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HOUSE BILL 1017

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State of Washington

67th Legislature

2021 Regular Session

By Representatives Klippert, Eslick, and Graham

Prefiled 12/10/20. Read first time 01/11/21. Referred to Committee on State Government & Tribal Relations.

1 AN ACT Relating to legislative oversight of emergency orders  
2 issued during a proclaimed state of emergency; amending RCW 43.70.130  
3 and 70.05.070; adding a new section to chapter 35A.12 RCW; adding a  
4 new section to chapter 35A.13 RCW; adding a new section to chapter  
5 35.18 RCW; adding a new section to chapter 35.17 RCW; adding a new  
6 section to chapter 36.01 RCW; and declaring an emergency.

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

8 **Sec. 1.** RCW 43.70.130 and 1990 c 132 s 2 are each amended to  
9 read as follows:

10 (1) The secretary of health shall:

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

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

19 ~~((3))~~ (c) Strictly enforce all laws for the protection of the  
20 public health and the improvement of sanitary conditions in the

1 state, and all rules, regulations, and orders of the state board of  
2 health;

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

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

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

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

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

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

36 ~~((10))~~ (j) Take such measures as the secretary deems necessary  
37 in order to promote the public health, to establish or participate in  
38 the establishment of health educational or training activities, and  
39 to provide funds for and to authorize the attendance and  
40 participation in such activities of employees of the state or local

1 health departments and other individuals engaged in programs related  
2 to or part of the public health programs of the local health  
3 departments or the state department of health. The secretary is also  
4 authorized to accept any funds from the federal government or any  
5 public or private agency made available for health education training  
6 purposes and to conform with such requirements as are necessary in  
7 order to receive such funds; and

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

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

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

25 **Sec. 2.** RCW 70.05.070 and 2020 c 20 s 1066 are each amended to  
26 read as follows:

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

30 ~~((1))~~ (a) Enforce the public health statutes of the state,  
31 rules of the state board of health and the secretary of health, and  
32 all local health rules, regulations and ordinances within his or her  
33 jurisdiction including imposition of penalties authorized under RCW  
34 70A.125.030 and 70A.105.120, the confidentiality provisions in RCW  
35 70.02.220 and rules adopted to implement those provisions, and filing  
36 of actions authorized by RCW 43.70.190;

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

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

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

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

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

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

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

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

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

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

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 35A.12  
2    RCW to read as follows:

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

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

17       NEW SECTION.    **Sec. 4.**    A new section is added to chapter 35A.13  
18    RCW to read as follows:

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

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

33       NEW SECTION.    **Sec. 5.**    A new section is added to chapter 35.18  
34    RCW to read as follows:

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

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

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 35.17  
12 RCW to read as follows:

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

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

27 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.01  
28 RCW to read as follows:

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

34 (2) The leadership of the senate and the house of representatives  
35 may petition the county to limit the duration of an emergency order.  
36 If at least three of the four leaders sign the petition, the order  
37 may not remain in effect for longer than 30 days after the petition  
38 is sent. Identical or substantially similar orders may not be adopted

1 in sequence unless the conditions precipitating the new order have  
2 substantially changed. For purposes of this section, "leadership of  
3 the senate and the house of representatives" means the majority and  
4 minority leaders of the senate and the speaker and the minority  
5 leader of the house of representatives.

6 NEW SECTION. **Sec. 8.** If any provision of this act or its  
7 application to any person or circumstance is held invalid, the  
8 remainder of the act or the application of the provision to other  
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 9.** This act is necessary for the immediate  
11 preservation of the public peace, health, or safety, or support of  
12 the state government and its existing public institutions, and takes  
13 effect immediately.

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