

1 2510-S2.E AMS AMON S5565.1

2 **E2SHB 2510** - S AMD TO S AMD (S-5443.1/94) - 000317

3 By Senator Amondson

4 NOT ADOPTED 3/2/94 - ROLL CALL VOTE 23-26

5 On page 2, after line 8 of the amendment, insert the following:

6 "NEW SECTION. Sec. 2. The legislature finds that it has allowed
7 state agencies to adopt administrative rules without sufficient
8 guidance from the legislature, relying on general grants of authority
9 rather than specific legislative policy direction. This has resulted
10 in agency-initiated policy that has been adopted without the benefit of
11 the public dialogue and accountability inherent to the legislative
12 process. It is therefore the intent of the legislature in this act to
13 lessen reliance on general grants of authority, limit agency rule
14 making to those matters specifically authorized by the legislature, and
15 that grants of rule-making authority be narrowly construed.

16 **Sec. 3.** RCW 43.70.040 and 1989 1st ex.s. c 9 s 106 are each
17 amended to read as follows:

18 In addition to any other powers granted the secretary, the
19 secretary may:

20 (1) Adopt, in accordance with chapter 34.05 RCW, rules (~~(necessary~~
21 ~~to carry out the provisions of this act;)) or policy statements, other
22 than emergency rules, only:~~

23 (a) As specifically required by federal law; or

24 (b) As specifically authorized, and only to the extent specifically
25 authorized, by the legislature.

26 (2) Appoint such advisory committees as may be necessary to carry
27 out the provisions of (~~this act~~) chapter 9, Laws of 1989 1st ex.
28 sess. Members of such advisory committees are authorized to receive
29 travel expenses in accordance with RCW 43.03.050 and 43.03.060. The
30 secretary and the board of health shall review each advisory committee
31 within their jurisdiction and each statutory advisory committee on a
32 biennial basis to determine if such advisory committee is needed. The
33 criteria specified in RCW 43.131.070 shall be used to determine whether
34 or not each advisory committee shall be continued;

1 (3) Undertake studies, research, and analysis necessary to carry
2 out the provisions of (~~this act~~) chapter 9, Laws of 1989 1st ex.
3 sess. in accordance with RCW 43.70.050;

4 (4) Delegate powers, duties, and functions of the department to
5 employees of the department as the secretary deems necessary to carry
6 out the provisions of (~~this act~~) chapter 9, Laws of 1989 1st ex.
7 sess.;

8 (5) Enter into contracts on behalf of the department to carry out
9 the purposes of (~~this act~~) chapter 9, Laws of 1989 1st ex. sess.;

10 (6) Act for the state in the initiation of, or the participation
11 in, any intergovernmental program to the purposes of (~~this act~~)
12 chapter 9, Laws of 1989 1st ex. sess.; or

13 (7) Accept gifts, grants, or other funds.

14 **Sec. 4.** RCW 82.01.060 and 1977 c 75 s 92 are each amended to read
15 as follows:

16 The director of revenue, hereinafter in (~~this 1967 amendatory~~
17 ~~act~~) chapter 26, Laws of 1967 ex. sess. referred to as the director,
18 through the department of revenue, hereinafter in (~~this 1967~~
19 ~~amendatory act~~) chapter 26, Laws of 1967 ex. sess. referred to as the
20 department, shall:

21 (1) Assess and collect all taxes and administer all programs
22 relating to taxes which are the responsibility of the tax commission at
23 the time (~~this 1967 amendatory act~~) chapter 26, Laws of 1967 ex.
24 sess. takes effect or which the legislature may hereafter make the
25 responsibility of the director or of the department;

26 (2) (~~Make, adopt and publish such rules and regulations as he may~~
27 ~~deem necessary or desirable to carry out the powers and duties imposed~~
28 ~~upon him or the department by the legislature:— PROVIDED, That~~) The
29 director of revenue may adopt, in accordance with chapter 34.05 RCW,
30 rules or policy statements, other than emergency rules, only:

31 (a) As specifically required by federal law; or

32 (b) As specifically authorized, and only to the extent specifically
33 authorized, by the legislature.

34 (3) Rules (~~and regulations~~) adopted by the tax commission prior
35 to the effective date of this (~~1967 amendatory~~) 1994 act shall remain
36 in force until such time as they may be revised or rescinded by the
37 director;

1 (~~(3)~~) (4) Provide by general regulations for an adequate system
2 of departmental review of the actions of the department or of its
3 officers and employees in the assessment or collection of taxes;

4 (~~(4)~~) (5) Maintain a tax research section with sufficient
5 technical, clerical and other employees to conduct constant observation
6 and investigation of the effectiveness and adequacy of the revenue laws
7 of this state and of the sister states in order to assist the governor,
8 the legislature and the director in estimation of revenue, analysis of
9 tax measures, and determination of the administrative feasibility of
10 proposed tax legislation and allied problems;

11 (~~(5)~~) (6) Recommend to the governor such amendments, changes in,
12 and modifications of the revenue laws as seem proper and requisite to
13 remedy injustice and irregularities in taxation, and to facilitate the
14 assessment and collection of taxes in the most economical manner.

15 NEW SECTION. Sec. 5. A new section is added to chapter 43.21A RCW
16 to read as follows:

17 The director of the department of ecology may adopt, in accordance
18 with chapter 34.05 RCW, rules or policy statements, other than
19 emergency rules, only:

- 20 (1) As specifically required by federal law; or
21 (2) As specifically authorized, and only to the extent specifically
22 authorized, by the legislature.

23 NEW SECTION. Sec. 6. A new section is added to chapter 43.22 RCW
24 to read as follows:

25 The director of the department of labor and industries may adopt,
26 in accordance with chapter 34.05 RCW, rules or policy statements, other
27 than emergency rules, only:

- 28 (1) As specifically required by federal law; or
29 (2) As specifically authorized, and only to the extent specifically
30 authorized, by the legislature.

31 NEW SECTION. Sec. 7. A new section is added to chapter 43.24 RCW
32 to read as follows:

33 The director of the department of licensing may adopt, in
34 accordance with chapter 34.05 RCW, rules or policy statements, other
35 than emergency rules, only:

- 36 (1) As specifically required by federal law; or

1 (2) As specifically authorized, and only to the extent specifically
2 authorized, by the legislature.

3 **Sec. 8.** RCW 46.01.110 and 1979 c 158 s 120 are each amended to
4 read as follows:

5 The director of licensing is hereby authorized to adopt ~~((and~~
6 ~~enforce such reasonable rules and regulations as may be consistent with~~
7 ~~and))~~, in accordance with chapter 34.05 RCW, rules or policy
8 statements, other than emergency rules, only:

9 (1) As specifically required by federal law; or

10 (2) As specifically authorized, and only to the extent specifically
11 authorized, by the legislature.

12 The rules shall be necessary to carry out the provisions relating
13 to vehicle licenses, certificates of ownership and license registration
14 and drivers' licenses not in conflict with the provisions of Title 46
15 RCW.

16 **Sec. 9.** RCW 50.12.010 and 1977 c 75 s 75 are each amended to read
17 as follows:

18 The commissioner shall administer this title. He or she shall have
19 the power and authority to ~~((adopt, amend, or rescind such rules and~~
20 ~~regulations, to))~~ employ ~~((such))~~ persons, make ~~((such))~~ expenditures,
21 require ~~((such))~~ reports, make ~~((such))~~ investigations, and take
22 ~~((such))~~ other action as he or she deems necessary or suitable to that
23 end. ~~((Such rules and regulations shall be effective upon publication~~
24 ~~and in the manner, not inconsistent with the provisions of this title,~~
25 ~~which the commissioner shall prescribe.))~~ The commissioner, in
26 accordance with the provisions of this title, shall determine the
27 organization and methods of procedure of the divisions referred to in
28 this title, and shall have an official seal which shall be judicially
29 noticed. The commissioner shall submit to the governor a report
30 covering the administration and operation of this title during the
31 preceding fiscal year, July 1 through June 30, and shall make ~~((such))~~
32 recommendations for amendments to this title as he or she deems proper.
33 ~~((Such))~~ The report shall include a balance sheet of the moneys in the
34 fund in which there shall be provided, if possible, a reserve against
35 the liability in future years to pay benefits in excess of the then
36 current contributions, which reserve shall be set up by the
37 commissioner in accordance with accepted actuarial principles on the

1 basis of statistics of employment, business activity, and other
2 relevant factors for the longest possible period. Whenever the
3 commissioner believes that a change in contribution or benefit rates
4 will become necessary to protect the solvency of the fund, he or she
5 shall promptly ((~~se~~)) inform the governor and legislature and make
6 recommendations with respect thereto.

7 NEW SECTION. **Sec. 10.** A new section is added to chapter 50.12 RCW
8 to read as follows:

9 The commissioner of the employment security department may adopt,
10 in accordance with chapter 34.05 RCW, rules or policy statements, other
11 than emergency rules, only:

12 (1) As specifically required by federal law; or

13 (2) As specifically authorized, and only to the extent specifically
14 authorized, by the legislature.

15 **Sec. 11.** RCW 77.04.090 and 1984 c 240 s 1 are each amended to read
16 as follows:

17 The commission shall adopt ~~((permanent rules and amendments to or
18 repeals of existing rules))~~, in accordance with chapter 34.05 RCW,
19 rules or policy statements, other than emergency rules, only:

20 (1) As specifically required by federal law; or

21 (2) As specifically authorized, and only to the extent specifically
22 authorized, by the legislature, by approval of four members by
23 resolution, entered and recorded in the minutes of the commission. The
24 commission shall adopt emergency rules by approval of four members.
25 The commission or the director, when adopting emergency rules under RCW
26 77.12.150, shall adopt rules in conformance with chapter 34.05 RCW.
27 Judicial notice shall be taken of the rules filed and published as
28 provided in RCW 34.05.380 and 34.05.210.

29 A copy of an emergency rule, certified as a true copy by a member
30 of the commission, the director, or by a person authorized in writing
31 by the director to make the certification, is admissible in court as
32 prima facie evidence of the adoption and validity of the rule.

33 **Sec. 12.** RCW 43.17.060 and 1965 c 8 s 43.17.060 are each amended
34 to read as follows:

35 The director of each department may prescribe ~~((rules and
36 regulations,))~~ guidelines not inconsistent with law, for the government

1 of his or her department, the conduct of its subordinate officers and
2 employees, the disposition and performance of its business, and the
3 custody, use, and preservation of the records, papers, books,
4 documents, and property pertaining thereto. This section shall not be
5 construed to authorize the adoption of rules under chapter 34.05 RCW.

6 NEW SECTION. **Sec. 13.** The following acts or parts of acts are
7 each repealed:

8 (1) RCW 43.21A.080 and 1970 ex.s. c 62 s 8; and

9 (2) RCW 50.12.040 and 1973 1st ex.s. c 158 s 3 & 1945 c 35 s 43."

10 Renumber the remaining sections consecutively and correct any
11 internal references accordingly.

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13 By Senator Amondson

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15 On page 21, line 13 of the title amendment, after "RCW" insert
16 "43.70.040, 82.01.060, 46.01.110, 50.12.010, 77.04.090, 43.17.060,"

17 On page 21, line 16 of the title amendment, after "RCW;" insert
18 "adding a new section to chapter 43.21A RCW; adding a new section to
19 chapter 43.22 RCW; adding a new section to chapter 43.24 RCW; adding a
20 new section to chapter 50.12 RCW;"

21 On page 21, line 20 of the title amendment, after "RCW;" strike
22 everything through "repealing RCW" and insert "creating new sections;
23 repealing RCW 43.21A.080, 50.12.040,"

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