H-0140.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 1017**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Klippert, Eslick, and Graham

AN ACT Relating to legislative oversight of emergency orders issued during a proclaimed state of emergency; amending RCW 43.70.130 and 70.05.070; adding a new section to chapter 35A.12 RCW; adding a new section to chapter 35A.13 RCW; adding a new section to chapter 35.18 RCW; adding a new section to chapter 35.17 RCW; adding a new section to chapter 36.01 RCW; and declaring an emergency.

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

**Sec.**  RCW 43.70.130 and 1990 c 132 s 2 are each amended to read as follows:

(1) The secretary of health shall:

((~~(1)~~)) (a) Exercise all the powers and perform all the duties prescribed by law with respect to public health and vital statistics;

((~~(2)~~)) (b) Investigate and study factors relating to the preservation, promotion, and improvement of the health of the people, the causes of morbidity and mortality, and the effects of the environment and other conditions upon the public health, and report the findings to the state board of health for such action as the board determines is necessary;

((~~(3)~~)) (c) Strictly enforce all laws for the protection of the public health and the improvement of sanitary conditions in the state, and all rules, regulations, and orders of the state board of health;

((~~(4)~~)) (d) Enforce the public health laws of the state and the rules and regulations promulgated by the department or the board of health in local matters, when in its opinion an emergency exists and the local board of health has failed to act with sufficient promptness or efficiency, or is unable for reasons beyond its control to act, or when no local board has been established, and all expenses so incurred shall be paid upon demand of the secretary of the department of health by the local health department for which such services are rendered, out of moneys accruing to the credit of the municipality or the local health department in the current expense fund of the county;

((~~(5)~~)) (e) Investigate outbreaks and epidemics of disease that may occur and advise local health officers as to measures to be taken to prevent and control the same;

((~~(6)~~)) (f) Exercise general supervision over the work of all local health departments and establish uniform reporting systems by local health officers to the state department of health;

((~~(7)~~)) (g) Have the same authority as local health officers, except that the secretary shall not exercise such authority unless the local health officer ((~~fails or~~)) is unable to do so, or when in ((~~an~~)) a proclaimed state of emergency the safety of the public health demands it, or by agreement with the local health officer or local board of health;

((~~(8)~~)) (h) Cause to be made from time to time, personal health and sanitation inspections at state owned or contracted institutions and facilities to determine compliance with sanitary and health care standards as adopted by the department, and require the governing authorities thereof to take such action as will conserve the health of all persons connected therewith, and report the findings to the governor;

((~~(9)~~)) (i) Review and approve plans for public water system design, engineering, operation, maintenance, financing, and emergency response, as required under state board of health rules;

((~~(10)~~)) (j) Take such measures as the secretary deems necessary in order to promote the public health, to establish or participate in the establishment of health educational or training activities, and to provide funds for and to authorize the attendance and participation in such activities of employees of the state or local health departments and other individuals engaged in programs related to or part of the public health programs of the local health departments or the state department of health. The secretary is also authorized to accept any funds from the federal government or any public or private agency made available for health education training purposes and to conform with such requirements as are necessary in order to receive such funds; and

((~~(11)~~)) (k) Establish and maintain laboratory facilities and services as are necessary to carry out the responsibilities of the department.

(2)(a) Any emergency order issued by the secretary in response to a proclaimed state of emergency must be narrowly tailored to the emergency and use the least restrictive means necessary to accomplish a compelling government interest.

(b) The leadership of the senate and the house of representatives may petition the department to limit the duration of an emergency order. If at least three of the four leaders sign the petition, the order may not remain in effect for longer than 30 days after the petition is sent. Identical or substantially similar orders may not be adopted in sequence unless the conditions precipitating the new order have substantially changed. For purposes of this section, "leadership of the senate and the house of representatives" means the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives.

**Sec.**  RCW 70.05.070 and 2020 c 20 s 1066 are each amended to read as follows:

(1) The local health officer, acting under the direction of the local board of health or under direction of the administrative officer appointed under RCW 70.05.040 or 70.05.035, if any, shall:

((~~(1)~~)) (a) Enforce the public health statutes of the state, rules of the state board of health and the secretary of health, and all local health rules, regulations and ordinances within his or her jurisdiction including imposition of penalties authorized under RCW 70A.125.030 and 70A.105.120, the confidentiality provisions in RCW 70.02.220 and rules adopted to implement those provisions, and filing of actions authorized by RCW 43.70.190;

((~~(2)~~)) (b) Take such action as is necessary to maintain health and sanitation supervision over the territory within his or her jurisdiction;

((~~(3)~~)) (c) Control and prevent the spread of any dangerous, contagious or infectious diseases that may occur within his or her jurisdiction;

((~~(4)~~)) (d) Inform the public as to the causes, nature, and prevention of disease and disability and the preservation, promotion and improvement of health within his or her jurisdiction;

((~~(5)~~)) (e) Prevent, control or abate nuisances which are detrimental to the public health;

((~~(6)~~)) (f) Attend all conferences called by the secretary of health or his or her authorized representative;

((~~(7)~~)) (g) Collect such fees as are established by the state board of health or the local board of health for the issuance or renewal of licenses or permits or such other fees as may be authorized by law or by the rules of the state board of health;

((~~(8)~~)) (h) Inspect, as necessary, expansion or modification of existing public water systems, and the construction of new public water systems, to assure that the expansion, modification, or construction conforms to system design and plans;

((~~(9)~~)) (i) Take such measures as he or she deems necessary in order to promote the public health, to participate in the establishment of health educational or training activities, and to authorize the attendance of employees of the local health department or individuals engaged in community health programs related to or part of the programs of the local health department.

(2)(a) Any emergency order issued by a local health officer in response to a proclaimed state of emergency must be narrowly tailored to the emergency and use the least restrictive means necessary to accomplish a compelling government interest.

(b) The leadership of the senate and the house of representatives may petition the department to limit the duration of an emergency order. If at least three of the four leaders sign the petition, the order may not remain in effect for longer than 30 days after the petition is sent. Identical or substantially similar orders may not be adopted in sequence unless the conditions precipitating the new order have substantially changed. For purposes of this section, "leadership of the senate and the house of representatives" means the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives.

NEW SECTION. **Sec.**  A new section is added to chapter 35A.12 RCW to read as follows:

(1) Any emergency order issued by a mayor or city council in response to a proclaimed state of emergency must be narrowly tailored to the emergency and use the least restrictive means to accomplish a compelling governmental interest.

(2) The leadership of the senate and the house of representatives may petition the city or town to limit the duration of an emergency order. If at least three of the four leaders sign the petition, the order may not remain in effect for longer than 30 days after the petition is sent. Identical or substantially similar orders may not be adopted in sequence unless the conditions precipitating the new order have substantially changed. For purposes of this section, "leadership of the senate and the house of representatives" means the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives.

NEW SECTION. **Sec.**  A new section is added to chapter 35A.13 RCW to read as follows:

(1) Any emergency order issued by a manager or city council in response to a proclaimed state of emergency must be narrowly tailored to the emergency and use the least restrictive means to accomplish a compelling governmental interest.

(2) The leadership of the senate and the house of representatives may petition the city or town to limit the duration of an emergency order. If at least three of the four leaders sign the petition, the order may not remain in effect for longer than 30 days after the petition is sent. Identical or substantially similar orders may not be adopted in sequence unless the conditions precipitating the new order have substantially changed. For purposes of this section, "leadership of the senate and the house of representatives" means the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives.

NEW SECTION. **Sec.**  A new section is added to chapter 35.18 RCW to read as follows:

(1) Any emergency order issued by a manager or city council in response to a proclaimed state of emergency must be narrowly tailored to the emergency and use the least restrictive means to accomplish a compelling governmental interest.

(2) The leadership of the senate and the house of representatives may petition the city or town to limit the duration of an emergency order. If at least three of the four leaders sign the petition, the order may not remain in effect for longer than 30 days after the petition is sent. Identical or substantially similar orders may not be adopted in sequence unless the conditions precipitating the new order have substantially changed. For purposes of this section, "leadership of the senate and the house of representatives" means the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives.

NEW SECTION. **Sec.**  A new section is added to chapter 35.17 RCW to read as follows:

(1) Any emergency order issued by a mayor or commission in response to a proclaimed state of emergency must be narrowly tailored to the emergency and use the least restrictive means to accomplish a compelling governmental interest.

(2) The leadership of the senate and the house of representatives may petition the city or town to limit the duration of an emergency order. If at least three of the four leaders sign the petition, the order may not remain in effect for longer than 30 days after the petition is sent. Identical or substantially similar orders may not be adopted in sequence unless the conditions precipitating the new order have substantially changed. For purposes of this section, "leadership of the senate and the house of representatives" means the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives.

NEW SECTION. **Sec.**  A new section is added to chapter 36.01 RCW to read as follows:

(1) Any emergency order issued by a county commissioner, county executive, or other county legislative authority in response to a proclaimed state of emergency must be narrowly tailored to the emergency and use the least restrictive means to accomplish a compelling governmental interest.

(2) The leadership of the senate and the house of representatives may petition the county to limit the duration of an emergency order. If at least three of the four leaders sign the petition, the order may not remain in effect for longer than 30 days after the petition is sent. Identical or substantially similar orders may not be adopted in sequence unless the conditions precipitating the new order have substantially changed. For purposes of this section, "leadership of the senate and the house of representatives" means the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**