

# HOUSE BILL REPORT

## E2SHB 2658

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### As Amended by the Senate

**Title:** An act relating to refocusing the mission of the department of commerce, including transferring programs.

**Brief Description:** Refocusing the department of commerce, including transferring programs.

**Sponsors:** House Committee on Ways & Means (originally sponsored by Representatives Kenney, Maxwell, McCoy and Morrell; by request of Washington State Department of Commerce).

**Brief History:**

**Committee Activity:**

Community & Economic Development & Trade: 1/20/10, 2/1/10 [DPS];  
Ways & Means: 2/6/10, 2/8/10 [DP2S(w/o sub CEDT)].

**Floor Activity:**

Passed House: 2/13/10, 56-38.  
Senate Amended.  
Passed Senate: 3/4/10, 45-2.

**Brief Summary of Engrossed Second Substitute Bill**

- Directs the transfer of the Department of Commerce (Department) powers, duties, and functions pertaining to five programs and activities to other state agencies.
- Requires the Department, with guidance of an advisory committee, to develop and present to the Legislature an updated state energy strategy and implementation report beginning December 1, 2010, and every five years thereafter.
- Subjects the Department's authority to implement the state energy strategy to legislative consideration and approval by concurrent resolution and to availability of amounts appropriated for this purpose.
- Directs the Department to create a central point of access for small business and entrepreneurial assistance and to establish a separate division for community services and housing programs.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- Requires the Legislature's economic development committees, in consultation with others, to develop a plan for 2011 legislative consideration to create a separate state agency focused on community services and housing.

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## HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Kenney, Chair; Maxwell, Vice Chair; Chase, Liias, Moeller and Probst.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Smith, Ranking Minority Member; Orcutt.

**Staff:** Meg VanSchoorl (786-7105).

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## HOUSE COMMITTEE ON WAYS & MEANS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Community & Economic Development & Trade. Signed by 14 members: Representatives Linville, Chair; Ericks, Vice Chair; Sullivan, Vice Chair; Cody, Conway, Darneille, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew and Seaquist.

**Minority Report:** Do not pass. Signed by 8 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Hinkle, Priest, Ross and Schmick.

**Staff:** Steve Smith (786-7178).

### **Background:**

#### The Department of Community, Trade and Economic Development.

The Department of Community, Trade and Economic Development (DCTED) was created in 1994 through the consolidation of the Department of Community Development and the Department of Trade and Economic Development. The DCTED was responsible for promoting community and economic development statewide by assisting communities to increase their economic vitality and the quality of their citizen's lives, and assisting the state's businesses to maintain and increase their economic competitiveness while maintaining a healthy environment.

#### The Department of Commerce.

In 2009 legislation was enacted to create a state Department of Commerce (Department) as a successor agency to the DCTED. While the legislation did include sections changing the DCTED's name in many statutes, it did not contain policy decisions regarding the future of programs within the Department. Instead, the legislation directed the Department to consult

with a broad range of stakeholders statewide and develop, by November 1, 2009, a report for the Governor and legislative committees.

That report was to include analysis and recommendations for statutory changes that would ensure that the Department would feature, among other elements: a concise core mission, accountability, leveraged resources, maximized partnerships, and increased local capacity building. The report was also to include recommendations for creating or consolidating programs important to meeting the Department's core mission, and for terminating or transferring programs that were inconsistent with the core mission. The Department produced the required report, and after further consultations, submitted this agency request bill.

### **Summary of Engrossed Second Substitute Bill:**

**Section 1:** The Legislature affirms the Department's mission to grow and improve jobs, and the eight priorities identified in its 2009 report to the Legislature. The Legislature directs the Department to create a central point of access for small business and entrepreneurial assistance, and to collaborate with other agencies and partners over time on small business financing, regulatory and technical assistance initiatives. The Legislature directs the Department to establish a separate division to contain community services and housing programs. Eighteen specific services or programs to be included in the division are identified, but the division is not limited to those named. The Legislature's economic development committees, in consultation with the Governor and the Department, must solicit stakeholder information and advice and develop for legislative consideration in 2011 a plan to establish a separate state government agency focused on community services and housing.

**Parts I, II, III, V, and VI:** All powers, duties and functions of the Department pertaining to the following programs are transferred from the Department to other state agencies:

*Parts I and II: To the Department of Health.*

- County Public Health Assistance (sections 101-102).
- Developmental Disabilities Endowment (sections 201-204).

*Part III: To the Department of General Administration.*

- State Building Code Council (sections 301-305 and 308).
- To the extent funding is provided, the Department must develop and implement a strategic plan for enhancing energy efficiency in and reducing greenhouse gas emissions from homes, buildings, districts, and neighborhoods (section 306) as well as a methodology and implementation strategy related to determining an energy performance score for residential buildings (section 307).

*Part V: To the Criminal Justice Training Commission.*

- Drug Prosecution Assistance program (sections 501-502).

*Part VI: To the Washington Utilities and Transportation Commission (UTC).*

- Energy Facility Site Evaluation Council (sections 601-602).

Each transfer section includes common language regarding transfer of personnel, appropriations, apportionment of budgeted funds, documents, files, office equipment and other tangible property from the Department to the receiving agency.

**Part IV:** *State Energy Strategy.* Findings and goals are provided relating to: the national and world transition to the clean energy economy; maintaining competitive energy prices; increasing competitiveness by fostering a clean energy economy and jobs; and, meeting the state's obligations to reduce greenhouse gas emissions. Twelve state guiding principles related to energy are included.

By December 1, 2010, and every five years thereafter, the Department must produce a fully updated state energy strategy and implementation report with the guidance of an advisory committee appointed by the Director of the Department to represent a balance of interests. Following a public hearing on the advisory committee's recommendations for revisions to the strategy, the written report must be produced by the Department, and conveyed to the Governor and appropriate legislative committees. The advisory committee must be dissolved within three months of the report being conveyed. Initial and updated strategies must be approved by the Legislature by concurrent resolution before they are implemented. In addition, the Department's implementation authority is subject to availability of amounts appropriated in the omnibus operating and capital budgets for this purpose.

The strategy must examine the state's entire energy system to the maximum extent feasible and provide specific recommendations. The report may include recommendations for legislation. To avoid competition among state agencies, the Department must coordinate a search for external in-kind and financial support for the process, and must review related processes and documents. The resulting strategy must be consistent with relevant statutorily-authorized energy and climate policies, goals, and programs.

**Part VII:** The Municipal Research Council is abolished and its powers, duties, and functions are transferred to the Department (sections 701 - 709).

**Part VIII:** The 1967 statute abolishing the State Census Board is decodified (section 801).

#### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment directs that: (1) Part of the Department's mission is to facilitate innovation. (2) Business and economic development services are to be delivered primarily through sector-, cluster- and regionally-based organizations rather than directly to individual firms. (3) The Department must examine agricultural commodity commission operations as a model for other industries to self-finance activities. (4) By December 1, 2011, and at least every five years thereafter, the Department must produce a fully updated state energy strategy and implementation report with guidance from an advisory committee and information provided by a group of technical experts representing certain institutions. The Senate amendment also amends the state energy strategy sections with respect to findings, goals, principles, and advisory committee interests.

The Senate amendment does not require the Department to create a central point of access for small business and entrepreneurial assistance, or to collaborate with others on small business

financing, technical or regulatory assistance initiatives. The Department's energy strategy implementation authority is not tied to availability of appropriated moneys or to legislative approval of a concurrent resolution.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on July 1, 2010.

**Staff Summary of Public Testimony** (Community & Economic Development & Trade):

(In support) The Department has conducted a credible process. I agree with some of the proposed program transfers but there needs to be more thought given to some, especially in the area of community services and housing. The Governor wants the Department to have a laser focus on jobs, which is not currently the case when the Department has 132 programs staffed by over 300 employees. Our process involved thousands of stakeholders in person and through a web-based survey. We understand there are concerns because change is difficult. Energy is a critical sector for future economic development and the lack of an up-to-date strategy has handicapped our state in competing for federal Recovery Act dollars. The Department should have the ability to intervene in UTC hearings — it is the only agency prohibited from doing so. The mission of ending homelessness is consistent with the mission of the Department and so these programs should stay with other community services and housing programs within the Department. We are neutral on the transfer of Energy Facility Site Evaluation Council (EFSEC) administratively to the UTC but want each to maintain its independence in decision-making.

(Neutral) We support the language preserving the bargaining rights of transferred employees.

(With concerns) We support the idea of a separate division for community services and housing programs and would like the Independent Youth Housing Program to be included in it. We are neutral on moving the Long-Term Care Ombudsman program to the Office of Financial Management (OFM) but think that it would be a good fit within a separate community services and housing division. We are concerned about the three housing programs being lost within the Department of Social and Health Services (DSHS). The idea of a separate division is a good one for the short-term, and would want the three programs to be kept together in one place, wherever that is. We are concerned about moving the State Building Code Council (Council) to the Department of Labor and Industries. The Council is focused on standard setting, not enforcement, and would be a better fit within the division of Engineering and Architectural Services in the Department of General Administration.

(Opposed) We support the idea of a separate division for community services and housing programs and would like the Dispute Resolution Centers, the Community Mobilization program, and the sexual assault programs to be in it rather than be transferred to the DSHS. Including a list of the state's energy policies and goals in the bill is premature and presupposes the outcomes of a stakeholder-guided updating of the state's energy strategy. The Department would not have standing to intervene in the UTC's hearings. There needs to

be a separation between the Department's policy advocacy role and the UTC's regulatory role.

**Staff Summary of Public Testimony (Ways & Means):**

(In support) We thank Representative Kenney for her work in reconfiguring the new Department reorganization with stakeholder input. Stakeholders support the bill because it retains Independent Youth Housing, Community Mobilization, and the Long Term Care Ombudsman within the Department. We are interested in simply keeping things intact until the economy improves, and then deciding on transfers once they have had a chance to be thoroughly considered.

Resolution Washington was included in the stakeholder process before any of the first reorganization plans, and the current bill gives the programs an interim plan as well as generates savings for fiscal year 2011.

The concern that federal funding could potentially be lost if a program that focused on youth who had aged out of care and did not come over to the Department of Social and Health Services (DSHS) was unfounded. The DSHS and the Department could, through a memorandum of understanding, continue to access federal funds.

The changes contained in this version compared to the original had support from stakeholders as the current bill allows human services programs centered in housing to stay at the Department. In the short term, leaving these programs in the Department is also the fiscally responsible thing to do.

(Opposed) None.

**Persons Testifying (Community & Economic Development & Trade):** (In support) Rogers Weed, Department of Commerce; Seth Dawson, Washington State Coalition for the Homeless; Bryce Yadon, Washington Economic Development Association; and Tom DeBoer, Puget Sound Energy.

(Neutral) Alia Griffins, Washington Federation of State Employees.

(With concerns) Laurie Lippold, Mockingbird Society; Nick Federici, Washington Low Income Housing Alliance; Stan Bowman, American Institute of Architects Washington Council; Dave Warren, Washington Public Utility District; Kathleen Collins, PacifiCorp; and Louise Ryan, Washington Long-Term Care Ombudsman.

(Opposed) Anna Shelton, Resolution Washington; Steve Jewell, Safe Streets of Pierce County; Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs; and Chris McCabe, Association of Washington Businesses.

**Persons Testifying (Ways & Means):** Representative Kenney, prime sponsor; Seth Dawson, Washington State Association for Community Action, Washington Association for Substance Abuse, Washington State Coalition for the Homeless, and National Alliance on Mental Illness; Lonnie Johns-Brown, Resolution Washington and Coalition of Sexual Assault

Programs; Laurie Lippold, Mockingbird Society; and Nick Federici, Washington Low-Income Housing Alliance.

**Persons Signed In To Testify But Not Testifying** (Community & Economic Development & Trade): None.

**Persons Signed In To Testify But Not Testifying** (Ways & Means): None.