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**SENATE BILL 6131**

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**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** Senators Anderson, Amondson, McDonald, Morton, Bluechel, Erwin, Hochstatter, L. Smith, Oke, Moyer, Sellar, Schow, Prince, Winsley, Roach, Ludwig, McAuliffe, Cantu and Haugen

Read first time 01/13/94. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to rule-making authority; amending RCW 43.70.040,  
2 82.01.060, 46.01.110, 50.12.010, 77.04.090, and 43.17.060; adding a new  
3 section to chapter 43.21A RCW; adding a new section to chapter 43.22  
4 RCW; adding a new section to chapter 43.24 RCW; adding a new section to  
5 chapter 50.12 RCW; creating a new section; and repealing RCW 43.21A.080  
6 and 50.12.040.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that it has allowed  
9 state agencies to adopt administrative rules without sufficient  
10 guidance from the legislature, relying on general grants of authority  
11 rather than specific legislative policy direction. This has resulted  
12 in agency-initiated policy that has been adopted without the benefit of  
13 the public dialogue and accountability inherent to the legislative  
14 process. It is therefore the intent of the legislature in this act to  
15 lessen reliance on general grants of authority, limit agency rule  
16 making to those matters specifically authorized by the legislature, and  
17 that grants of rule-making authority be narrowly construed.

1       **Sec. 2.** RCW 43.70.040 and 1989 1st ex.s. c 9 s 106 are each  
2 amended to read as follows:

3       In addition to any other powers granted the secretary, the  
4 secretary may:

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

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

9       (b) As specifically authorized, and only to the extent specifically  
10 authorized, by the legislature.

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

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

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

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

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

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

33       **Sec. 3.** RCW 82.01.060 and 1977 c 75 s 92 are each amended to read  
34 as follows:

35       The director of revenue, hereinafter in (~~(this 1967 amendatory~~  
36 ~~act))~~ chapter 26, Laws of 1967 ex. sess. referred to as the director,  
37 through the department of revenue, hereinafter in (~~(this 1967~~

1 ~~amendatory act~~) chapter 26, Laws of 1967 ex. sess. referred to as the  
2 department, shall:

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

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

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

14 (b) As specifically authorized, and only to the extent specifically  
15 authorized, by the legislature.

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

20 (~~(+3)~~) (4) Provide by general regulations for an adequate system  
21 of departmental review of the actions of the department or of its  
22 officers and employees in the assessment or collection of taxes;

23 (~~(+4)~~) (5) Maintain a tax research section with sufficient  
24 technical, clerical and other employees to conduct constant observation  
25 and investigation of the effectiveness and adequacy of the revenue laws  
26 of this state and of the sister states in order to assist the governor,  
27 the legislature and the director in estimation of revenue, analysis of  
28 tax measures, and determination of the administrative feasibility of  
29 proposed tax legislation and allied problems;

30 (~~(+5)~~) (6) Recommend to the governor such amendments, changes in,  
31 and modifications of the revenue laws as seem proper and requisite to  
32 remedy injustice and irregularities in taxation, and to facilitate the  
33 assessment and collection of taxes in the most economical manner.

34 NEW SECTION. Sec. 4. A new section is added to chapter 43.21A RCW  
35 to read as follows:

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

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

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.22 RCW  
5 to read as follows:

6 The director of the department of labor and industries may adopt,  
7 in accordance with chapter 34.05 RCW, rules or policy statements, other  
8 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 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.24 RCW  
13 to read as follows:

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

- 17 (1) As specifically required by federal law; or  
18 (2) As specifically authorized, and only to the extent specifically  
19 authorized, by the legislature.

20 **Sec. 7.** RCW 46.01.110 and 1979 c 158 s 120 are each amended to  
21 read as follows:

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

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

29 The rules shall be necessary to carry out the provisions relating  
30 to vehicle licenses, certificates of ownership and license registration  
31 and drivers' licenses not in conflict with the provisions of Title 46  
32 RCW.

33 **Sec. 8.** RCW 50.12.010 and 1977 c 75 s 75 are each amended to read  
34 as follows:

1       The commissioner shall administer this title. He or she shall have  
2 the power and authority to ~~((adopt, amend, or rescind such rules and  
3 regulations, to))~~ employ ~~((such))~~ persons, make ~~((such))~~ expenditures,  
4 require ~~((such))~~ reports, make ~~((such))~~ investigations, and take  
5 ~~((such))~~ other action as he or she deems necessary or suitable to that  
6 end. ~~((Such rules and regulations shall be effective upon publication  
7 and in the manner, not inconsistent with the provisions of this title,  
8 which the commissioner shall prescribe.))~~ The commissioner, in  
9 accordance with the provisions of this title, shall determine the  
10 organization and methods of procedure of the divisions referred to in  
11 this title, and shall have an official seal which shall be judicially  
12 noticed. The commissioner shall submit to the governor a report  
13 covering the administration and operation of this title during the  
14 preceding fiscal year, July 1 through June 30, and shall make ~~((such))~~  
15 recommendations for amendments to this title as he or she deems proper.  
16 ~~((Such))~~ The report shall include a balance sheet of the moneys in the  
17 fund in which there shall be provided, if possible, a reserve against  
18 the liability in future years to pay benefits in excess of the then  
19 current contributions, which reserve shall be set up by the  
20 commissioner in accordance with accepted actuarial principles on the  
21 basis of statistics of employment, business activity, and other  
22 relevant factors for the longest possible period. Whenever the  
23 commissioner believes that a change in contribution or benefit rates  
24 will become necessary to protect the solvency of the fund, he or she  
25 shall promptly ~~((se))~~ inform the governor and legislature and make  
26 recommendations with respect thereto.

27       NEW SECTION. **Sec. 9.** A new section is added to chapter 50.12 RCW  
28 to read as follows:

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

- 32       (1) As specifically required by federal law; or  
33       (2) As specifically authorized, and only to the extent specifically  
34 authorized, by the legislature.

35       **Sec. 10.** RCW 77.04.090 and 1984 c 240 s 1 are each amended to read  
36 as follows:

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

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

5 (2) As specifically authorized, and only to the extent specifically  
6 authorized, by the legislature, by approval of four members by  
7 resolution, entered and recorded in the minutes of the commission. The  
8 commission shall adopt emergency rules by approval of four members.  
9 The commission or the director, when adopting emergency rules under RCW  
10 77.12.150, shall adopt rules in conformance with chapter 34.05 RCW.  
11 Judicial notice shall be taken of the rules filed and published as  
12 provided in RCW 34.05.380 and 34.05.210.

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

17 **Sec. 11.** RCW 43.17.060 and 1965 c 8 s 43.17.060 are each amended  
18 to read as follows:

19 The director of each department may prescribe (~~rules and~~  
20 ~~regulations,~~) guidelines not inconsistent with law, for the government  
21 of his or her department, the conduct of its subordinate officers and  
22 employees, the disposition and performance of its business, and the  
23 custody, use, and preservation of the records, papers, books,  
24 documents, and property pertaining thereto. This section shall not be  
25 construed to authorize the adoption of rules under chapter 34.05 RCW.

26 NEW SECTION. **Sec. 12.** The following acts or parts of acts are  
27 each repealed:

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

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

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