
SENATE BILL 5909

State of Washington

67th Legislature

2022 Regular Session

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

Read first time 01/19/22. Referred to Committee on State Government & Elections.

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

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

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

8 (1) The proclamation of a state of emergency and other
9 proclamations or orders issued by the governor pursuant to RCW
10 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter
11 amended shall be in writing and shall be signed by the governor and
12 shall then be filed with the secretary of state. A proclamation of a
13 state of emergency is effective upon the governor's signature.

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

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

19 (a) The issuance of a proclamation of the governor declaring its
20 termination: PROVIDED, That the governor must terminate said state of

1 emergency proclamation when order has been restored in the area
2 affected; or

3 (b) If the legislature is not in session and it has been more
4 than 90 days since the state of emergency was declared by the
5 governor, termination of the state of emergency in writing by all
6 four members of the leadership of the senate and the house of
7 representatives. For purposes of this section, "leadership of the
8 senate and the house of representatives" means the majority and
9 minority leaders of the senate and the speaker and the minority
10 leader of the house of representatives.

11 **Sec. 2.** RCW 43.06.220 and 2019 c 472 s 2 are each amended to
12 read as follows:

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

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

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

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

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

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

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

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

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

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

5 (a) Liability for participation in interlocal agreements;

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

8 (c) Application of the family emergency assistance program;

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

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

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

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

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

35 (4) No order or orders concerning waiver or suspension of
36 statutory obligations or limitations under subsection (2) of this
37 section may continue for longer than thirty days unless extended by
38 the legislature through concurrent resolution. If the legislature is
39 not in session, the waiver or suspension of statutory obligations or
40 limitations may be extended in writing by all four members of the

1 leadership of the senate and the house of representatives until the
2 legislature can extend the waiver or suspension by concurrent
3 resolution.

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

8 (6) For purposes of this section, "leadership of the senate and
9 the house of representatives" means the majority and minority leaders
10 of the senate and the speaker and the minority leader of the house of
11 representatives.

12 ~~((+5))~~ (7) Any person willfully violating any provision of an
13 order issued by the governor under this section is guilty of a gross
14 misdemeanor.

15 **Sec. 3.** RCW 43.79.270 and 2021 c 334 s 972 are each amended to
16 read as follows:

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

36 (2) Except as provided in subsection (3) of this section, and
37 notwithstanding subsection (1) of this section, whenever money from
38 any source that was not anticipated in the transportation budget
39 approved by the legislature has actually been received and is

1 designated to be spent for a specific purpose, the head of a
2 department, agency, board, or commission through which the
3 expenditure must be made shall submit to the governor a statement,
4 which may be in the form of a request for an allotment amendment,
5 setting forth the facts constituting the need for the expenditure and
6 the estimated amount to be expended. However, no expenditure may be
7 made in excess of the actual amount received, and no money may be
8 expended for any purpose except the specific purpose for which it was
9 received. A copy of any proposal submitted to the governor to expend
10 money from an appropriated transportation fund or account in excess
11 of appropriations provided by law that is based on the receipt of
12 unanticipated revenues must be submitted, at a minimum, to the
13 standing committees on transportation of the house and senate at the
14 same time as it is transmitted to the governor.

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

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

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

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

33 NEW SECTION. **Sec. 4.** (1) There is hereby created a joint select
34 committee to be known as the joint legislative unanticipated revenue
35 oversight committee with the following 16 members:

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

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

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

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

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

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

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

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

22 NEW SECTION. **Sec. 5.** The purpose of the joint legislative
23 unanticipated revenue oversight committee is to review requests for
24 proposed allotment amendments to spend unanticipated and unbudgeted
25 moneys received by the state from federal and nonstate sources
26 pursuant to RCW 43.79.270(3). The committee is necessary to provide
27 oversight of the legislature's delegation of state fiscal authority
28 to the governor while the legislature is not in session and to
29 prevent infringement on the legislature's constitutional power to
30 appropriate state funds.

31 NEW SECTION. **Sec. 6.** (1) The joint legislative unanticipated
32 revenue oversight committee shall meet as necessary to review
33 requests from the governor pursuant to RCW 43.79.270(3) and to
34 provide comment within 14 calendar days.

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

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

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

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

23 NEW SECTION. **Sec. 7.** Sections 4 through 6 of this act
24 constitute a new chapter in Title 44 RCW.

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