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**SENATE BILL 5909**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Randall, Van De Wege, Carlyle, Conway, Hunt, Mullet, Rolfes, and Stanford

AN ACT Relating to legislative oversight of gubernatorial powers concerning emergency proclamations and unanticipated receipts; amending RCW 43.06.210, 43.06.220, and 43.79.270; and adding a new chapter to Title 44 RCW.

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

**Sec.**  RCW 43.06.210 and 2013 c 21 s 1 are each amended to read as follows:

(1) The proclamation of a state of emergency and other proclamations or orders issued by the governor pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended shall be in writing and shall be signed by the governor and shall then be filed with the secretary of state. A proclamation of a state of emergency is effective upon the governor's signature.

(2) The governor shall give as much public notice as practical through the news media of the issuance of proclamations or orders pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended.

(3) The state of emergency shall cease to exist upon ((~~the~~)):

(a) The issuance of a proclamation of the governor declaring its termination: PROVIDED, That the governor must terminate said state of emergency proclamation when order has been restored in the area affected; or

(b) If the legislature is not in session and it has been more than 90 days since the state of emergency was declared by the governor, termination of the state of emergency in writing by all four members of the leadership of the senate and the house of representatives. 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 43.06.220 and 2019 c 472 s 2 are each amended to read as follows:

(1) The governor after proclaiming a state of emergency and prior to terminating such, may, in the area described by the proclamation issue an order prohibiting:

(a) Any person being on the public streets, or in the public parks, or at any other public place during the hours declared by the governor to be a period of curfew;

(b) Any number of persons, as designated by the governor, from assembling or gathering on the public streets, parks, or other open areas of this state, either public or private;

(c) The manufacture, transfer, use, possession or transportation of a molotov cocktail or any other device, instrument or object designed to explode or produce uncontained combustion;

(d) The transporting, possessing or using of gasoline, kerosene, or combustible, flammable, or explosive liquids or materials in a glass or uncapped container of any kind except in connection with the normal operation of motor vehicles, normal home use or legitimate commercial use;

(e) The sale, purchase or dispensing of alcoholic beverages;

(f) The sale, purchase or dispensing of other commodities or goods, as he or she reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace;

(g) The use of certain streets, highways or public ways by the public; and

(h) Such other activities as he or she reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace.

(2) The governor after proclaiming a state of emergency and prior to terminating such may, in the area described by the proclamation, issue an order or orders concerning waiver or suspension of statutory obligations or limitations in the following areas:

(a) Liability for participation in interlocal agreements;

(b) Inspection fees owed to the department of labor and industries;

(c) Application of the family emergency assistance program;

(d) Regulations, tariffs, and notice requirements under the jurisdiction of the utilities and transportation commission;

(e) Application of tax due dates and penalties relating to collection of taxes;

(f) Permits for industrial, business, or medical uses of alcohol; and

(g) Such other statutory and regulatory obligations or limitations prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency, unless (i) authority to waive or suspend a specific statutory or regulatory obligation or limitation has been expressly granted to another statewide elected official, (ii) the waiver or suspension would conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, or (iii) the waiver or suspension would conflict with the rights, under the First Amendment, of freedom of speech or of the people to peaceably assemble. The governor shall give as much notice as practical to legislative leadership and impacted local governments when issuing orders under this subsection (2)(g).

(3) In imposing the restrictions provided for by RCW 43.06.010, and 43.06.200 through 43.06.270, the governor may impose them for such times, upon such conditions, with such exceptions and in such areas of this state he or she from time to time deems necessary.

(4) No order or orders concerning waiver or suspension of statutory obligations or limitations under subsection (2) of this section may continue for longer than thirty days unless extended by the legislature through concurrent resolution. If the legislature is not in session, the waiver or suspension of statutory obligations or limitations may be extended in writing by all four members of the leadership of the senate and the house of representatives until the legislature can extend the waiver or suspension by concurrent resolution.

(5) The order or orders under subsection (1) of this section may be terminated in writing by all four members of the leadership of the senate and the house of representatives if the legislature is not in session.

(6) 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.

((~~(5)~~)) (7) Any person willfully violating any provision of an order issued by the governor under this section is guilty of a gross misdemeanor.

**Sec.**  RCW 43.79.270 and 2021 c 334 s 972 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, whenever any money, from the federal government, or from other sources, which was not anticipated in the budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of any department, agency, board, or commission through which such expenditure shall be made is to submit to the governor a statement which may be in the form of a request for an allotment amendment setting forth the facts constituting the need for such expenditure and the estimated amount to be expended: PROVIDED, That no expenditure shall be made in excess of the actual amount received, and no money shall be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated fund or account in excess of appropriations provided by law which is based on the receipt of unanticipated revenues shall be submitted to the joint legislative audit and review committee and also to the standing committees on ways and means of the house and senate if the legislature is in session at the same time as it is transmitted to the governor.

(2) Except as provided in subsection (3) of this section, and notwithstanding subsection (1) of this section, whenever money from any source that was not anticipated in the transportation budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of a department, agency, board, or commission through which the expenditure must be made shall submit to the governor a statement, which may be in the form of a request for an allotment amendment, setting forth the facts constituting the need for the expenditure and the estimated amount to be expended. However, no expenditure may be made in excess of the actual amount received, and no money may be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated transportation fund or account in excess of appropriations provided by law that is based on the receipt of unanticipated revenues must be submitted, at a minimum, to the standing committees on transportation of the house and senate at the same time as it is transmitted to the governor.

(3) ((~~During the 2021-2023 fiscal biennium, whenever~~)) Whenever any money in the amount of $5,000,000 or more, from the federal government, or from other sources, which was not anticipated in the operating, capital, or transportation budget approved by the legislature has been awarded or has actually been received when the legislature is not in session and the use of the money is unrestricted or provides discretion to use the moneys for more than one agency, program, or purpose, the governor must:

(a) Submit a copy of the proposed allotment amendment to the joint legislative unanticipated revenue oversight committee;

(b) Provide an explanation of the timing, source, and availability of such funds and why the need for the expenditure could not have been anticipated in time for such expenditure to have been approved as part of a budget act for that particular fiscal year; and

(c) Provide the joint legislative unanticipated revenue oversight committee 14 calendar days from submittal the opportunity to review and comment on the proposed allotment amendment before approving under RCW 43.79.280.

NEW SECTION. **Sec.**  (1) There is hereby created a joint select committee to be known as the joint legislative unanticipated revenue oversight committee with the following 16 members:

(a) The majority and minority leaders of the senate;

(b) The speaker and the minority leader of the house of representatives;

(c) Six additional members of the senate with three members from each of the two largest caucuses of the senate appointed by their respective leaders; and

(d) Six additional members of the house of representatives with three members from each of the two largest caucuses of the house of representatives appointed by their respective leaders.

(2) The cochairs of the committee are the leaders of the two largest caucuses of the senate in even-numbered years and the leaders of the two largest caucuses of the house of representatives in odd-numbered years.

(3) Staff support for the committee is provided by the senate committee services and the house of representatives office of program research.

(4) Members of the committee serve without additional compensation, but must be reimbursed for travel expenses in accordance with RCW 44.04.120.

(5) The expenses of the committee are paid jointly by the senate and the house of representatives and expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

NEW SECTION. **Sec.**  The purpose of the joint legislative unanticipated revenue oversight committee is to review requests for proposed allotment amendments to spend unanticipated and unbudgeted moneys received by the state from federal and nonstate sources pursuant to RCW 43.79.270(3). The committee is necessary to provide oversight of the legislature's delegation of state fiscal authority to the governor while the legislature is not in session and to prevent infringement on the legislature's constitutional power to appropriate state funds.

NEW SECTION. **Sec.**  (1) The joint legislative unanticipated revenue oversight committee shall meet as necessary to review requests from the governor pursuant to RCW 43.79.270(3) and to provide comment within 14 calendar days.

(2) The committee may conduct its meetings and hold public hearings by conference telephone call, videoconference, or using similar technology equipment so that all persons participating in the meeting can hear each other at the same time.

(3) The committee shall adopt rules and procedures for its orderly operation. The activities of the committee are suspended during regular or special legislative sessions.

(4) If the committee chooses to conduct a public hearing on a proposed allotment amendment, the committee must provide the office of financial management with five calendar days' notice of the public hearing. The office of financial management, or its designee, must appear before the committee to present the proposed allotment amendment and respond to questions. The committee may also require the state agency, department, board, or commission proposing the allotment amendment to appear before the committee, submit additional information, or engage in other activities necessary for the committee to review and comment on proposed allotment amendments.

(5) Action of the committee is limited to the review and comment on requests submitted by the governor under RCW 43.79.270(3). Action by the committee requires the majority vote of members of the committee in attendance at the meeting. Action may take the form of a recommendation approving the proposed allotment amendment, rejecting the proposed allotment amendment, or proposing an alternative allotment amendment for governor consideration prior to approval under RCW 43.79.280. The committee's action is not binding on the governor.

NEW SECTION. **Sec.**  Sections 4 through 6 of this act constitute a new chapter in Title 44 RCW.

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