

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2834

Chapter 5, Laws of 2012

(partial veto)

62nd Legislature
2012 1st Special Session

LOCAL GOVERNMENT--REPORTING REQUIREMENTS

EFFECTIVE DATE: 07/10/12

Passed by the House April 10, 2012
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 10, 2012
Yeas 47 Nays 0

BRAD OWEN

President of the Senate

Approved May 2, 2012, 1:46 p.m., with
the exception of Section 4 which is
vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of
the House of Representatives of
the State of Washington, do hereby
certify that the attached is **HOUSE
BILL 2834** as passed by the House of
Representatives and the Senate on
the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 2, 2012

**Secretary of State
State of Washington**

HOUSE BILL 2834

Passed Legislature - 2012 1st Special Session

State of Washington 62nd Legislature 2012 1st Special Session

By Representatives Alexander, Springer, and Angel

Read first time 04/10/12.

1 AN ACT Relating to providing cost savings for local governments by
2 reducing a limited number of reporting requirements; amending RCW
3 35.22.620, 36.27.020, and 36.70A.180; adding a new section to chapter
4 43.41 RCW; and repealing RCW 35.21.687 and 36.34.137.

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

6 **Sec. 1.** RCW 35.22.620 and 2009 c 229 s 3 are each amended to read
7 as follows:

8 (1) As used in this section, the term "public works" means as
9 defined in RCW 39.04.010.

10 (2) A first-class city may have public works performed by contract
11 pursuant to public notice and call for competitive bids. As limited by
12 subsection (3) of this section, a first-class city may have public
13 works performed by city employees in any annual or biennial budget
14 period equal to a dollar value not exceeding ten percent of the public
15 works construction budget, including any amount in a supplemental
16 public works construction budget, over the budget period. The amount
17 of public works that a first-class city has a county perform for it
18 under RCW 35.77.020 shall be included within this ten percent
19 limitation.

1 If a first-class city has public works performed by public
2 employees in any budget period that are in excess of this ten percent
3 limitation, the amount in excess of the permitted amount shall be
4 reduced from the otherwise permitted amount of public works that may be
5 performed by public employees for that city in its next budget period.
6 Twenty percent of the motor vehicle fuel tax distributions to that city
7 shall be withheld if two years after the year in which the excess
8 amount of work occurred, the city has failed to so reduce the amount of
9 public works that it has performed by public employees. The amount so
10 withheld shall be distributed to the city when it has demonstrated in
11 its reports to the state auditor that the amount of public works it has
12 performed by public employees has been so reduced.

13 Whenever a first-class city has had public works performed in any
14 budget period up to the maximum permitted amount for that budget
15 period, all remaining public works within that budget period shall be
16 done by contract pursuant to public notice and call for competitive
17 bids.

18 The state auditor shall report to the state treasurer any
19 first-class city that exceeds this amount and the extent to which the
20 city has or has not reduced the amount of public works it has performed
21 by public employees in subsequent years.

22 (3) In addition to the percentage limitation provided in subsection
23 (2) of this section, a first-class city shall not have public employees
24 perform a public works project in excess of ninety thousand dollars if
25 more than a single craft or trade is involved with the public works
26 project, or a public works project in excess of forty-five thousand
27 dollars if only a single craft or trade is involved with the public
28 works project or the public works project is street signalization or
29 street lighting. A public works project means a complete project. The
30 restrictions in this subsection do not permit the division of the
31 project into units of work or classes of work to avoid the restriction
32 on work that may be performed by day labor on a single project.

33 (4) In addition to the accounting and record-keeping requirements
34 contained in RCW 39.04.070, every first-class city annually (~~shall~~)
35 may prepare a report for the state auditor indicating the total public
36 works construction budget and supplemental public works construction
37 budget for that year, the total construction costs of public works
38 performed by public employees for that year, and the amount of public

1 works that is performed by public employees above or below ten percent
2 of the total construction budget. However, if a city budgets on a
3 biennial basis, this annual report (~~shall~~) may indicate the amount of
4 public works that is performed by public employees within the current
5 biennial period that is above or below ten percent of the total
6 biennial construction budget.

7 Each first-class city with a population of one hundred fifty
8 thousand or less shall use the form required by RCW 43.09.205 to
9 account and record costs of public works in excess of five thousand
10 dollars that are not let by contract.

11 (5) The cost of a separate public works project shall be the costs
12 of materials, supplies, equipment, and labor on the construction of
13 that project. The value of the public works budget shall be the value
14 of all the separate public works projects within the budget.

15 (6) The competitive bidding requirements of this section may be
16 waived by the city legislative authority pursuant to RCW 39.04.280 if
17 an exemption contained within that section applies to the work or
18 contract.

19 (7) In lieu of the procedures of subsections (2) and (6) of this
20 section, a first-class city may let contracts using the small works
21 roster process in RCW 39.04.155.

22 Whenever possible, the city shall invite at least one proposal from
23 a minority or woman contractor who shall otherwise qualify under this
24 section.

25 (8) The allocation of public works projects to be performed by city
26 employees shall not be subject to a collective bargaining agreement.

27 (9) This section does not apply to performance-based contracts, as
28 defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A
29 RCW.

30 (10) Nothing in this section shall prohibit any first-class city
31 from allowing for preferential purchase of products made from recycled
32 materials or products that may be recycled or reused.

33 **Sec. 2.** RCW 36.27.020 and 1995 c 194 s 4 are each amended to read
34 as follows:

35 The prosecuting attorney shall:

36 (1) Be legal adviser of the legislative authority, giving (~~them~~
37 ~~it~~) it his or her written opinion when required by the legislative

1 authority or the chairperson thereof touching any subject which the
2 legislative authority may be called or required to act upon relating to
3 the management of county affairs;

4 (2) Be legal adviser to all county and precinct officers and school
5 directors in all matters relating to their official business, and when
6 required draw up all instruments of an official nature for the use of
7 said officers;

8 (3) Appear for and represent the state, county, and all school
9 districts subject to the supervisory control and direction of the
10 attorney general in all criminal and civil proceedings in which the
11 state or the county or any school district in the county may be a
12 party;

13 (4) Prosecute all criminal and civil actions in which the state or
14 the county may be a party, defend all suits brought against the state
15 or the county, and prosecute actions upon forfeited recognizances and
16 bonds and actions for the recovery of debts, fines, penalties, and
17 forfeitures accruing to the state or the county;

18 (5) Attend and appear before and give advice to the grand jury when
19 cases are presented to it for consideration and draw all indictments
20 when required by the grand jury;

21 (6) Institute and prosecute proceedings before magistrates for the
22 arrest of persons charged with or reasonably suspected of felonies when
23 the prosecuting attorney has information that any such offense has been
24 committed and the prosecuting attorney shall for that purpose attend
25 when required by them if the prosecuting attorney is not then in
26 attendance upon the superior court;

27 (7) Carefully tax all cost bills in criminal cases and take care
28 that no useless witness fees are taxed as part of the costs and that
29 the officers authorized to execute process tax no other or greater fees
30 than the fees allowed by law;

31 (8) Receive all cost bills in criminal cases before district judges
32 at the trial of which the prosecuting attorney was not present, before
33 they are lodged with the legislative authority for payment, whereupon
34 the prosecuting attorney may retax the same and the prosecuting
35 attorney must do so if the legislative authority deems any bill
36 exorbitant or improperly taxed;

37 (9) Present all violations of the election laws which may come to

1 the prosecuting attorney's knowledge to the special consideration of
2 the proper jury;

3 (10) Examine once in each year the official bonds of all county and
4 precinct officers and report to the legislative authority any defect in
5 the bonds of any such officer;

6 (11) (~~Make an annual report to the governor as of the 31st of~~
7 ~~December of each year setting forth the amount and nature of business~~
8 ~~transacted by the prosecuting attorney in that year with such other~~
9 ~~statements and suggestions as the prosecuting attorney may deem useful;~~

10 ~~(12) Send to the state liquor control board at the end of each year~~
11 ~~a written report of all prosecutions brought under the state liquor~~
12 ~~laws in the county during the preceding year, showing in each case, the~~
13 ~~date of trial, name of accused, nature of charges, disposition of case,~~
14 ~~and the name of the judge presiding;~~

15 ~~(13))~~ Seek to reform and improve the administration of criminal
16 justice and stimulate efforts to remedy inadequacies or injustice in
17 substantive or procedural law.

18 **Sec. 3.** RCW 36.70A.180 and 1990 1st ex.s. c 17 s 19 are each
19 amended to read as follows:

20 ((~~1~~)) It is the intent of the legislature that counties and
21 cities required to adopt a comprehensive plan under RCW 36.70A.040(1)
22 begin implementing this chapter on or before July 1, 1990, including
23 but not limited to: ((~~a~~)) (1) Inventorying, designating, and
24 conserving agricultural, forest, and mineral resource lands, and
25 critical areas; and ((~~b~~)) (2) considering the modification or
26 adoption of comprehensive land use plans and development regulations
27 implementing the comprehensive land use plans. It is also the intent
28 of the legislature that funds be made available to counties and cities
29 beginning July 1, 1990, to assist them in meeting the requirements of
30 this chapter.

31 (~~(2) Each county and city that adopts a plan under RCW 36.70A.040~~
32 ~~(1) or (2) shall report to the department annually for a period of five~~
33 ~~years, beginning on January 1, 1991, and each five years thereafter, on~~
34 ~~the progress made by that county or city in implementing this~~
35 ~~chapter.))~~

1 ***NEW SECTION.** **Sec. 4.** A new section is added to chapter 43.41 RCW
2 to read as follows:

3 (1) The legislature finds that over the years there have been a
4 number of reporting requirements, mandates, and programs created that
5 frequently duplicate the duties of local government, create additional
6 expenses for state and local government, and can obscure
7 responsibilities. The legislature establishes the process outlined in
8 this section to recommend the elimination of obsolete, redundant, or
9 unnecessary reports, mandates, and programs.

10 (2) The office must develop a process and criteria with statewide
11 organizations representing cities and counties to conduct a review of
12 reports, mandates, and programs that create additional expenses for
13 state and local government. Every odd-numbered year, the office must
14 submit recommendations to the legislature on which reports, programs,
15 and mandates should be terminated or consolidated based upon the
16 criteria developed with statewide organizations representing cities and
17 counties. The report must state which criteria were relied upon with
18 respect to each recommendation. The office must submit executive
19 request legislation each odd-numbered year to implement the
20 **recommendations.**

**Sec. 4 was vetoed. See message at end of chapter.*

21 **NEW SECTION.** **Sec. 5.** The following acts or parts of acts are each
22 repealed:

23 (1) RCW 35.21.687 (Affordable housing--Inventory of suitable
24 housing) and 1995 c 399 s 37 & 1993 c 461 s 4; and

25 (2) RCW 36.34.137 (Affordable housing--Inventory of suitable
26 property) and 1993 c 461 s 5.

Passed by the House April 10, 2012.

Passed by the Senate April 10, 2012.

Approved by the Governor May 2, 2012, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 2, 2012.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 4, House
Bill 2834 entitled:

"AN ACT Relating to providing cost savings for local governments
by reducing a limited number of reporting requirements."

Section 4 contains two directives. The first requires the Office of
Financial Management (OFM) to conduct a review of reports, programs,
and mandates required of state and local governments to determine
those that are obsolete or unnecessary. The second requires OFM to
develop and submit executive request legislation to terminate
specific reports, programs, and mandates based on the review. While I

agree that conducting a sunset review of requirements imposed on state and local governments would be beneficial, I do not believe it is appropriate for the Legislature to mandate the content of executive request legislation. Article III, section 6 of the Washington Constitution provides that the Governor shall recommend to the Legislature such measures as the Governor deems expedient for their action. Section 4 is inconsistent with this constitutional provision and the constitutional separation of powers.

I will direct OFM to work with statewide organizations representing cities and counties to create a process to review reports, mandates, and programs that create additional expenses for state and local governments. OFM will report to the Governor and the Legislature and submit recommendations on executive request legislation to the Governor.

For this reason, I have vetoed Section 4 of House Bill 2834.

With the exception of Section 4, House Bill 2834 is approved."