

HOUSE BILL REPORT

HB 2897

As Reported by House Committee On: State Government

Title: An act relating to the governor's powers to temporarily close executive agencies.

Brief Description: Granting the governor powers to temporarily close executive agencies without a state of emergency.

Sponsors: Representatives Hunt, Armstrong, Romero and Sullivan.

Brief History:

Committee Activity:

State Government: 2/5/04, 2/6/04 [DPS].

Brief Summary of Substitute Bill

- Permits the Governor, in his or her role as the head of all executive agencies, to temporarily close all or some of the agencies even without a declared state of emergency.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Haigh, Chair; Miloscia, Vice Chair; Armstrong, Ranking Minority Member; Shabro, Assistant Ranking Minority Member; Hunt, McDermott, Nixon, Tom and Wallace.

Staff: Matt Kuehn (786-7291).

Background:

Unilateral actions by a Governor are addressed in RCW 43.06.010. The Governor may, as part of his statutory and constitutional power: supervise all executive offices; see that all executive offices are filled by appointment; communicate with other sovereign governments; direct the Attorney General (AG) to defend the state in legal actions; direct the AG or a prosecuting attorney to investigate a corporation; direct the AG to assist a prosecuting attorney; offer rewards for at-large felons or suspected felons; issue and transmit election proclamations; require a board or officer to make reports to the

Governor; declare a state of emergency; order plant quarantines or take other measures to avoid infestations; and execute compacts with Indian Tribes pursuant to Indian Gaming Regulations.

The Governor may declare a state of emergency in part or all of the state as part of his or her police power to impose restrictions where there is a need to protect the general public. In a state of emergency, the Governor has statutory authority to act with immediate discretion in a situation which amounts to a civil disorder, disaster, energy emergency, or riot. In such circumstances the Governor is permitted to prohibit any activity for the purpose of preserving and maintaining life, health, property or the public peace.

The executive title of the RCW is silent as to the Governor's authority to act unilaterally in situations not amounting to declared states of emergency. The Governor is not specifically granted the power to close agencies during civil disorders, disasters, energy emergencies or riots where those events are not declared states of emergency.

Summary of Substitute Bill:

The Governor is permitted to temporarily close any or all state agencies in the event of adverse weather, natural disaster or energy emergency. The closure may be a delayed opening, an early closure, or a total suspension of operation. The order is in effect until the Governor declares that the conditions no longer pose a threat to the health or safety of state agency employees.

Substitute Bill Compared to Original Bill:

The circumstances where a Governor may close agencies is narrowed. The power is no longer a lesser version of the state of emergency powers. The Governor is given power to close agencies in specific circumstances which potentially endanger the health or safety of state agency employees.

The substitute bill does not allow the Governor to close agencies for general public disorders or riots. The Governor's broad powers in a declared state of emergency are not affected. The substitute simply allows for the Governor to close agencies in cases of unforeseen weather or natural disaster.

Energy emergencies not amounting to a state of emergency can lead to agency closures, should the Governor wish to limit his or her response to the emergency to just closing agencies. Actions beyond that would require a declared state of emergency.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The recent snow storms illustrated that the Governor, unlike the President of the United States, does not have authority to shut down the agencies that he heads. Some agency heads closed their affected offices, but others didn't, and the Governor ought to have the overall authority to maintain the safety of state workers in situations like that or like an earthquake.

Testimony Against: None.

Persons Testifying: Representative Hunt, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.