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**SENATE BILL 5270**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** Senators Moore, Prentice and Amondson

Read first time 01/20/93. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to the creation of the department of financial  
2 institutions; amending RCW 43.17.010, 43.17.020, 43.19.010, 43.19.020,  
3 43.19.030, 43.19.050, 43.19.080, 43.19.090, 43.19.095, and 43.19.112;  
4 adding a new chapter to Title 43 RCW; repealing RCW 43.19.040,  
5 43.19.100, and 43.19.110; providing an effective date; and declaring an  
6 emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that, given the  
9 overlap of powers and products in the companies regulated, the  
10 consolidation of the agencies regulating financial institutions into  
11 one department will better serve the public interest through more  
12 effective use of staff expertise. Therefore, for the convenience of  
13 administration and the centralization of control and the more effective  
14 use of state resources and expertise, the state desires to combine the  
15 regulation of financial institutions into one department.

16 NEW SECTION. **Sec. 2.** There is hereby created a state department  
17 of financial institutions which shall be headed by the director of  
18 financial institutions. The department shall be organized and operated

1 in a manner which to the fullest extent permissible under applicable  
2 law protects the public interest, protects the safety and soundness of  
3 depository institutions, ensures access to the regulatory process for  
4 all concerned parties, and protects the interests and integrity of the  
5 public and all types of regulated institutions and entities under the  
6 jurisdiction of the director of financial institutions. The department  
7 of financial institutions shall be structured to reflect the unique  
8 differences in the types of institutions it regulates.

9 NEW SECTION. **Sec. 3.** The director of financial institutions shall  
10 be appointed by the governor with the advice of the financial  
11 institutions advisory board and shall exercise all powers and perform  
12 all of the duties and functions prescribed by law on or before July 1,  
13 1994, with respect to banks, consumer loan companies, credit unions,  
14 check cashers and sellers, foreign bank branches, savings banks,  
15 savings and loan associations, and trust companies and departments  
16 which are currently exercised by the department of general  
17 administration. The director may deputize, appoint, and employ  
18 examiners and other such assistants and personnel as may be necessary  
19 to carry on the work of the department. The director of financial  
20 institutions shall receive a salary in an amount fixed by the governor.

21 NEW SECTION. **Sec. 4.** A person shall not be eligible for  
22 appointment as director of financial institutions unless he or she is,  
23 and for the last two years prior to his or her appointment has been, a  
24 citizen of the United States. A person shall not be eligible for  
25 appointment as director of financial institutions if he or she has an  
26 interest at the time of appointment, as a director, officer, or  
27 stockholder in any bank, trust company, credit union, consumer loan  
28 company, savings bank, or other institution regulated by the  
29 department.

30 NEW SECTION. **Sec. 5.** The director of financial institutions may  
31 adopt any rules, under chapter 34.05 RCW, necessary to implement the  
32 powers and duties of the director under this chapter or any other law.

33 NEW SECTION. **Sec. 6.** All powers, duties, and functions of the  
34 department of general administration under Titles 30, 31, 32, 33, and  
35 43 RCW and any other title pertaining to duties relating to credit

1 unions, commercial banks, trust companies and departments, savings  
2 banks, savings and loan associations, consumer loan companies, check  
3 cashers and sellers, and other similar institutions are transferred to  
4 the department of financial institutions. All references to the  
5 director of general administration, supervisor of banking, or the  
6 supervisor of savings and loan associations in the Revised Code of  
7 Washington shall be construed to mean the director of the department of  
8 financial institutions when referring to the functions transferred in  
9 this section. All references to the department of general  
10 administration in the Revised Code of Washington shall be construed to  
11 mean the department of financial institutions when referring to the  
12 function transferred in this section.

13 NEW SECTION. **Sec. 7.** All reports, documents, surveys, books,  
14 records, files, papers, or other written or electronically stored  
15 material in the possession of the department of general administration  
16 and pertaining to the powers, functions, and duties transferred by  
17 section 6 of this act shall be delivered to the custody of the  
18 department of financial institutions. All cabinets, furniture, office  
19 equipment, motor vehicles, and other tangible property employed by the  
20 department of general administration in carrying out the powers,  
21 functions, and duties transferred by section 6 of this act shall be  
22 made available to the department of financial institutions. All funds,  
23 credits, or other assets held by the department of general  
24 administration in connection with the powers, functions, and duties  
25 transferred by section 6 of this act shall be assigned to the  
26 department of financial institutions.

27 Any appropriations made to the department of general administration  
28 for carrying out the powers, functions, and duties transferred by  
29 section 6 of this act shall, on the effective date of this section, be  
30 transferred and credited to the department of financial institutions.

31 The director of the department of general administration shall take  
32 such steps as are necessary to ensure that this chapter is implemented  
33 by the effective date of this act.

34 In the event any dispute arises as to the transfer of any  
35 personnel, funds, books, documents, records, papers, files, equipment,  
36 or other tangible property used or held in the exercise of the powers  
37 and the performance of the duties and functions transferred, the

1 director of financial management shall make a determination as to the  
2 proper allocation and certify the same to the state agencies concerned.

3 NEW SECTION. **Sec. 8.** The director of financial institutions shall  
4 have the power to appoint assistant directors for each of the divisions  
5 of the department and to delegate to them the power to perform any act  
6 or duty conferred upon the director. The director shall be responsible  
7 for the official acts of these assistant directors.

8 The department of financial institutions shall consist of at least  
9 the following three divisions; the division of FDIC insured  
10 institutions, with regulatory authority over all state-chartered FDIC  
11 insured institutions, the division of credit unions, with regulatory  
12 authority over all state-chartered credit unions, and the division of  
13 consumer affairs, with regulatory authority over state-licensed  
14 nondepository lending institutions and other regulated entities. The  
15 director of financial institutions is granted broad administrative  
16 authority to add additional responsibilities to these divisions as  
17 necessary and consistent with applicable law.

18 For purposes of this section, "FDIC" means the federal deposit  
19 insurance corporation.

20 NEW SECTION. **Sec. 9.** All employees classified under chapter 41.06  
21 RCW, the state civil service law, who are employees of the department  
22 of general administration engaged in performing the powers, functions,  
23 and duties transferred by section 6 of this act are transferred to the  
24 department of financial institutions. All such employees are assigned  
25 to the department of financial institutions to perform their usual  
26 duties upon the same terms as formerly, without any loss of rights,  
27 subject to any action that may be appropriate thereafter in accordance  
28 with the laws and rules governing state civil service.

29 NEW SECTION. **Sec. 10.** All rules and all pending business before  
30 the department of general administration pertaining to the powers,  
31 functions, and duties transferred by section 6 of this act shall be  
32 continued and acted upon by the department of financial institutions.  
33 All existing contracts and obligations shall remain in full force and  
34 shall be performed by the department of financial institutions.

1        NEW SECTION.    **Sec. 11.**    The transfer of the powers, duties,  
2 functions, and personnel of the department of general administration  
3 shall not affect the validity of any act performed by such an employee  
4 prior to the effective date of this section.

5        NEW SECTION.    **Sec. 12.**    If apportionments of budgeted funds are  
6 required because of the transfers directed by sections 6 through 11 of  
7 this act, the director of financial management shall certify the  
8 apportionments to the agencies affected, to the state auditor, and to  
9 the state treasurer. Each of these shall make the appropriate transfer  
10 and adjustments in funds and appropriation accounts and equipment  
11 records in accordance with the certification.

12       NEW SECTION.    **Sec. 13.**    Nothing contained in sections 6 through 11  
13 of this act may be construed to alter any existing collective  
14 bargaining unit or the provisions of any existing collective bargaining  
15 agreement until the expiration date of the current agreement or until  
16 the bargaining unit has been modified by action of the personnel board  
17 as provided by law.

18       NEW SECTION.    **Sec. 14.**    There is hereby created a financial  
19 institutions advisory board which shall consist of a number not to  
20 exceed twelve members.

21       NEW SECTION.    **Sec. 15.**    The financial institutions advisory board  
22 shall:

23        (1) Advise the governor on appointment of the director of financial  
24 institutions;

25        (2) Advise the director of financial institutions, at his or her  
26 request, on broad policy and major operational issues; and

27        (3) Acquaint themselves with the administration of the department  
28 and provide information to their respective industries, movement, or  
29 interest group.

30       NEW SECTION.    **Sec. 16.**    The board shall be composed of at least one  
31 representative of the senior management of state-chartered commercial  
32 banks, consumer loan companies, credit unions, savings banks, savings  
33 and loan associations, trust companies or departments, the general  
34 public, and other concerned parties, with no more than two members from

1 any group. The governor shall appoint a representative of the general  
2 public as chair person of the financial institutions advisory board.  
3 The director of the department of financial institutions shall serve on  
4 the financial institutions advisory board as a nonvoting member.  
5 Representatives of the public appointed to the board shall have  
6 demonstrated some knowledge of and experience with the public policy  
7 issues involved in the regulation of financial institutions and  
8 markets. With the exception of representatives of the public, all  
9 members of the financial institutions advisory board shall be employees  
10 of organizations regulated by the department of financial institutions.  
11 The department of financial institutions shall provide staff support  
12 for the financial institutions advisory board.

13 NEW SECTION. **Sec. 17.** Members of the financial institutions  
14 advisory board shall be appointed by the governor for overlapping two-  
15 year terms, with one-half of the initial appointments serving an  
16 initial term of three years. No member shall serve more than two terms  
17 total. Appointments made to fill vacancies on the board shall serve  
18 out the remaining term of the position vacated, and such service shall  
19 count as a full term.

20 NEW SECTION. **Sec. 18.** The governor shall appoint the financial  
21 institutions advisory board chairperson and the board shall select a  
22 secretary. The financial institutions advisory board may create and  
23 adopt its own bylaws and methods of operation. The financial  
24 institutions advisory board shall have at least two regular meetings  
25 per year, at a time and site within the state of Washington of its  
26 choosing. Special meetings may be called by the chairperson or by the  
27 director of the department of financial institutions. Notice of a  
28 special meeting shall be given as required by chapter 42.30 RCW except  
29 at least seven days' written notice must be given to each board member.

30 NEW SECTION. **Sec. 19.** Members of the financial institutions  
31 advisory board shall be compensated for their travel expenses in  
32 accordance with RCW 43.03.050 and 43.03.060.

33 **Sec. 20.** RCW 43.17.010 and 1989 1st ex.s. c 9 s 810 are each  
34 amended to read as follows:

1        There shall be departments of the state government which shall be  
2 known as (1) the department of social and health services, (2) the  
3 department of ecology, (3) the department of labor and industries, (4)  
4 the department of agriculture, (5) the department of fisheries, (6) the  
5 department of wildlife, (7) the department of transportation, (8) the  
6 department of licensing, (9) the department of general administration,  
7 (10) the department of trade and economic development, (11) the  
8 department of veterans affairs, (12) the department of revenue, (13)  
9 the department of retirement systems, (14) the department of  
10 corrections, (15) the department of community development, (~~and~~) (16)  
11 the department of health, and (17) the department of financial  
12 institutions, which shall be charged with the execution, enforcement,  
13 and administration of such laws, and invested with such powers and  
14 required to perform such duties, as the legislature may provide.

15        **Sec. 21.** RCW 43.17.020 and 1989 1st ex.s. c 9 s 811 are each  
16 amended to read as follows:

17        There shall be a chief executive officer of each department to be  
18 known as: (1) The secretary of social and health services, (2) the  
19 director of ecology, (3) the director of labor and industries, (4) the  
20 director of agriculture, (5) the director of fisheries, (6) the  
21 director of wildlife, (7) the secretary of transportation, (8) the  
22 director of licensing, (9) the director of general administration, (10)  
23 the director of trade and economic development, (11) the director of  
24 veterans affairs, (12) the director of revenue, (13) the director of  
25 retirement systems, (14) the secretary of corrections, (15) the  
26 director of community development, (~~and~~) (16) the secretary of  
27 health, and (17) the director of financial institutions.

28        Such officers, except the secretary of transportation, shall be  
29 appointed by the governor, with the consent of the senate, and hold  
30 office at the pleasure of the governor. The director of wildlife,  
31 however, shall be appointed according to the provisions of RCW  
32 77.04.080. If a vacancy occurs while the senate is not in session, the  
33 governor shall make a temporary appointment until the next meeting of  
34 the senate. A temporary director of wildlife shall not serve more than  
35 one year. The secretary of transportation shall be appointed by the  
36 transportation commission as prescribed by RCW 47.01.041.

1       **Sec. 22.** RCW 43.19.010 and 1988 c 25 s 10 are each amended to read  
2 as follows:

3       The department of general administration shall be organized into  
4 divisions, which shall include (1) ~~((the division of banking, (2) the~~  
5 ~~division of savings and loan associations, (3))~~ the division of  
6 capitol buildings, ~~((4))~~ (2) the division of purchasing, ~~((5))~~ (3)  
7 the division of engineering and architecture, and ~~((6))~~ (4) the  
8 division of motor vehicle transportation service.

9       The director of general administration shall have charge and  
10 general supervision of the department. He or she may appoint and  
11 deputize such clerical and other assistants as may be necessary for the  
12 general administration of the department. The director of general  
13 administration shall receive a salary in an amount fixed by the  
14 governor.

15       **Sec. 23.** RCW 43.19.020 and 1977 ex.s. c 185 s 1 are each amended  
16 to read as follows:

17       The director of ~~((general administration))~~ financial institutions  
18 shall appoint ~~((and))~~,<sub>L</sub> deputize ~~((an assistant director to be known as~~  
19 ~~the supervisor of banking, who shall have charge and supervision of the~~  
20 ~~division of banking. With the approval of the director, he may~~  
21 ~~appoint))~~,<sub>L</sub> and employ ~~((bank))~~ examiners and such other assistants and  
22 personnel as may be necessary to carry on the work of the ~~((division.~~

23       ~~No person shall be eligible for appointment as supervisor of~~  
24 ~~banking unless he is, and for the last two years prior to his~~  
25 ~~appointment has been, a citizen of the United States and a resident of~~  
26 ~~this state; nor if he is interested in any bank or trust company as~~  
27 ~~director, officer, or stockholder))~~ department of financial  
28 institutions.

29       In the event of the ~~((supervisor's))~~ director's absence the  
30 director ~~((of general administration))~~ shall have the power to deputize  
31 one of the assistants of the ~~((supervisor))~~ director to exercise all  
32 the powers and perform all the duties prescribed by law with respect to  
33 banks ~~((and))~~, check cashers and sellers, credit unions, consumer loan  
34 companies, savings banks, savings and loan associations, the  
35 administration of securities law, trust companies~~((, mutual savings~~  
36 ~~banks, loan agencies))~~ and departments, and other similar institutions  
37 that are performed by the ~~((supervisor))~~ director so long as the  
38 ~~((supervisor))~~ director is absent: PROVIDED, That such deputized



1 ((supervisor)) assistant shall not have the power to approve or  
2 disapprove new charters, licenses, branches, and satellite facilities,  
3 unless such action has received the prior written approval of the  
4 ((supervisor)) director. Any person so deputized shall possess the  
5 same qualifications as those set out in this section for the  
6 ((supervisor)) director.

7 **Sec. 24.** RCW 43.19.030 and 1977 ex.s. c 270 s 8 are each amended  
8 to read as follows:

9 Before entering ((upon his)) office each ((bank)) examiner shall  
10 take and subscribe an oath faithfully to discharge the duties of  
11 ((his)) the office.

12 Oaths shall be filed with the secretary of state.

13 Neither the ((supervisor of banking)) director of financial  
14 institutions, any ((deputy supervisor)) deputized assistant of the  
15 director, nor any ((bank)) examiner or employee shall be personally  
16 liable for any act done ((by him)) in good faith in the performance of  
17 his or her duties.

18 **Sec. 25.** RCW 43.19.050 and 1965 c 8 s 43.19.050 are each amended  
19 to read as follows:

20 The ((supervisor of banking)) director of financial institutions  
21 shall maintain an office at the state capitol, but may with the consent  
22 of the governor also maintain ((an office)) branch offices at ((some))  
23 other convenient ((banking center)) business centers in this state.  
24 ((He)) The director shall keep books of record of all moneys received  
25 or disbursed by ((him)) the director into or from the banking  
26 examination fund, the credit union examination fund, and any other  
27 accounts maintained by the department of financial institutions. ((He  
28 shall adopt an official seal.))

29 **Sec. 26.** RCW 43.19.080 and 1965 c 8 s 43.19.080 are each amended  
30 to read as follows:

31 (1) It shall be unlawful for the ((supervisor or any deputy or  
32 employee of his division)) director of financial institutions, any  
33 deputized assistant of the director, or any employee of the department  
34 of financial institutions to borrow money from any bank ((or trust  
35 company under his jurisdiction)), consumer loan company, credit union,  
36 foreign bank branch, savings bank, savings and loan association, or

1 trust company or department, or similar lending institution under the  
2 department's direct jurisdiction unless the extension of credit:

3 (a) Is made on substantially the same terms (including interest  
4 rates and collateral) as, and following credit underwriting procedures  
5 that are not less stringent than, those prevailing at the time for  
6 comparable transactions by the bank with other persons that are not  
7 employed by either the department or the bank; and

8 (b) Does not involve more than the normal risk of repayment or  
9 present other unfavorable features.

10 (2) The director of the office of financial management shall adopt  
11 rules, policies, and procedures interpreting and implementing this  
12 section.

13 (3) Every person who knowingly violates this section shall forfeit  
14 his or her office or employment and be guilty of a gross misdemeanor.

15 **Sec. 27.** RCW 43.19.090 and 1977 c 75 s 43 are each amended to read  
16 as follows:

17 The ~~((supervisor))~~ director of financial institutions shall file in  
18 his or her office all reports required to be made to ~~((him))~~ the  
19 director, prepare and furnish to banks ~~((and))~~, check cashers and  
20 sellers, consumer loan companies, credit unions, foreign bank branches,  
21 savings banks, savings and loan associations, and trust companies and  
22 departments blank forms for such reports as are required of them, and  
23 each year make a report to the governor showing:

24 (1) A summary of the conditions of the banks, check cashers and  
25 sellers, consumer loan companies, credit unions, foreign bank branches,  
26 savings banks, savings and loan associations, and trust companies and  
27 departments at the date of their last report; and

28 (2) A list of those organized or closed during the year.

29 ~~((He))~~ The director may publish such other statements, reports, and  
30 pamphlets as he or she deems advisable.

31 **Sec. 28.** RCW 43.19.095 and 1981 c 241 s 1 are each amended to read  
32 as follows:

33 There is created a local fund known as the "banking examination  
34 fund" which shall consist of all moneys received by the ~~((division of~~  
35 ~~banking))~~ department of financial institutions from banks, savings  
36 banks, foreign bank branches, trust companies and departments, consumer  
37 loan companies, and check cashers and sellers, and which shall be used

1 for the purchase of supplies and necessary equipment and the payment of  
2 salaries, wages, utilities, and other incidental costs required for the  
3 proper (~~(maintenance of the division)~~) regulation of these companies.  
4 The state treasurer shall be the custodian of the fund. Disbursements  
5 from the fund shall be on authorization of the director of (~~(general~~  
6 ~~administration or the supervisor of banking)~~) financial institutions or  
7 the director's (~~(or supervisor's)~~) designee. In order to maintain an  
8 effective expenditure and revenue control, the fund shall be subject in  
9 all respects to chapter 43.88 RCW, but no appropriation is required to  
10 permit expenditures and payment of obligations from the fund.

11 **Sec. 29.** RCW 43.19.112 and 1981 c 241 s 2 are each amended to read  
12 as follows:

13 There is created a local fund known as the "~~(savings and loan~~  
14 ~~associations and)~~) credit unions examination fund" which shall consist  
15 of all moneys received by the (~~(division of savings and loan~~  
16 ~~associations)~~) department of financial institutions from credit unions  
17 and savings and loan associations and which shall be used for the  
18 purchase of supplies and necessary equipment and the payment of  
19 salaries, wages, utilities, and other incidental costs required for the  
20 (~~(proper maintenance of the division)~~) regulation of these  
21 institutions. The state treasurer shall be the custodian of the fund.  
22 Disbursements from the fund shall be on authorization of the director  
23 of (~~(general administration or the supervisor of savings and loan~~  
24 ~~associations)~~) financial institutions or the director's (~~(or~~  
25 ~~supervisor's)~~) designee. In order to maintain an effective expenditure  
26 and revenue control, the fund shall be subject in all respects to  
27 chapter 43.88 RCW, but no appropriation is required to permit  
28 expenditures and payment of obligations from the fund.

29 NEW SECTION. **Sec. 30.** The following acts or parts of acts are  
30 each repealed:

- 31 (1) RCW 43.19.040 and 1965 c 8 s 43.19.040;  
32 (2) RCW 43.19.100 and 1982 c 3 s 113, 1977 ex.s. c 185 s 2, & 1965  
33 c 8 s 43.19.100; and  
34 (3) RCW 43.19.110 and 1965 c 8 s 43.19.110.

35 NEW SECTION. **Sec. 31.** This act is necessary for the immediate  
36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take  
2 effect July 1, 1993.

3 NEW SECTION. **Sec. 32.** Sections 1 through 19 of this act shall  
4 constitute a new chapter in Title 43 RCW.

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