

2 **SHB 2386** - S COMM AMD  
3 By Committee on Government Operations

4 ADOPTED AS AMENDED 3/7/96

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that many individuals  
8 and small businesses who are required to comply with laws and agency  
9 rules often do not have access to the Revised Code of Washington, the  
10 Washington Administrative Code, the United States Code, or the Code of  
11 Federal Regulations. In this case, those informed of violations do not  
12 know whether, or to what extent, the cited law or agency rule actually  
13 applies to their situation. In order to facilitate greater  
14 understanding of the law and agency rules, the legislature finds that  
15 those who make the effort to obtain technical assistance from a  
16 regulatory agency, and those who are issued a notice of correction,  
17 should be given the text of the specific section or subsection of the  
18 law or agency rule they are alleged to have violated.

19 **Sec. 2.** RCW 43.05.030 and 1995 c 403 s 604 are each amended to  
20 read as follows:

21 (1) For the purposes of this chapter, a technical assistance visit  
22 is a visit by a regulatory agency to a facility, business, or other  
23 location that:

24 (a) Has been requested or is voluntarily accepted; and

25 (b) Is declared by the regulatory agency at the beginning of the  
26 visit to be a technical assistance visit.

27 (2) A technical assistance visit also includes a consultative visit  
28 pursuant to RCW 49.17.250.

29 (3) During a technical assistance visit, or within a reasonable  
30 time thereafter, a regulatory agency shall inform the owner or operator  
31 of the facility of any violations of law or agency rules identified by  
32 the agency as follows:

33 (a) A description of the condition that is not in compliance and  
34 (~~a specific citation to~~) the text of the specific section or  
35 subsection of the applicable state or federal law or rule;

- 1 (b) A statement of what is required to achieve compliance;
- 2 (c) The date by which the agency requires compliance to be  
3 achieved;
- 4 (d) Notice of the means to contact any technical assistance  
5 services provided by the agency or others; and
- 6 (e) Notice of when, where, and to whom a request to extend the time  
7 to achieve compliance for good cause may be filed with the agency.

8 **Sec. 3.** RCW 43.05.060 and 1995 c 403 s 607 are each amended to  
9 read as follows:

10 (1) If in the course of any site inspection or visit that is not a  
11 technical assistance visit, the department of ecology becomes aware of  
12 conditions that are not in compliance with applicable laws and rules  
13 enforced by the department and are not subject to civil penalties as  
14 provided for in RCW 43.05.070, the department may issue a notice of  
15 correction to the responsible party that shall include:

16 (a) A description of the condition that is not in compliance and  
17 (~~a specific citation to~~) the text of the specific section or  
18 subsection of the applicable state or federal law or rule;

19 (b) A statement of what is required to achieve compliance;

20 (c) The date by which the department requires compliance to be  
21 achieved;

22 (d) Notice of the means to contact any technical assistance  
23 services provided by the department or others; and

24 (e) Notice of when, where, and to whom a request to extend the time  
25 to achieve compliance for good cause may be filed with the department.

26 (2) A notice of correction is not a formal enforcement action, is  
27 not subject to appeal, and is a public record.

28 (3) If the department issues a notice of correction, it shall not  
29 issue a civil penalty for the violations identified in the notice of  
30 correction unless the responsible party fails to comply with the  
31 notice.

32 **Sec. 4.** RCW 43.05.090 and 1995 c 403 s 610 are each amended to  
33 read as follows:

34 (1) Following a consultative visit pursuant to RCW 49.17.250, the  
35 department of labor and industries shall issue a report to the employer  
36 that the employer shall make available to its employees. The report  
37 shall contain:

1 (a) A description of the condition that is not in compliance and  
2 (~~a specific citation to~~) the text of the specific section or  
3 subsection of the applicable state or federal law or rule;

4 (b) A statement of what is required to achieve compliance;

5 (c) The date by which the department requires compliance to be  
6 achieved;

7 (d) Notice of means to contact technical assistance services  
8 provided by the department; and

9 (e) Notice of when, where, and to whom a request to extend the time  
10 to achieve compliance for good cause may be filed with the department.

11 (2) Following a compliance inspection pursuant to RCW 49.17.120,  
12 the department of labor and industries shall issue a citation for  
13 violations of industrial safety and health standards. The citation  
14 shall not assess a penalty if the violations:

15 (a) Are determined not to be of a serious nature;

16 (b) Have not been previously cited;

17 (c) Are not willful; and

18 (d) Do not have a mandatory penalty under chapter 49.17 RCW.

19 **Sec. 5.** RCW 43.05.100 and 1995 c 403 s 611 are each amended to  
20 read as follows:

21 (1) If in the course of any inspection or visit that is not a  
22 technical assistance visit, the department of agriculture, fish and  
23 wildlife, health, licensing, or natural resources becomes aware of  
24 conditions that are not in compliance with applicable laws and rules  
25 enforced by the department and are not subject to civil penalties as  
26 provided for in RCW 43.05.110, the department may issue a notice of  
27 correction to the responsible party that shall include:

28 (a) A description of the condition that is not in compliance and  
29 (~~a specific citation to~~) the text of the specific section or  
30 subsection of the applicable state or federal law or rule;

31 (b) A statement of what is required to achieve compliance;

32 (c) The date by which the department requires compliance to be  
33 achieved;

34 (d) Notice of the means to contact any technical assistance  
35 services provided by the department or others; and

36 (e) Notice of when, where, and to whom a request to extend the time  
37 to achieve compliance for good cause may be filed with the department.

1 (2) A notice of correction is not a formal enforcement action, is  
2 not subject to appeal, and is a public record.

3 (3) If the department issues a notice of correction, it shall not  
4 issue a civil penalty for the violations identified in the notice of  
5 correction unless the responsible party fails to comply with the  
6 notice.

7 NEW SECTION. **Sec. 6.** A new section is added to chapter 35.21 RCW  
8 to read as follows:

9 (1) A property owner may make a written request for a statement of  
10 restrictions applicable to a single parcel, tract, lot, or block of  
11 real property to the city or town in which the real property is  
12 located.

13 (2) Within thirty days of the receipt of the request, the city or  
14 town shall provide the owner with a statement of restrictions as  
15 described in subsection (3) of this section.

16 (3) The statement of restrictions shall include the following:

17 (a) The zoning currently applicable to the real property;

18 (b) Pending zoning changes currently advertised for public hearing  
19 that would be applicable to the real property; and

20 (c) Any designations made by the city or town pursuant to chapter  
21 36.70A RCW of any portion of the real property as agricultural land,  
22 forest land, mineral resource land, wetland, an area with a critical  
23 recharging effect on aquifers used for potable water, a fish and  
24 wildlife habitat conservation area, a frequently flooded area, and as  
25 a geological hazardous area.

26 (4) If a city or town fails to provide the statement of  
27 restrictions within thirty days after receipt of the written request,  
28 the owner shall be awarded recovery of all attorneys' fees and costs  
29 incurred in any successful application for a writ of mandamus to compel  
30 production of a statement.

31 (5) For purposes of this section:

32 (a) "Owner" means any vested owner or any person holding the  
33 buyer's interest under a recorded real estate contract in which the  
34 seller is the vested owner; and

35 (b) "Real property" means a parcel, tract, lot or block: (i)  
36 Containing a single-family residence that is occupied by the owner or  
37 a member of his or her family, or rented to another by the owner; or  
38 (ii) five acres or less in size.

1 (6) This section does not affect the vesting of permits or  
2 development rights.

3 Nothing in this section shall be deemed to create any liability  
4 on the part of a city or town to pay damages for a violation of this  
5 section.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 35A.21 RCW  
7 to read as follows:

8 (1) A property owner may make a written request for a statement of  
9 restrictions applicable to a single parcel, tract, lot, or block of  
10 real property to the code city in which the real property is located.

11 (2) Within thirty days of the receipt of the request, the code city  
12 shall provide the owner, by registered mail, with a statement of  
13 restrictions as described in subsection (3) of this section.

14 (3) The statement of restrictions shall include the following:

15 (a) The zoning currently applicable to the real property;

16 (b) Pending zoning changes currently advertised for public hearing  
17 that would be applicable to the real property;

18 (c) Any designations made by the code city pursuant to chapter  
19 36.70A RCW of any portion of the real property as agricultural land,  
20 forest land, mineral resource land, wetland, an area with a critical  
21 recharging effect on aquifers used for potable water, a fish and  
22 wildlife habitat conservation area, a frequently flooded area, and as  
23 a geological hazardous area; and

24 (d) If information regarding the designations listed in (c) of this  
25 subsection are not readily available, inform the owner of the procedure  
26 by which the owner can obtain that site-specific information from the  
27 code city.

28 (4) If a code city fails to provide the statement of restrictions  
29 within thirty days after receipt of the written request, the owner  
30 shall be awarded recovery of all attorneys' fees and costs incurred in  
31 any successful application for a writ of mandamus to compel production  
32 of a statement.

33 (5) For purposes of this section:

34 (a) "Owner" means any vested owner or any person holding the  
35 buyer's interest under a recorded real estate contract in which the  
36 seller is the vested owner; and

37 (b) "Real property" means a parcel, tract, lot or block: (i)  
38 Containing a single-family residence that is occupied by the owner or

1 a member of his or her family, or rented to another by the owner; or  
2 (ii) five acres or less in size.

3 (6) This section does not affect the vesting of permits or  
4 development rights.

5 Nothing in this section shall be deemed to create any liability on  
6 the part of a code city.

7 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70 RCW  
8 to read as follows:

9 (1) A property owner may make a written request for a statement of  
10 restrictions applicable to a single parcel, tract, lot, or block of  
11 real property located in an unincorporated portion of a county to the  
12 county in which the real property is located.

13 (2) Within thirty days of the receipt of the request, the county  
14 shall provide the owner, by registered mail, with a statement of  
15 restrictions as described in subsection (3) of this section.

16 (3) The statement of restrictions shall include the following:

17 (a) The zoning currently applicable to the real property;

18 (b) Pending zoning changes currently advertised for public hearing  
19 that would be applicable to the real property;

20 (c) Any designations made by the county pursuant to chapter 36.70A  
21 RCW of any portion of the real property as agricultural land, forest  
22 land, mineral resource land, wetland, an area with a critical  
23 recharging effect on aquifers used for potable water, a fish and  
24 wildlife habitat conservation area, a frequently flooded area, and as  
25 a geological hazardous area; and

26 (d) If information regarding the designations listed in (c) of this  
27 subsection are not readily available, inform the owner of the procedure  
28 by which the owner can obtain that site-specific information from the  
29 county.

30 (4) If a county fails to provide the statement of restrictions  
31 within thirty days after receipt of the written request, the owner  
32 shall be awarded recovery of all attorneys' fees and costs incurred in  
33 any successful application for a writ of mandamus to compel production  
34 of a statement.

35 (5) For purposes of this section:

36 (a) "Owner" means any vested owner or any person holding the  
37 buyer's interest under a recorded real estate contract in which the  
38 seller is the vested owner; and

1 (b) "Real property" means a parcel, tract, lot or block: (i)  
2 Containing a single-family residence that is occupied by the owner or  
3 a member of his or her family, or rented to another by the owner; or  
4 (ii) five acres or less in size.

5 (6) This section does not affect the vesting of permits or  
6 development rights.

7 Nothing in this section shall be deemed to create any liability on  
8 the part of a county.

9 NEW SECTION. **Sec. 9.** A new section is added to chapter 36.70B RCW  
10 to read as follows:

11 (1) Each county and city having populations of ten thousand or more  
12 that plan under RCW 36.70A.040 shall designate permit assistance staff  
13 whose function it is to assist permit applicants. An existing employee  
14 may be designated as the permit assistance staff.

15 (2) Permit assistance staff designated under this section shall:

16 (a) Make available to permit applicants all current local  
17 government regulations and adopted policies that apply to the subject  
18 application. The local government shall provide counter copies thereof  
19 and, upon request, provide copies according to chapter 42.17 RCW. The  
20 staff shall also publish and keep current one or more handouts  
21 containing lists and explanations of all local government regulations  
22 and adopted policies;

23 (b) Establish and make known to the public the means of obtaining  
24 the handouts and related information; and

25 (c) Provide assistance regarding the application of the local  
26 government's regulations in particular cases.

27 (3) Permit assistance staff designated under this section may  
28 obtain technical assistance and support in the compilation and  
29 production of the handouts under subsection (2) of this section from  
30 the municipal research council and the department of community, trade,  
31 and economic development.

32 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.110  
33 RCW to read as follows:

34 The municipal research council shall provide technical assistance  
35 in the compilation of and support in the production of the handouts to  
36 be published and kept current by counties and cities under section 9 of  
37 this act.

1        NEW SECTION.    **Sec. 11.**    A new section is added to chapter 43.330  
2    RCW to read as follows:

3        The department shall provide technical assistance in the  
4    compilation of and support in the production of the handouts to be  
5    published and kept current by counties and cities under section 9 of  
6    this act.

7        **Sec. 12.**    RCW 34.05.230 and 1995 c 403 s 702 are each amended to  
8    read as follows:

9        (1) If the adoption of rules is not feasible and practicable, an  
10    agency is encouraged to advise the public of its current opinions,  
11    approaches, and likely courses of action by means of interpretive or  
12    policy statements.    Current interpretive and policy statements are  
13    advisory only.    To better inform and involve the public, an agency is  
14    encouraged to convert long-standing interpretive and policy statements  
15    into rules.

16        (2) A person may petition an agency requesting the conversion of  
17    interpretive and policy statements into rules.    Upon submission, the  
18    agency shall notify the joint administrative rules review committee of  
19    the petition.    Within sixty days after submission of a petition, the  
20    agency shall either deny the petition in writing, stating its reasons  
21    for the denial, or initiate rule-making proceedings in accordance with  
22    this chapter.

23        (3) Each agency shall maintain a roster of interested persons,  
24    consisting of persons who have requested in writing to be notified of  
25    all interpretive and policy statements issued by that agency.    Each  
26    agency shall update the roster once each year and eliminate persons who  
27    do not indicate a desire to continue on the roster.    Whenever an agency  
28    issues an interpretive or policy statement, it shall send a copy of the  
29    statement to each person listed on the roster.    The agency may charge  
30    a nominal fee to the interested person for this service.

31        (4) Whenever an agency issues an interpretive or policy statement,  
32    it shall submit to the code reviser for publication in the Washington  
33    State Register a statement describing the subject matter of the  
34    interpretive or policy statement, and listing the person at the agency  
35    from whom a copy of the interpretive or policy statement may be  
36    obtained.

