation area, a frequently flooded area, and as  
6 a geological hazardous area; and

7 (d) If information regarding the designations listed in (c) of this  
8 subsection are not readily available, inform the owner of the procedure  
9 by which the owner can obtain that site-specific information from the  
10 county.

11 (4) If a county fails to provide the statement of restrictions  
12 within thirty days after receipt of the written request, the owner  
13 shall be awarded recovery of all attorneys' fees and costs incurred in  
14 any successful application for a writ of mandamus to compel production  
15 of a statement.

16 (5) For purposes of this section:

17 (a) "Owner" means any vested owner or any person holding the  
18 buyer's interest under a recorded real estate contract in which the  
19 seller is the vested owner; and

20 (b) "Real property" means a parcel, tract, lot or block: (i)  
21 Containing a single-family residence that is occupied by the owner or  
22 a member of his or her family, or rented to another by the owner; or  
23 (ii) five acres or less in size.

24 (6) This section does not affect the vesting of permits or  
25 development rights.

26 Nothing in this section shall be deemed to create any liability on  
27 the part of a county.

28 NEW SECTION. Sec. 9. A new section is added to chapter 36.70B RCW  
29 to read as follows:

30 (1) Each county and city having populations of ten thousand or more  
31 that plan under RCW 36.70A.040 shall designate permit assistance staff  
32 whose function it is to assist permit applicants. An existing employee  
33 may be designated as the permit assistance staff.

34 (2) Permit assistance staff designated under this section shall:

35 (a) Make available to permit applicants all current local  
36 government regulations and adopted policies that apply to the subject  
37 application. The local government shall provide counter copies thereof  
38 and, upon request, provide copies according to chapter 42.17 RCW. The



1 staff shall also publish and keep current one or more handouts  
2 containing lists and explanations of all local government regulations  
3 and adopted policies;

4 (b) Establish and make known to the public the means of obtaining  
5 the handouts and related information; and

6 (c) Provide assistance regarding the application of the local  
7 government's regulations in particular cases.

8 (3) Permit assistance staff designated under this section may  
9 obtain technical assistance and support in the compilation and  
10 production of the handouts under subsection (2) of this section from  
11 the municipal research council and the department of community, trade,  
12 and economic development.

13 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.110  
14 RCW to read as follows:

15 The municipal research council shall provide technical assistance  
16 in the compilation of and support in the production of the handouts to  
17 be published and kept current by counties and cities under section 9 of  
18 this act.

19 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.330  
20 RCW to read as follows:

21 The department shall provide technical assistance in the  
22 compilation of and support in the production of the handouts to be  
23 published and kept current by counties and cities under section 9 of  
24 this act.

25 **Sec. 12.** RCW 34.05.230 and 1995 c 403 s 702 are each amended to  
26 read as follows:

27 (1) If the adoption of rules is not feasible and practicable, an  
28 agency is encouraged to advise the public of its current opinions,  
29 approaches, and likely courses of action by means of interpretive or  
30 policy statements. Current interpretive and policy statements are  
31 advisory only. To better inform and involve the public, an agency is  
32 encouraged to convert long-standing interpretive and policy statements  
33 into rules.

34 (2) A person may petition an agency requesting the conversion of  
35 interpretive and policy statements into rules. Upon submission, the  
36 agency shall notify the joint administrative rules review committee of

1 the petition. Within sixty days after submission of a petition, the  
2 agency shall either deny the petition in writing, stating its reasons  
3 for the denial, or initiate rule-making proceedings in accordance with  
4 this chapter.

5 (3) Each agency shall maintain a roster of interested persons,  
6 consisting of persons who have requested in writing to be notified of  
7 all interpretive and policy statements issued by that agency. Each  
8 agency shall update the roster once each year and eliminate persons who  
9 do not indicate a desire to continue on the roster. Whenever an agency  
10 issues an interpretive or policy statement, it shall send a copy of the  
11 statement to each person listed on the roster. The agency may charge  
12 a nominal fee to the interested person for this service.

13 (4) Whenever an agency issues an interpretive or policy statement,  
14 it shall submit to the code reviser for publication in the Washington  
15 State Register a statement describing the subject matter of the  
16 interpretive or policy statement, and listing the person at the agency  
17 from whom a copy of the interpretive or policy statement may be  
18 obtained.

19 NEW SECTION. Sec. 13. Sections 6 through 8 of this act take  
20 effect January 1, 1997.

Passed the House March 7, 1996.

Passed the Senate March 7, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.