

the operation of the remainder of this 1967 amendatory act in its application to the agencies concerned.

Severability.

Sec. 27. If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected.

Repeal.

Sec. 28. The following acts and parts of acts are each hereby repealed:

(1) (a) Sections .02.07, .03.08, .04.08, .04.10, .04.11, .04.12, .04.13, .04.15 and .17.58, chapter 79, Laws of 1947; and

(b) Section 16, chapter 197, Laws of 1961.

(2) RCW 48.02.070, 48.03.080, 48.04.080, 48.04.100, 48.04.110, 48.04.120, 48.04.130, 48.04.150, 48.17.580 and 48.44.190.

Effective date.

Sec. 29. This act shall take effect on July 1, 1967.

Passed the Senate March 9, 1967.

Passed the House March 8, 1967.

Approved by the Governor March 21, 1967.

CHAPTER 238.

[Substitute Senate Bill No. 46.]

WASHINGTON CLEAN AIR ACT.

AN ACT relating to air pollution; amending section 3, chapter 232, Laws of 1957 and RCW 70.94.030; amending section 4, chapter 232, Laws of 1957 and RCW 70.94.040; amending section 7, chapter 232, Laws of 1957 and RCW 70.94.070; amending section 10, chapter 232, Laws of 1957 and RCW 70.94.100; amending section 11, chapter 232, Laws of 1957, as amended by section 1, chapter 27, Laws of 1963 and RCW 70.94.110; amending section 12, chapter 232, Laws of 1957 and RCW 70.94.120; amending section 13, chapter 232, Laws of 1957 and RCW 70.94.130; amending section 17, chapter 232, Laws of 1957 and RCW 70.94.170; amending section 20, chapter 232, Laws of 1957 and RCW 70.94.200; amending section 23, chapter 232, Laws of 1957 and RCW 70.94.230; amending section 24,

chapter 232, Laws of 1957 and RCW 70.94.240; amending section 25, chapter 232, Laws of 1957 and RCW 70.94.250; amending section 26, chapter 232, Laws of 1957 and RCW 70.94.260; amending section 1, chapter 188, Laws of 1961 and RCW 70.94.300; amending section 6, chapter 188, Laws of 1961 and RCW 70.94.350; amending section 8, chapter 188, Laws of 1961 and RCW 70.94.370; adding new sections to chapter 232, Laws of 1957, and to chapter 70.94 RCW; repealing section 1, chapter 232, Laws of 1957 and RCW 70.94.010; repealing section 2, chapter 232, Laws of 1957 and RCW 70.94.020; repealing section 6, chapter 232, Laws of 1957 and RCW 70.94.060; repealing section 3, chapter 27, Laws of 1963 and RCW 70.94.065; repealing section 8, chapter 232, Laws of 1957 and RCW 70.94.080; repealing section 9, chapter 232, Laws of 1957 and RCW 70.94.090; repealing section 14, chapter 232, Laws of 1957 and RCW 70.94.140; repealing section 15, chapter 232, Laws of 1957 and RCW 70.94.150; repealing section 16, chapter 232, Laws of 1957, as amended by section 2, chapter 27, Laws of 1963, and RCW 70.94.160; repealing section 18, chapter 232, Laws of 1957 and RCW 70.94.180; repealing section 19, chapter 232, Laws of 1957 and RCW 70.94.190; repealing section 21, chapter 232, Laws of 1957 and RCW 70.94.210; repealing section 22, chapter 232, Laws of 1957 and RCW 70.94.220; repealing section 4, chapter 188, Laws of 1961 and RCW 70.94.330; repealing section 7, chapter 188, Laws of 1961 and RCW 70.94.360; repealing section 9, chapter 188, Laws of 1961 and RCW 70.94.500; repealing section 27, chapter 232, Laws of 1957 and RCW 70.94.900; repealing section 10, chapter 188, Laws of 1961 and RCW 70.94.910; defining crimes; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Section 1. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

It is hereby declared to be the public policy of the state to secure and maintain such levels of air quality as will protect human health and safety, and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of its inhabitants, promote the economic and social development of the state and facilitate the enjoyment of the natural attrac-

New section.

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Clean Air Act
—Declaration
of public
policy.

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—Declaration
of public
policy.

tions of the state. The problems and effects of air pollution are frequently regional and interjurisdictional in nature, and are dependent upon the existence of urbanization and industrialization in areas having common topography and recurring weather conditions conducive to the buildup of air contaminants.

It is also declared as public policy that regional air pollution control programs are to be encouraged and supported to the extent practicable as essential instruments for the securing and maintenance of appropriate levels of air quality.

In addition, the state is divided into two major areas, each having unique characteristics as to natural climatic and topographic features which may result in the different potentials for the accumulation and buildup of air contaminant concentrations. These two major areas are the area lying west of the Cascade Mountain crest and the area lying east of the Cascade Mountain crest. Within each of these major areas are regions which, because of the climate and topography and present and potential urbanization and industrial development may, through definitive evaluation be classed as regional air pollution areas.

To these ends it is the purpose of this act to provide for a coordinated state-wide program of air pollution prevention and control, for an appropriate distribution of responsibilities between the state, regional and local units of government, and for cooperation across jurisdictional lines in dealing with problems of air pollution.

Sec. 2. Section 3, chapter 232, Laws of 1957 and RCW 70.94.030 are each amended to read as follows:

RCW 70.94.030
amended.

Definitions.

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

(2) "Air pollution" is presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life or to property, or which unreasonably interfere with the enjoyment of life and property.

(3) "Person" means and includes an individual, firm, public or private corporation, association, partnership, political subdivision, municipality or government agency.

(4) "Authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(5) "Board" means the board of directors of an authority or a regional authority.

(6) "Control officer" means the air pollution control officer of any city, town, county, authority or regional authority.

(7) "State board" means the state air pollution control board.

(8) "Emission" means a release into the outdoor atmosphere of air contaminants.

(9) "Regional authority" means any regional air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries as provided in section 8 of this 1967 amendatory act.

(10) "Department" means the state department of health.

(11) "Ambient air" means the surrounding outside air.

(12) "Multicounty authority" means an authority other than a regional authority which consists of two or more counties.

NOTE: See also section 1, chapter 61, Laws of 1967 ex. sess.

RCW 70.94.040
amended.

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—Causing or
permitting air
pollution
unlawful—
Exception.

Sec. 3. Section 4, chapter 232, Laws of 1957 and RCW 70.94.040 are each amended to read as follows:

Except where specified in a variance permit, as provided in section 31 of this 1967 amendatory act, it shall be unlawful for any person knowingly to cause air pollution or knowingly permit it to be caused in violation of this chapter, or of any ordinance, resolution, rule or regulation validly promulgated hereunder.

New section.

Sec. 4. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Air pollution
control au-
thority created
—Activated
authorities—
Air pollution
regions—Re-
ports to
legislature.

(1) In each county of the state there is hereby created an air pollution control authority, which shall bear the name of the county within which it is located. The boundaries of each authority shall be coextensive with the boundaries of the county within which it is located. An authority shall include all incorporated and unincorporated areas of the county within which it is located.

(2) All authorities which are presently or may hereafter be within counties of the first class, class A or class AA, are hereby designated as activated authorities and shall carry out the duties and exercise the powers provided in this chapter. Those authorities hereby activated which encompass contiguous counties located in one or the other of the two major areas determined in section 1 of this 1967 amendatory act are declared to be and directed to function as a multicounty authority.

(3) Except as provided in section 40 of this 1967 amendatory act, all other air pollution control authorities are hereby designated as inactive authorities.

(4) The boards of those authorities designated as activated authorities by this 1967 amendatory act shall be comprised of such appointees and/or county commissioners as is provided in section 21 of this

1967 amendatory act. The first meeting of the boards of those authorities designated as activated authorities by this 1967 amendatory act shall be on or before sixty days after the effective date of this 1967 amendatory act.

(5) The state board and the department of health are directed to conduct the necessary evaluations and delineate appropriate air pollution regions throughout the state, taking into consideration:

(a) The natural climatic and topographic features affecting the potential for buildup of air contaminant concentrations.

(b) The degree of urbanization and industrialization and the existence of activities which are likely to cause air pollution.

(c) The county boundaries as related to the air pollution regions and the practicality of administering air pollution control programs.

The state board and the department are directed to report to the 1969 and succeeding legislative sessions with respect to the further need for activating or combining air pollution control authorities.

Sec. 5. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

The board of county commissioners of any county other than a first class, class A or class AA county may activate an air pollution control authority following a public hearing on its own motion, or upon a filing of a petition signed by one hundred property owners within the county. If the board of county commissioners determines as a result of the public hearing that:

- (1) Air pollution exists or is likely to occur; and
- (2) The city or town ordinances or county resolutions, or their enforcement, are inadequate to prevent or control air pollution, they shall by resolution activate an air pollution control authority or

New section.

Air pollution control authorities may be activated in certain counties—When.

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combine with a contiguous county or counties to form a multicounty air pollution control authority.

New section.

Sec. 6. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Multicounty
authorities—
Name.

The boards of county commissioners of two or more contiguous counties may, by joint resolution, combine to form a multicounty air pollution control authority. Boundaries of such authority shall be coextensive with the boundaries of the counties forming the authority.

The name of the multicounty authority shall bear the names of the counties making up such multicounty authority or a name adopted by the board of such multicounty authority.

New section.

Sec. 7. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Declaration of
public policy
—Purpose
—Encourage-
ment of local
agencies.

It is hereby declared to be the public policy of the state of Washington to provide for the people of the populous metropolitan regions in the state the means of obtaining air pollution control not adequately provided by existing agencies of local government. The problems and effects of air pollution are frequently regional or interlocal in nature, and are dependent upon the existence of urbanization and industrialization in areas having common topography and recurring weather conditions conducive to the build up of air contaminants. For reasons of the present and potential dramatic growth in population, urbanization and industrialization, the special problem of air resource management, encompassing both corrective and preventive measures for the control of air pollution, cannot be adequately met by the individual towns, cities, and counties of many metropolitan regions.

It is the purpose of sections 8, 9, 10, 11 and 12 of

this 1967 amendatory act to enable authorities to act jointly to meet this common problem in order that the proper growth and development of the metropolitan regions of the state may be assured and the health, safety, and welfare of the people residing therein may be secured. In addition, sections 8, 9, 10, 11 and 12 of this 1967 amendatory act are enacted to provide regional authorities to control and suppress air pollution in the state.

Regional or multicounty authorities which, in accordance with this 1967 amendatory act, have overall authority to maintain uniform air quality standards, shall encourage county or district health departments or other agencies to participate, and may delegate to such departments or agencies full or partial responsibility for programming and enforcement within their jurisdictional boundaries. This shall not abrogate the responsibility of the regional or multicounty authorities to provide direct control and enforcement.

Sec. 8. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows: New section.

(1) All air pollution control authorities which are presently within the counties of Whatcom, Skagit, Snohomish, King, Pierce, Thurston, Kitsap, Mason, Jefferson, Clallam, Island and San Juan shall constitute the Puget Sound regional air pollution control authority. The boundaries of such regional authority shall be coextensive with the boundaries of the counties therein. Washington
Clean Air Act
—Regional
authorities—
Designation—
Boundaries.

(2) All air pollution control authorities which are presently within the counties of Grays Harbor, Pacific, Wahkiakum, Lewis, Cowlitz, Clark and Skamania, shall constitute the southwestern Washington regional air pollution control authority. The boundaries of such regional authority shall be coextensive with the boundaries of the counties therein.

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—Regional
authorities—
Designation—
Boundaries.

(3) All air pollution control authorities which are presently within the counties of Okanogan, Chelan, Douglas, Kittitas, Grant, Yakima and Klickitat, shall constitute the Columbia Basin regional air pollution control authority. The boundaries of such regional authority shall be coextensive with the boundaries of the counties therein.

(4) All air pollution control authorities which are presently within the counties of Ferry, Stevens, Pend Oreille, Lincoln and Spokane, shall constitute the eastern Washington regional air pollution control authority. The boundaries of such regional authority shall be coextensive with the boundaries of the counties therein.

(5) All air pollution control authorities which are presently within the counties of Benton, Franklin, Walla Walla, Columbia, Garfield, Asotin, Whitman and Adams, shall constitute the southeastern Washington regional air pollution control authority. The boundaries of such regional authority shall be coextensive with the boundaries of the counties therein.

New section.

Sec. 9. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

First and
second class
regional auth-
orities—De-
termination.

(1) A first class regional authority is one having at least one million population.

(2) A second class regional authority is one having less than one million population.

(3) The population of a regional authority shall be determined by the most recent census, estimate or survey by the federal bureau of census or any state board or commission authorized to make such a census, estimate or survey.

New section.

Sec. 10. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

(1) All first class regional authorities existing on July 1, 1969 shall be activated by operation of law on that date; and any regional authority which becomes a first class regional authority after July 1, 1969, shall be activated within sixty days after a determination in accordance with the provisions of section 9(3) of this 1967 amendatory act that it has at least one million population: *Provided*, That nothing in this section shall prevent a first class regional authority from becoming activated according to the provisions of this 1967 amendatory act prior to July 1, 1969. The boards of first class regional authorities shall be constituted as provided in section 21 of this 1967 amendatory act. The first meeting of the several boards of first class regional authorities shall be within sixty days following the date of activation.

Activation date of first class regional authorities—Meetings—When second class authorities may be activated.

(2) All second class regional authorities are hereby designated inactive authorities, but may become activated in accordance with the provisions of sections 5, 6, and 11 of this 1967 amendatory act.

Sec. 11. There is added to chapter 232, Laws of 1957, and to chapter 70.94 RCW a new section to read as follows:

New section.

The respective boards of county commissioners of two or more contiguous counties may merge any combination of their several inactive or activated authorities to form one activated multicounty authority. Upon a determination that the purposes of this chapter will be served by such merger, each board of county commissioners may adopt the resolution providing for such merger. Such resolution shall become effective only when a similar resolution is adopted by the other contiguous county or counties comprising the proposed authority. The boundaries of such authority shall be coextensive with the boundaries of the counties within which it is located.

Merger of authorities to form multicounty or regional authorities—Procedure.

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Nothing in this section shall prevent any combination of the inactive or activated authorities located within the respective regional authorities as provided in section 8 of this act from merging in accordance with this section to form an activated regional authority.

New section.

Sec. 12. There is added to chapter 232, Laws of 1957 and to chapter 70.94 a new section to read as follows:

Reorganization
of boards after
merger—Rules
and regula-
tions.

Whenever there occurs a merger of an inactive authority with an activated authority or authorities, or of two activated authorities to form a multicounty authority or a regional authority, the board of directors shall be reorganized as provided in sections 21, 22, and 23 of this 1967 amendatory act.

In the case of the merger of two or more activated authorities the rules and regulations of each authority shall continue in effect and shall be enforced within the jurisdiction of each until such time as the board of directors adopts rules and regulations applicable to the newly formed multicounty authority or regional authority.

In the case of the merger of an inactive authority with an activated authority or authorities, upon approval of such merger by the board or boards of county commissioners of the county or counties comprising the existing activated authority or authorities, the rules and regulations of the activated authority or authorities shall remain in effect until superseded by the rules and regulations of the multicounty authority or regional authority as provided in section 38 of this act.

RCW 70.94.070
amended.

Sec. 13. Section 7, chapter 232, Laws of 1957 and RCW 70.94.070 are each amended to read as follows:

The resolution or resolutions activating an air pollution authority or a regional authority, as the case may be, shall specify the name of the authority

or regional authority and participating political bodies; the authority's or regional authority's principal place of business; the territory included within it; and the effective date upon which such authority or regional authority shall begin to transact business and exercise its powers. In addition, such resolution or resolutions may specify the amount of money to be contributed annually by each political subdivision, or a method of dividing expenses of the air pollution control program. Upon the adoption of a resolution or resolutions calling for the activation of an authority or a regional authority or the merger of an inactive or activated authority or several activated authorities to form a multicounty authority or a regional authority, the governing body of each shall cause a certified copy of each such ordinance or resolution to be filed in the office of the secretary of state of the state of Washington. From and after the date of filing with the secretary of state of a certified copy of each such resolution or resolutions, or the date specified in such resolution or resolutions, whichever is later, the authority or regional authority may begin to function and may exercise its powers.

Resolutions
activating
authorities—
Contents—Filing—Effective
date.

Any authority or regional authority activated by the provisions of this 1967 amendatory act shall cause a certified copy of all information required by this section to be filed in the office of the secretary of state of the state of Washington.

Sec: 14. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

New section.

An activated authority or an activated regional authority shall be deemed a municipal corporation; have right to perpetual succession; adopt and use a seal; may sue and be sued in the name of the authority or regional authority in all courts and in all proceedings; and, may receive, account for, and dis-

Powers and
duties of
authorities.

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burse funds, employ personnel, and acquire or dispose of any interest in real or personal property within or without the authority or regional authority in the furtherance of its purposes.

New section.

Sec. 15. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Excise tax levy
—Elections
—Procedure
—Expense.

An activated authority or an activated regional authority shall have the power to levy additional taxes in excess of the forty-mill limitation for any of the authorized purposes of such activated authority or activated regional authority, not in excess of one mill a year when authorized so to do by the electors of such authority or regional authority by a three-fifths majority of those voting on the proposition at a special election, to be held in the year in which the levy is made, and not more often than twice in such year, in the manner provided by law for holding general elections, at such time as may be fixed by the board, which special election may be called by the board, at which special election the proposition of authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "Yes" and those opposing thereto to vote "No": *Provided*, That the total number of persons voting at such special election must constitute not less than forty percent of the voters in said authority or regional authority who voted in the last preceding general election. Nothing herein shall be construed to prevent holding the foregoing special election at the same time as that fixed for a general election. The expense of all special elections held pursuant to this section shall be paid by the authority or regional authority.

New section.

Sec. 16. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

On or before the first Tuesday in September of each year, each activated authority or activated regional authority shall adopt a budget for the following calendar year. The budget shall contain an estimate of all revenues to be collected during the following budget year, including any surplus funds remaining unexpended from the preceding year. The remaining funds required to meet budget expenditures, if any, shall be designated as "supplemental income" and shall be obtained from the component cities, towns, and counties in the manner provided in this chapter. The affirmative vote of three-fourths of all members of the board shall be required to authorize emergency expenditures.

Adoption of budget—Contents—Supplemental income—Emergency expenditures.

Sec. 17. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

New section.

(1) Each component city or town shall pay such proportion of the supplemental income to the authority or regional authority as determined by either one of the following prescribed methods or by a combination of fifty percent of one and fifty percent of the other as provided in subsection (1) (c) of this section:

Washington Clean Air Act—Methods for determining proportional expense of component cities, towns and counties—Payment.

(a) Each component city or town shall pay such proportion of the supplemental income as the assessed valuation of property within its limits bears to the total assessed valuation of taxable property within the activated authority or the activated regional authority.

(b) Each component city or town shall pay such proportion of the supplemental income as the total population of such city or town bears to the total population of the activated authority or the activated regional authority. The population of the city or town shall be determined by the most recent census, estimate or survey by the federal bureau of census

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component
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or any state board or commission authorized to make such a census, estimate or survey.

(c) A combination of the methods prescribed in (a) and (b) of this subsection: *Provided*, That such combination shall be of fifty percent of the method prescribed in (a) of this subsection and fifty percent of the method prescribed in (b) of this subsection.

(2) Each component county shall pay such proportion of such supplemental income to the authority or regional authority as determined by either one of the following prescribed methods or by a combination of fifty percent of one and fifty percent of the other as prescribed in subsection (2) (c) of this section:

(a) Each component county shall pay such proportion of such supplemental income as the assessed valuation of the property within the unincorporated area of such county lying within the activated authority or activated regional authority bears to the total assessed valuation of taxable property within the activated authority or activated regional authority.

(b) Each component county shall pay such proportion of the supplemental income as the total population of the unincorporated area of such county bears to the total population of the activated authority or the activated regional authority. The population of the county shall be determined by the most recent census, estimate or survey by the federal bureau of census or any state board or commission authorized to make such a census, estimate or survey.

(c) A combination of the methods prescribed in (a) and (b) of this subsection: *Provided*, That such combination shall be of fifty percent of the method prescribed in (a) of this subsection and fifty percent of the method prescribed in (b) of this subsection.

(3) In making such determination of the as-

sessed valuation of property in the component cities, towns and counties, the board shall use the last available assessed valuations. The board shall certify to each component city, town and county, prior to the fourth Monday in June of each year, the share of the supplemental income to be paid by such component city, town or county for the next calendar year. The latter shall then include such amount in its budget for the ensuing calendar year, and during such year shall pay to the activated authority or activated regional authority, in equal quarterly installments, the amount of its supplemental share.

Sec. 18. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

New section.

The treasurer of each component city, town or county shall create a separate fund into which shall be paid all money collected from taxes or from any other available sources, levied by or obtained for the activated authority or activated regional authority on property or on any other available sources in such city, town or county and such money shall be forwarded quarterly by the treasurer of each such city, town or county to the treasurer of the county designated by the board as the authority or the regional authority treasurer. The treasurer of the county so designated to serve as treasurer of the authority or regional authority shall establish and maintain such funds as may be authorized by the board. Money shall be disbursed from such funds upon warrants drawn by the auditor of the county designated by the board as the authority or the regional authority auditor as authorized by the board. The respective county shall be reimbursed by the board for services rendered by the treasurer and auditor of the respective county in connection with the receipt and disbursement of such funds.

Treasurer of
authorities,
designation,
duties.

Washington
Clean Air Act.
New section.

Sec. 19. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Certification
of assessed
valuation.

It shall be the duty of the assessor of each component county to certify annually to the board the aggregate assessed valuation of all taxable property in all incorporated and unincorporated areas situated in any activated authority or activated regional authority as the same appears from the last assessment roll of his county.

New section.

Sec. 20. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Power to bor-
row money.

An activated authority or an activated regional authority shall have the power when authorized by a majority of all members of the board to borrow money from any component city, town or county and such cities, towns and counties are hereby authorized to make such loans or advances on such terms as may be mutually agreed upon by the board and the legislative bodies of any such component city, town or county to provide funds to carry out the purposes of the activated authority or activated regional authority.

RCW 70.94.100
amended.

Sec. 21. Section 10, chapter 232, Laws of 1957 and RCW 70.94.100 are each amended to read as follows:

Board of di-
rectors of au-
thorities—
Composition—
Term.

(1) The governing body of each authority or regional authority shall be known as the board of directors.

(2) In the case of an authority comprised of one county the board shall be comprised of two appointees of the city selection committee as hereinafter provided, at least one of whom shall represent the city having the most population in the county, and two county commissioners to be designated by the board of county commissioners. In the case of an authority comprised of two or three counties, the

board shall be comprised of one appointee of the city selection committee of each county as hereinafter provided, who shall represent the city having the most population in such county, and one county commissioner from each county to be designated by the board of county commissioners of each county making up the authority. In the case of an authority comprised of four or five counties, the board shall be comprised of one appointee of the city selection committee of each county as hereinafter provided who shall represent the city having the most population in such county, and one county commissioner from each county to be designated by the board of county commissioners of each county making up the authority. In the case of an authority comprised of six or more counties, the board shall be comprised of one county commissioner from each county to be designated by the board of county commissioners of each county making up the authority, and one appointee from each city with over one hundred thousand population to be appointed by the mayor and city council of such city.

(3) In the case of a regional authority comprised of those counties as defined in section 8 of this 1967 amendatory act, the board shall be comprised of those appointees and/or commissioners as provided in subsection (2) of this section.

(4) If the board of an authority or a regional authority otherwise would consist of an even number, the members selected as above provided shall agree upon and elect an additional member who shall be either a member of the governing body of one of the towns, cities or counties comprising the authority or regional authority, or a private citizen residing in the authority or regional authority. All board members shall hold office at the pleasure of the appointing body.

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Sec. 22. Section 11, chapter 232, Laws of 1957, as amended by section 1, chapter 27, Laws of 1963, and RCW 70.94.110 are each amended to read as follows:

RCW 70.94.110
amended.

City selection
committee.

There shall be a separate and distinct city selection committee for each county making up an authority. The membership of such committee shall consist of the mayor of each incorporated city and town within such county. A majority of the members of each city selection committee shall constitute a quorum.

RCW 70.94.120
amended.

Sec. 23. Section 12, chapter 232, Laws of 1957 and RCW 70.94.120 are each amended to read as follows:

Meetings, no-
tice, recording
officer.

The city selection committee of each county which is included within an authority or a regional authority shall meet within one month after the activation of such authority or regional authority for the purpose of making its initial appointments to the board of such authority or regional authority and thereafter whenever necessary for the purpose of making succeeding appointments. All meetings shall be held upon at least two weeks written notice given by the county auditor to each member of the city selection committee of each county and he shall give such notice upon request of any member of such committee. A similar notice shall be given to the general public by a publication of such notice in a newspaper of general circulation in such authority or regional authority. The county auditor shall act as recording officer, maintain its records and give appropriate notice of its proceedings and actions.

RCW 70.94.130
amended.

Sec. 24. Section 13, chapter 232, Laws of 1957 and RCW 70.94.130 are each amended to read as follows:

Board of di-
rectors.

The board shall exercise all powers of the authority or regional authority except as otherwise provided. The board shall conduct its first meeting within thirty days after all of its members have been appointed or designated as provided in section

21 of this 1967 amendatory act. A majority of the board shall constitute a quorum for the transaction of business and shall be necessary for any action taken by the board. The board shall elect from its members a chairman and such other officers as may be necessary. Each member of the board shall receive from the authority or regional authority twenty-five dollars per day compensation (but not to exceed one thousand dollars per year) for each full day spent in the performance of his duties under this chapter, plus the actual and necessary expenses incurred by him in such performance. The board may appoint an executive director, and any other personnel, and shall determine their salaries, and pay same, together with any other proper indebtedness, from authority or regional authority funds.

Quorum,
officers,
compensation.

Sec. 25. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

New section.

The governing body of any city, town or county, the board of any activated authority or activated regional authority, in addition to any other powers vested in them by law, each have power to:

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—Powers and
duties of city,
town, county
or board of
activated
authority.

(1) Adopt, amend and repeal its own ordinances, resolutions, or rules and regulations, as the case may be, implementing this chapter and consistent with it, after consideration at a public hearing held in accordance with chapter 42.32 RCW.

(2) Hold hearings relating to any aspect of or matter in the administration of this chapter and in connection therewith issue subpoenas to compel the attendance of witnesses and the production of evidence, administer oaths and take the testimony of any person under oath.

(3) Issue such orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings.

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—Powers and
duties of city,
town, county
or board of
activated
authority.

(4) Require access to records, books, files and other information specific to the control, recovery or release of air contaminants into the atmosphere.

(5) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise.

(6) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution within its jurisdiction.

(7) Encourage voluntary cooperation by persons or affected groups to achieve the purposes of this chapter.

(8) Encourage and conduct studies, investigation and research relating to air pollution and its causes, effects, prevention, abatement and control.

(9) Collect and disseminate information and conduct educational and training programs relating to air pollution.

(10) Advise, consult, cooperate and contract with agencies and departments and the educational institutions of the state, other political subdivisions, industries, other states, interstate or interlocal agencies, and the United States government, and with interested persons or groups.

(11) Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source or device or system for the control thereof, concerning the efficacy of such device or system, or the air pollution problems which may be related to the source, device or system. Nothing in any such consultation shall be construed to relieve any person from compliance with this chapter, ordinances, resolutions, rules and regulations in force pursuant thereto, or any other provision of law.

(12) Accept, receive, disburse and administer grants or other funds or gifts from any source, including public and private agencies and the United

States government for the purpose of carrying out any of the functions of this chapter.

Sec. 26. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows: New section.

In connection with the subpoena powers given in section 25(2) of this 1967 amendatory act:

Subpoenas—
Witnesses—
Rules and reg-
ulations.

(1) In any hearing held under sections 31, 35, and 48 of this 1967 amendatory act, the governing body or board or the state board, and their authorized agents:

(a) shall issue a subpoena upon the request of any party and, to the extent required by rule or regulation, upon a statement or showing of general relevance and reasonable scope of the evidence sought;

(b) may issue a subpoena upon their own motion.

(2) The subpoena powers given in section 25 (2) of this 1967 amendatory act shall be state-wide in effect.

(3) Witnesses appearing under the compulsion of a subpoena in a hearing before a governing body or board or the state board shall be paid the same fees and mileage that are provided for witnesses in the courts of this state. Such fees and mileage, and the cost of duplicating records required to be produced by subpoena issued upon the motion of the governing body, board, or state board, shall be paid by the governing body, board, or state board. Such fees and mileage, and the cost of producing records required to be produced by subpoena issued upon the request of a party, shall be paid by that party.

(4) If an individual fails to obey the subpoena, or obeys the subpoena but refuses to testify when required concerning any matter under examination or investigation or the subject of the hearing, the governing body, board or state board shall file its

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written report thereof and proof of service of its subpoena, in any court of competent jurisdiction in the county where the examination, hearing or investigation is being conducted. Thereupon, the court shall forthwith cause the individual to be brought before it and, upon being satisfied that the subpoena is within the jurisdiction of the governing body, board or state board and otherwise in accordance with law, shall punish him as if the failure or refusal related to a subpoena from or testimony in that court.

(5) The state board may make such rules and regulations as to the issuance of its own subpoenas as are not inconsistent with the provisions of this 1967 amendatory act.

New section.

Sec. 27. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Federal aid.

Cities, towns, counties, activated authorities, and activated regional authorities exercising the powers and duties prescribed in this chapter may make application for, receive, administer, and expend any federal aid, under federal legislation from any agency of the federal government, for the prevention and control of air pollution or the development and administration of programs related to air pollution control and prevention, as permitted by section 25 (12) of this 1967 amendatory act: *Provided*, That any such application shall be submitted to and approved by the department. The department shall, based upon such standards established by the state board, approve any such application, if it is consistent with this chapter, and any other applicable requirements of law.

New section.

Sec. 28. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

(1) The governing body of any city, town or

county, or the board of any activated authority or activated regional authority, or the state board, may classify air contaminant sources, by ordinance, resolution, rule or regulation, which in its judgment may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which cause or contribute to air pollution, and may require registration or reporting or both for any such class or classes. Classifications made pursuant to this section may be for application to the area of jurisdiction of such city, town, county, authority, regional authority, or the state as a whole or to any designated area within the jurisdiction, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

Classification
of air contam-
inant sources.

(2) Any person operating or responsible for the operation of air contaminant sources of any class for which the ordinances, resolutions, rules or regulations of the state board or of the governing body or board of the city, town, county, authority, or regional authority require registration and reporting shall register therewith and make reports containing information as may be required by such state board or governing body or board concerning location, size and height of contaminant outlets, processes employed, nature of the contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled. The state board or governing body or board may require that such registration be accompanied by a fee and may determine the amount of such fee for such class or classes: *Provided*, That the amount of the fee shall only be to compensate for the costs of administering such registration program: *Provided further*, That any such registration made with either the governing body or board or the state

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board shall preclude a further registration with any other governing body or board or the state board.

New section.

Sec. 29. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Notice of new
contaminant
sources—Sub-
mission of
plans—Emiss-
sion control.

(1) The state board or the governing body or board of any authority or regional authority may require notice of the construction, installation or establishment of new air contaminant sources specified by class or classes in its ordinances, resolutions, rules or regulations relating to air pollution. The state board or the governing body or board may require such notice to be accompanied by a fee and determine the amount of such fee for such class or classes: *Provided*, That the amount of the fee may not exceed the cost of reviewing the plans, specifications and other information and administering such notice: *Provided further*, That any such notice given to either the governing body or board or to the state board shall preclude a further notice to be given to any other governing body or board or to the state board. Within thirty days of its receipt of such notice, the state board or the governing body or board may require, as a condition precedent to the construction, installation or establishment of the air contaminant source or sources covered thereby, the submission of plans, specifications, and such other information as it deems necessary in order to determine whether the proposed construction, installation or establishment will be in accord with applicable rules and regulations in force pursuant to this chapter. If within thirty days of the receipt of plans, specifications or other information required pursuant to this section the state board or the governing body or board determines that the proposed construction, installation or establishment will not be in accord with this chapter or the applicable ordi-

nances, resolutions, rules and regulations adopted pursuant thereto, it shall issue an order for the prevention of the construction, installation or establishment of the air contaminant source or sources. Failure of such order to issue within the time prescribed herein shall be deemed a determination that the construction, installation or establishment may proceed: *Provided*, That it is in accordance with the plans, specifications or other information, if any, required to be submitted.

(2) For the purposes of this chapter, addition to or enlargement or replacement of an air contaminant source, or any major alteration therein, shall be construed as construction or installation or establishment of a new air contaminant source.

(3) Nothing in this section shall be construed to authorize the state board or the governing body or board to require the use of emission control equipment or other equipment, machinery or devices of any particular type, from any particular supplier, or produced by any particular manufacturer.

(4) Any features, machines and devices constituting parts of or called for by plans, specifications or other information submitted pursuant to subsection (1) hereof shall be maintained in good working order.

(5) The absence of an ordinance, resolution, rule or regulation, or the failure to issue an order pursuant to this section shall not relieve any person from his obligation to comply with any emission control requirements or with any other provision of law.

Sec. 30. Section 17, chapter 232, Laws of 1957 and RCW 70.94.170 are each amended to read as follows:

RCW 70.94.170
amended.

Any city, town, county, activated authority or activated regional authority which has adopted an ordinance, resolution, or valid rules and regulations as provided herein for the control and prevention of

Control officer.

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air pollution shall appoint a control officer, who shall observe and enforce the provisions of this chapter and all orders, ordinances, resolutions, or rules and regulations of such city, town, county activated authority or activated regional authority pertaining to the control and prevention of air pollution.

New section.

Sec. 31. There is added to chapter 232, Laws of 1957, and to chapter 70.94 RCW a new section to read as follows:

Variations—
Limitations—
Renewals—
Review.

(1) Any person who owns or is in control of any plant, building, structure, establishment, process or equipment may apply to the state board where it has regulatory authority under sections 52, 53, 56 and 58 of this 1967 amendatory act, or the governing body or board for a variance from rules or regulations governing the quality, nature, duration or extent of discharges of air contaminants. The application shall be accompanied by such information and data as the state board or the governing body or board may require. The state board or the governing body or board may grant such variance, but only after public hearing or due notice, if it finds that:

(a) The emissions occurring or proposed to occur do not endanger public health or safety; and

(b) Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(2) No variance shall be granted pursuant to this section until the state board or governing body or board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

(3) Any variance or renewal thereof shall be granted within the requirements of subsection (1) and for time periods and under conditions consistent

with the reasons therefor, and within the following limitations:

(a) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternate measures that the state board or governing body or board may prescribe.

(b) If the application for variance shows that there is no automobile fragmentizer in the state within a reasonable distance of the wrecking yard for which the variance is sought, a variance will be granted for a period not to exceed three years for commercial burning of automobile hulks, subject to such conditions as the state board or governing body may impose as to climatic conditions and hours during which burning of such hulks may be carried out: *Provided, however,* That any variance granted hereunder shall be of no force and effect after July 1, 1970.

(c) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the state board or governing body or board is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

(d) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind

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—Variances.

other than that provided for in item (a), (b) and (c) of this subparagraph, it shall be for not more than one year.

(4) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the state board or governing body or board on account of the variance, no renewal thereof shall be granted unless following a public hearing on the complaint on due notice the state board or governing body or board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the state board or governing body or board shall give public notice of such application in accordance with rules and regulations of the state board or governing body or board.

(5) A variance or renewal shall not be a right of the applicant or holder thereof but shall be at the discretion of the state board or governing body or board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the state board or governing body or board may obtain judicial review thereof only under the provisions of this 1967 amendatory act.

(6) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of section 57 of this 1967 amendatory act to any person or his property.

Sec. 32. Section 20, chapter 232, Laws of 1957 and RCW 70.94.200 are each amended to read as follows:

For the purpose of investigating conditions specific to the control, recovery or release of air con-

RCW 70.94.200
amended.

taminants into the atmosphere, a control officer, the director of the state department of health or their duly authorized representatives, shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing two families or less. No person shall refuse entry or access to any control officer, the director of health, or their duly authorized representatives, who requests entry for the purpose of inspection, and who presents appropriate credentials; nor shall any person obstruct, hamper or interfere with any such inspection.

Investigations
by control of-
ficer or direc-
tor of health.

Sec. 33. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

New section.

Whenever any records or other information furnished to or obtained by the state board, or by the governing body of any city, town or county or the board of any authority or regional authority, pursuant to any sections in chapter 70.94 RCW, relate to processes or production unique to the owner or operator, or is likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor, and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the state board or the governing body or board. Nothing herein shall be construed to prevent the use of records or information by the state board and the governing body or board in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere: *Provided*, That such analyses or summaries do not reveal any information otherwise confidential under the provisions of this section.

Confidentiality
of records and
information.

Sec. 34. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

New section.

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Whenever the governing body or board or the control officer has reason to believe that any provision of this chapter or any ordinance, regulation, rule or regulation relating to the control or prevention of air pollution has been violated, such governing body or board or control officer may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this chapter or the ordinance, resolution, rule or regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, the governing body or board or the control officer may require that the alleged violator or violators appear before the governing body or board for a hearing at a time and place specified in the notice given at least fifteen days prior to such hearing and answer the charges complained of, or in addition to or in place of an order or hearing, the governing body or board or control officer may initiate action pursuant to sections 60, 61, and 62 of this 1967 amendatory act.

Violations—
Notice—Action
by local
authorities.

New section.

Sec. 35. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Hearing—Pro-
cedure.

(1) Any order issued by the governing body or board or by the control officer, which is not preceded by a hearing, shall become final unless, no later than fifteen days after the date the notice and order are served, the person aggrieved by the order petitions for a hearing before the governing body or board. Upon receipt of the petition, the governing body or board shall hold a hearing after no less than fifteen days prior notice to petitioning parties.

(2) If, after a hearing held as a result of a petition to the governing body or board by a person aggrieved by an order, the governing body or board

finds that a violation has occurred or is occurring, it shall affirm or modify the order previously issued, or if the finding made is that no violation has occurred or is occurring, the order shall be rescinded. If, after a hearing held in lieu of an order, the governing body or board finds that a violation has occurred or is occurring, it shall issue an appropriate order or orders for the prevention, abatement or control of the emissions involved or for the taking of such other corrective actions as may be appropriate. Any order issued as part of a notice or after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the emissions.

(3) In any hearing held under this section or under section 31 of this 1967 amendatory act:

(a) The governing body or board shall admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. They shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(b) All evidence, including but not limited to records and documents in the possession of the governing body or board of which it desires to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(c) Every party shall have the right of cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

(d) The governing body or board may take notice of judicially cognizable facts and in addition

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may take notice of general, technical, or scientific facts within their specialized knowledge. Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The governing body or board may utilize their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

New section.

Sec. 36. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Order—Finality—Appeal.

Any order issued by the governing body or board after a hearing shall become final unless no later than thirty days after the issuance of such order, a petition requesting judicial review is filed in the superior court of the county in which the violation is alleged to have occurred or is alleged to be likely to occur. Such order shall then be subject to appeal and to trial de novo on the record in the superior court.

New section.

Sec. 37. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Order—Stay pending final determination.

Any order of the control officer or the governing body or board shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein, unless after notice and hearing, the superior court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendency of such hearing or appeal.

Nothing in this 1967 amendatory act shall prevent the control officer or governing body or board from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

Sec. 38. Section 23, chapter 232, Laws of 1957 and RCW 70.94.230 are each amended to read as follows:

The rules and regulations hereafter adopted by an authority or a regional authority under the provisions of this chapter shall supersede the existing rules, regulations, resolutions and ordinances of any of the component bodies included within said authority or regional authority in all matters relating to the control and enforcement of air pollution as contemplated by this act: *Provided, however,* That existing rules, regulations, resolutions and ordinances shall remain in effect until such rules, regulations, resolutions and ordinances are superseded as provided in this section: *Provided further,* That nothing herein shall be construed to supersede any local county, or city ordinance or resolution, or any provision of the statutory or common law pertaining to nuisance; nor to affect any aspect of employer-employee relationship relating to conditions in a place of work, including without limitation, statutes, rules or regulations governing industrial health and safety standards or performance standards incorporated in zoning ordinances or resolutions of the component bodies where such standards relating to air pollution control or air quality containing requirements not less stringent than those of the authority or regional authority.

RCW 70.94.230 amended.

Priority of rules—Authority rules supersede local rules—Exceptions.

Sec. 39. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

New section.

Upon the date that an authority or a regional authority begins to exercise its powers and functions, all districts formed as a district under chapter 70.94 RCW prior to the effective date of this 1967 amendatory act which previously were wholly or partially composed of one or more cities or towns located within such activated authority or activated regional authority shall be considered to be dis-

Dissolution of prior districts—Savings.

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solved but its rules and regulations in force on such date shall remain in effect until superseded by the rules and regulations of the authority or regional authority as provided in section 38 of this 1967 amendatory act. In such event, the board of any such district shall proceed to wind up the affairs of the district in the same manner as if the district were dissolved as provided in RCW 70.94.260.

New section.

Sec. 40. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Prior districts
as activated
authority—
Savings.

(1) Any local or regional air pollution control program formed as a district under chapter 70.94 RCW prior to the effective date of this 1967 amendatory act which is composed of one or more counties and the cities and towns therein, and whose boundaries are coextensive with the boundaries of one or more counties, shall, upon the effective date of this 1967 amendatory act, be considered an activated authority, provided that within six months of the effective date of this 1967 amendatory act the board of directors shall be reorganized to conform to the provisions of sections 21, 22, and 23 of this 1967 amendatory act.

(2) Nothing in this 1967 amendatory act except those sections which do so expressly shall be construed to supersede or nullify the ordinances, resolutions, rules or regulations of any local or regional air pollution control program in operation on the effective date of this 1967 amendatory act, but such local or regional programs shall be subject to the provisions of sections 38, 39, 40, 50, 53, 54 and 57 of this 1967 amendatory act.

RCW 70.94.240
amended.

Sec. 41. Section 24, chapter 232, Laws of 1957 and RCW 70.94.240 are each amended to read as follows:

The governing body of any city, town or county appointing a control officer, or the board of any

authority or regional authority, shall appoint an air pollution control advisory council to advise and consult with such body or board, and the control officer in effectuating the purposes of this chapter. The council shall consist of five appointed members who are residents of the city, town, county, authority or regional authority and who are preferably skilled and experienced in the field of air pollution control, two of whom shall serve as representatives of industry. The mayor of such city, or town, the chairman of the board of county commissioners of any such county, or the chairman of the board of any such authority or regional authority, as the case may be, shall serve as ex officio member of the council and be its chairman. Council members shall serve without compensation but may be allowed actual expenses incurred in the discharge of their duties.

Air pollution control advisory council.

Sec. 42. Section 25, chapter 232, Laws of 1957 and RCW 70.94.250 are each amended to read as follows:

RCW 70.94.250 amended.

This chapter does not apply to smoke from fires set in the course of any forest harvest operation or to abate a forest fire hazard, or from fires set by or permitted by any public officer if such fire is set or permission given in the performance of the official duty of such officer, for the purpose of weed abatement, the prevention of a fire hazard, or the instruction of public employees in the methods of fighting fires which is, in the opinion of such officer, necessary, or from fires set pursuant to permit on property used for industrial purposes for the purpose of instruction of employees in methods of fighting fire.

Exemptions from chapter.

This chapter does not apply to smoke from agricultural fires set by, or permitted by, the county agricultural agent of any county, if such fire is set or permission given in the performance of the official duty of such county agricultural agent for the purpose of disease prevention.

RCW 70.94.260
amended.

Dissolution of
district—De-
activation of
authorities.

Sec. 43. Section 26, chapter 232, Laws of 1957 and RCW 70.94.260 are each amended to read as follows:

A district formed under chapter 90.74 RCW prior to the effective date of this 1967 amendatory act may be dissolved, an authority or regional authority may be deactivated prior to the term provided in the original or subsequent agreement by the participating cities and towns comprising such district or the county or counties comprising such authority or regional authority upon the adoption by the board, following a hearing held upon ten days notice, to said cities, towns, and counties, of a resolution for dissolution or deactivation and upon the approval by the governing body of each city or town comprising the district or the board of county commissioners of each county comprising the authority or regional authority. In such event, the board shall proceed to wind up the affairs of the district, authority or regional authority and pay all indebtedness thereof. Any surplus of funds shall be paid over to the cities or towns comprising the district or to the counties comprising the authority or regional authority in proportion to their last contribution. Upon the completion of the process of closing the affairs of the district, authority or regional authority, the board shall by resolution entered in its minutes declare the district dissolved or the authority or regional authority deactivated and a certified copy of such resolution shall be filed with the secretary of state and the district thereupon shall be deemed dissolved or the authority or the regional authority shall be deemed inactive.

RCW 70.94.300
amended.

Sec. 44. Section 1, chapter 188, Laws of 1961 and RCW 70.94.300 are each amended to read as follows:

There is established in the department of health a state air pollution control board consisting of nine members to be appointed as follows: The state director of health shall be an ex officio member with

vote and shall act as chairman of the state board; one member to be appointed by the governor who shall be representative of the public; one member to be alternately appointed by the governor from the faculty of the University of Washington or Washington State University, with the advice of the president thereof; one member to be appointed by the governor who shall be representative of labor; one member to be appointed by the governor who shall either be the mayor, a member of the governing body or other official of an incorporated city or town in this state; one member to be appointed by the governor who shall be a member of the board of county commissioners or other official of one of the counties of this state; one agricultural representative to be appointed by the governor; two members to be appointed by the governor to represent the industries in this state most concerned with the problems of air pollution, no two appointees to be from the same general industrial category. The state board shall employ an executive director who shall be selected from the staff of the state department of health.

State board—
Composition—
Executive
director.

The term of office of each appointed member of the state board shall be at the pleasure of the governor.

Five members of the state board shall constitute a quorum and the affirmative vote of a majority of the board shall be necessary for any action taken by the board. No vacancy in the membership of the state board shall impair the right of the quorum to exercise all rights and perform all the duties of the board. If a vacancy shall occur by death, resignation or otherwise of those appointed to the state board, the governor shall fill the same.

Nothing in this section shall be construed as changing the composition of the state board as it

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exists upon the effective date of this 1967 amendatory act.

RCW 70.94.350
amended.

Sec. 45. Section 6, chapter 188, Laws of 1961 and RCW 70.94.350 are each amended to read as follows:

State board
use of local
personnel—Re-
imbursement.

The director of health is authorized to contract for or otherwise agree to the use of personnel of municipal corporations or other agencies or private persons; and the director of health is further authorized to reimburse such municipal corporations or agencies for the employment of such personnel. Merit system regulations or standards for the employment of personnel may be waived for personnel hired under contract as provided for in this section. The director of health shall provide, within available appropriations, for the scientific, technical, legal, administrative, and other necessary services and facilities for the functioning of the state board. The necessary staff, services, and facilities shall be administered through an appropriate organizational unit of the department of health under the direction of the executive director of the state board.

New section.

Sec. 46. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Powers and
duties of state
board.

(1) The state board shall have all the powers as provided in section 25 of this 1967 amendatory act.

(2) The state board, in addition to any other powers vested in it by law after consideration at a public hearing held in accordance with chapter 42.32 RCW, may:

(a) Adopt ambient air quality goals;

(b) Adopt by rule and regulation requirements for the control or prohibition of emissions to the outdoor atmosphere of dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof. Such requirements may be based upon a system of classification

by types of emissions or types of sources of emissions, or combinations thereof, which it determines most feasible for the purposes of this chapter.

(3) The ambient air quality goals and requirements for the control or prohibition of emissions may be for the state as a whole or may vary from area to area, as may be appropriate to facilitate the accomplishment of the objectives of this chapter and to take necessary or desirable account of varying local conditions of population concentration, the existence of actual or reasonable foreseeable air pollution, topographic and meteorologic conditions and other pertinent variables.

(4) The state board is directed to cooperate with the appropriate agencies of the United States or other states or any interstate agencies or international agencies with respect to the control of air pollution and air contamination, or for the formulation for the submission to the legislature of interstate air pollution control compacts or agreements.

(5) The state board is directed to conduct or cause to be conducted a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants.

(6) The state board may enforce the requirements for the control or prohibitions of emissions under the conditions and in such areas as provided in sections 52, 53, and 56 of this 1967 amendatory act.

(7) The state board may encourage local units of government to handle air pollution problems within their respective jurisdictions and on a cooperative basis, and to provide technical and consultative assistance therefor.

Sec. 47. There is added to chapter 232, Laws of

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1957 and to chapter 70.94 RCW a new section to read as follows:

New section.

Violations—
Notice—Action
by department
of health.

Whenever the department has reason to believe that any provision of this chapter or any rule or regulation adopted by the state board or being enforced by the state board under section 56 of this 1967 amendatory act relating to the control or prevention of air pollution has been violated, it may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this chapter or the rule or regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, the department may require that the alleged violator or violators appear before the state board or a duly appointed hearing officer for a hearing at a time and place specified in the notice given at least twenty days prior to such hearing and answer the charges complained of, or in addition to or in place of an order or hearing, the department may initiate action pursuant to sections 60, 61, and 62 of this chapter.

New section.

Sec. 48. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Orders of department—
Hearings—Judicial review.

(1) Any order issued by the department shall become final unless, no later than twenty days after the date the notice and order are served, the person aggrieved by the order petitions for a hearing before the state board. Upon receipt of the petition, the state board shall hold a hearing after not less than twenty days prior notice to petitioning parties.

(2) If, after a hearing held as a result of a petition to the state board by a person aggrieved by an order, the state board finds that a violation has occurred or is occurring, it shall affirm or modify the order previously issued, or if the finding made is

that no violation has occurred or is occurring, the order shall be rescinded. If, after a hearing held in lieu of an order, the state board finds that a violation has occurred or is occurring, it shall issue an appropriate order or orders for the prevention, abatement or control of the emissions involved or for the taking of such other corrective actions as may be appropriate. Any order issued as part of a notice or after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating or controlling the emissions.

(3) An order issued by the state board after a hearing shall become final unless no later than thirty days after the issuance and service of such order, a petition requesting judicial review is filed in the superior court of the county in which the violation is alleged to have occurred or is alleged to be likely to occur. Review shall be conducted without a jury *de novo* on the record in the superior court.

(4) The reviewing court may affirm or reverse the decision of the governing body or board. In addition, any party may move the court to remand the case to the state board, in the interests of justice, for the purpose of adducing additional specified and material evidence, and findings thereon: *Provided*, That such party shall show reasonable grounds for the failure to adduce such evidence previously before the state board.

(5) Any order of the department or the state board shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein, unless after notice and hearing, the superior court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendency of such hearing or appeal.

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(6) Nothing in this 1967 amendatory act shall prevent the department or the state board from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

(7) Any hearing held under section 31 or section 48 of this 1967 amendatory act by the state board shall be conducted in accord with RCW 34.04.090 through 34.04.130.

New section.

Sec. 49. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Hearing officer
—Powers and
duties.

(1) In all instances where the state board is permitted or required to hold hearings under the provisions of this 1967 amendatory act, such hearings shall be held before the state board, or the state board may appoint a hearing officer, who shall be an attorney admitted to practice in the state.

(2) A duly appointed hearing officer shall have all the powers, rights and duties of the state board relating to the conduct of hearings.

(3) At the conclusion of a hearing at which he has presided, the hearing officer shall prepare written findings of fact and conclusions of law, and a recommended decision. Parties to the proceeding shall be notified of the recommended decision in person or by mail. A copy of the decision and accompanying findings and conclusions shall be delivered or mailed to each party or to his attorney of record.

New section.

Sec. 50. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

(1) Every city, town, county, activated authority or activated regional authority operating an air pollution control program shall have requirements for the control of emissions which are no less strin-

gent than those adopted by the state board for the geographic area in which such air pollution control program is located. Less stringent requirements than compelled by this section may be included in a local or regional air pollution control program only after approval by the state board following demonstration to the satisfaction of the state board that the proposed requirements are consistent with the purposes of this chapter: *Provided*, That such approval shall be preceded by public hearing, of which notice has been given in accordance with chapter 42.32 RCW. The state board, upon receiving evidence that conditions have changed or that additional information is relevant to a decision with respect to the requirements for emission control, may, after public hearing on due notice, withdraw any approval previously given to a less stringent local or regional requirement.

Emission control requirements.

Nothing in this chapter shall be construed to prevent a local or regional air pollution control district or authority from adopting and enforcing more stringent emission control requirements than those adopted by the state board and applicable within the jurisdiction of the local or regional air pollution control district or authority.

Sec. 51. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

New section.

(1) Any activated authority or activated regional authority may apply to the state board for state financial aid in an amount not to exceed fifty percent of the locally funded portion of the annual operating cost of such authority or regional authority. Any such aid shall be expended from the general fund from such appropriations as the legislature may provide for this purpose.

State financial aid.

(2) Before any such application is approved and financial aid is given or approved by the state board,

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the city, town, county, authority or regional authority shall demonstrate to the satisfaction of the state board that it is fulfilling the requirements of section 50 of this 1967 amendatory act, or, if the state board has not adopted ambient air quality goals and requirements as permitted by section 46 of this 1967 amendatory act, the city, town, county, authority or regional authority shall demonstrate to the satisfaction of the state board that it is acting in good faith and doing all that is possible and reasonable to control and prevent air pollution within its jurisdictional boundaries and to carry out the purposes of this chapter.

New section.

Sec. 52. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Hearing upon
activation of
authority con-
ducted by state
board.

The state board may, at any time and on its own motion, hold a hearing to determine if the activation of an authority is necessary for the prevention, abatement and control of air pollution which exists or is likely to exist in any area of the state. Notice of such hearing shall be conducted in accordance with chapter 42.32 RCW and notice shall be given at least twenty days but no more than sixty days before the time set for the hearing. If at such hearing the state board finds that air pollution exists or is likely to occur in a particular area, and that the purposes of this chapter and the public interest will be best served by the activation of an authority or a regional authority, it shall designate the boundaries of such area and set forth in a report to the appropriate county or counties recommendations for the activation of an authority or a regional authority: *Provided, however,* That if at such hearing the state board determines that the activation of an authority or a regional authority or the enactment of ordinances or resolutions relating to air pollution by individual cities, towns, or counties is not practical

or feasible for the reason that a local or regional air pollution control program cannot be successfully established or operated due to unusual circumstances and conditions, but that the control and/or prevention of air pollution is necessary for the purposes of this chapter and the public interest, it may assume jurisdiction and so declare by order. Such order shall designate the geographic area in which, and the effective date upon which, the state board will exercise jurisdiction for the control and/or prevention of air pollution. The state board shall exercise its powers and duties in the same manner as if it had assumed authority under section 56 of this 1967 amendatory act.

Assumption of
jurisdiction by
state board—
Expenses.

All expenses incurred by the state board in the control and prevention of air pollution in any county pursuant to the provisions of sections 52 and 56 of this 1967 amendatory act shall constitute a claim against such county. The state board shall certify the expenses to the auditor of the county, who promptly shall issue his warrant on the county treasurer payable out of the current expense fund of the county. In the event that the amount in the current expense fund of the county is not adequate to meet the expenses incurred by the state board, the state board shall certify to the state treasurer that they have a prior claim on any money in the "liquor excise tax fund" that is to be apportioned to that county by the state treasurer as provided in RCW 82.08.170. In the event that the amount in the "liquor excise tax fund" that is to be apportioned to that county by the state treasurer is not adequate to meet the expenses incurred by the state board, the state board shall certify to the state treasurer that they have a prior claim on any excess funds from the liquor revolving fund that are to be distributed to that county as provided in RCW 66.08.190 through 66.08.220. All moneys that are collected as

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provided in this section shall be placed in the general fund in the account of the state air pollution control board.

New section.

Sec. 53. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Control of particular
contaminant
sources by
state board.

If the state board finds, after public hearing upon due notice to all interested parties, that the control of a particular type or class of air contaminant source is beyond the reasonable capability of the local or regional air pollution control agencies, it may, by order, assume and retain jurisdiction over that type or class of air contaminant source, and may adopt and enforce rules and regulations to control and/or prevent the emission of air contaminants from such source.

New section.

Sec. 54. There is added to chapter 232, Laws of 1957, as last amended by chapter 27, Laws of 1963, and to chapter 70.94 RCW a new section to read as follows:

Order of state
board activating
authority
—Procedure.

If, at the end of ninety days after the state board issues a report as provided for in section 52 of this 1967 amendatory act, to appropriate county or counties recommending the activation of an authority or a regional authority, such county or counties have not performed those actions recommended by the state board, and the state board is still of the opinion that the activation of an authority or regional authority is necessary for the prevention, abatement and control of air pollution which exists or is likely to exist, then the state board may, at its discretion, issue an order activating an authority or a regional authority. Such order, a certified copy of which shall be filed with the secretary of state, shall specify the participating county or counties and the effective date by which the authority or regional authority shall begin to function and exercise its powers. Any

authority or regional authority activated by order of the state board shall choose the members of its board as provided in section 21 of this 1967 amendatory act and begin to function in the same manner as if it had been activated by resolutions of the county or counties included within its boundaries. The state board may, upon due notice to all interested parties, conduct a hearing in accordance with chapter 42.32 RCW within six months after the order was issued to review such order and to ascertain if such order is being carried out in good faith. At such time the state board may amend any such order issued if it is determined by the state board that such order is being carried out in bad faith or the state board may take the appropriate action as is provided in section 56 of this 1967 amendatory act.

Sec. 55. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows: New section.

At any time after a city, town, or county has had in effect for no less than one year an ordinance or resolution dealing with the prevention, abatement or control of air pollution, or at any time after an authority or regional authority has been activated for no less than one year, the state board may, on its own motion, conduct a hearing held in accordance with chapter 42.32 RCW, upon at least thirty days but no more than sixty days notice to the public, to determine whether or not the air pollution prevention and control program of such city, town, county, authority or regional authority is being carried out in good faith and is as effective as possible under the circumstances: *Provided*, That no such hearing shall be held within one year of the effective date of this 1967 amendatory act. If at such hearing the board finds that such city, town, county, authority or regional authority is not carrying out its air pollution

Hearing on effectiveness of local control.

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control or prevention program in good faith, or is not doing all that is possible and reasonable to control and/or prevent air pollution within the geographical area over which it has jurisdiction, it shall set forth in a report to the appropriate city, town, county, authority or regional authority: (1) Its recommendations as to how air pollution prevention and/or control might be more effectively accomplished; and (2) guidelines which will assist the city, town, county, authority or regional authority in carrying out the recommendations of the state board.

New section.

Sec. 56. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Assumption of
control by
state board—
Withdrawal.

(1) If, after thirty days from the time that the state board issues a report or order to a city, town, county, authority or regional authority under sections 54 and 55 of this 1967 amendatory act, such city, town, county, authority or regional authority has not taken any action which indicates that it is attempting in good faith to implement the recommendations or actions of the state board as set forth in the report or order, the state board may, by order, declare as null and void any or all ordinances, resolutions, rules or regulations of such city, town, county, authority or regional authority relating to the control and/or prevention of air pollution, and at such time the state board shall become the sole body with authority to make and enforce rules and regulations to the control and/or prevention of air pollution within the geographical area of such city, town, county, authority or regional authority. In this connection the state board may assume all those powers which are given to it by law to effectuate the purposes of this chapter. The state board may, by order, continue in effect and enforce those provisions of the ordinances, resolutions, or rules and regulations

of such city, town, county, authority or regional authority which are not less stringent than those requirements which the state board may have found applicable to the area under section 46 of this 1967 amendatory act until such time as the board adopts its own rules and regulations. Any rules and regulations promulgated and any enforcement action, as provided in section 48 of this 1967 amendatory act, taken by the state board shall be subject to the provisions of chapter 34.04 RCW as it now appears or may hereinafter be amended and subject to sections 60 and 62 of this 1967 amendatory act to the extent that they are not inconsistent with chapter 34.04 RCW.

(2) No provision of this chapter is intended to prohibit any city, town, county, authority or regional authority from reestablishing its air pollution control program which meets with the approval of the state board and which complies with the purposes of this chapter and with applicable rules and regulations and orders of the state board.

(3) Nothing in this 1967 amendatory act shall prevent the state board from withdrawing the exercise of its jurisdiction over a city, town, county, authority or regional authority upon its own motion: *Provided*, That the state board has found at a hearing held in accordance with chapter 42.32 RCW, with at least thirty days but no more than sixty days notice to the public, that the air pollution prevention and control program of such city, town, county, authority or regional authority will be carried out in good faith or that such program will do all that is possible and reasonable to control and/or prevent air pollution within the geographical area over which it has jurisdiction. Upon the withdrawal of the state board, the state board shall prescribe certain recommendations as to how air pollution prevention and/or control is to be effectively accom-

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plished and guidelines which will assist the city, town, county, authority or regional authority in carrying out the recommendations of the state board.

New section.

Sec. 57. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Emergency ac-
tion by state
board.

(1) Any other provisions of law to the contrary notwithstanding, if the director of the state department of health finds that any person is causing or contributing to air pollution in any part of the state, regardless of whether or not such action is taking place within the geographical area of any city, town, county, authority or regional authority which has in force an air pollution control program, and that such pollution creates an emergency which requires immediate action to protect the public health or safety, the director may issue a written order to the person or persons responsible without prior notice or hearing, directing and affording the person or persons responsible the alternative of either (a) immediately discontinuing or reducing emission of air contaminants or (b) appearing before the director (or state board) at the time and place specified in said written order for the purpose of a hearing pertaining to the alleged pollution in said written order. The responsible person or persons should be afforded not less than twenty-four hours notice of such a hearing. The order issued by the director (or state board) following such hearing shall be subject to judicial review pursuant to RCW 34.04.090 through 34.04.130. In the event that the responsible person or persons do not forthwith comply with the order issued by the director (or state board) following such hearing or timely seek judicial review thereof, the attorney general, upon request of the director (or state board), shall seek and obtain an order of the superior court of the county in which

the violation took place directing compliance with the order of the commission.

(2) Nothing in this section shall be construed to limit any power which the governor or any other officer may have to declare an emergency and act on the basis of such declaration, if such power is conferred by statute or constitutional provision, or inheres in the office.

Emergency powers of other state officers.

Sec. 58. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

New section.

(1) It is hereby declared to be the intent of the legislature of the state of Washington that any state department or agency having jurisdiction over any building, installation, or other property shall cooperate with the state board and with air pollution control agencies in preventing and/or controlling the pollution of the air in any area insofar as the discharge of the matter from or by such building, installation, or other property may cause or contribute to pollution of the air in such area. Such state department or agency shall comply with the provisions of this chapter and with any ordinance, resolution, rule or regulation issued hereunder in the same manner as any other person subject to such laws, rules or regulations.

Cooperation by state departments and agencies—Potential pollution sources—Permits.

(2) In addition to its other powers and duties prescribed by law, the state board may establish classes of potential pollution sources for which any state department or agency having jurisdiction over any building, installation, or other property, which is not located within the geographical boundaries of any city, town, county, authority or regional authority which has an air pollution control and/or prevention program in effect, shall, before discharging any matter into the air, obtain a permit from the state board for such discharge, such permits to be issued for a specified period of time to be deter-

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mined by the state board and subject to revocation if the state board finds that such discharge is endangering the health and welfare of any persons. Such permits may also be required for any such building, installation, or other property which is located within the geographical boundaries of any city, town, county, authority or regional authority which has an air pollution control and prevention program in effect if the standards set by the state board for state departments and agencies are more stringent than those of the local or regional air pollution control agency. In connection with the issuance of any permits under this section, there shall be submitted to the state board such plans, specifications, and other information as it deems relevant thereto and under such other conditions as it may prescribe.

RCW 70.94.370
amended.

Sec. 59. Section 8, chapter 188, Laws of 1961 and RCW 70.94.370 are each amended to read as follows:

Savings—Con-
struction.

No provision of this chapter or any recommendation of the state board or of any local or regional air pollution program is a limitation:

(1) On the power of any city, town or county to declare, prohibit and abate nuisances.

(2) On the power of the director of the state department of health to provide for the protection of the public health under any authority presently vested in that office or which may be hereafter prescribed by law.

(3) On the power of a state agency in the enforcement, or administration of any provision of law which it is specifically permitted or required to enforce or administer.

(4) On the right of any person to maintain at any time any appropriate action for relief against any air pollution.

New section.

Sec. 60. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this chapter, or any rule, regulation or order issued thereunder, the governing body or board or the state board, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

Restraining
orders—In-
junctions.

Sec. 61. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

New section.

Any person who violates any of the provisions of this 1967 amendatory act, or any ordinance, resolution, rule or regulation in force pursuant thereto, other than section 33 of this 1967 amendatory act, shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment for a term of not more than one year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

Penalties.

Any person who wilfully violates section 33 of this 1967 amendatory act shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment for a term of not more than one year or by both fine and imprisonment.

Sec. 62. There is added to chapter 232, Laws of 1957 and to chapter 70.94 RCW a new section to read as follows:

New section.

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As an additional means of enforcing this chapter, the governing body or board may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter or of any ordinance, resolution, rule or regulation adopted pursuant hereto, from any person engaging in, or who has engaged in, such act or practice. Any such assurance shall specify a time limit during which such discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter or the ordinances, resolutions, rules or regulations, or order issued pursuant thereto, which make the alleged act or practice unlawful for the purpose of securing any injunction or other relief from the superior court as provided in section 60 of this 1967 amendatory act.

Additional
means of en-
forcement.

New section.

Sec. 63. There is added to chapter 232, Laws of 1957 and to chapter 70.94 a new section to read as follows:

Short title.

This chapter may be known and cited as the "Washington Clean Air Act".

Severability.

Sec. 64. If any phrase, clause, subsection or section of this 1967 amendatory act shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the legislature would have enacted this act without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of the act shall not be affected as a result of said part being held unconstitutional or invalid.

Construction
of act.

Sec. 65. This 1967 amendatory act shall not be construed to create in any way nor to enlarge, diminish or otherwise affect in any way any private rights in any civil action for damages. Any determination that there has been a violation of the provisions of this 1967 amendatory act or of any ordi-

nance, rule, regulation or order issued pursuant thereto, shall not create by reason thereof any presumption or finding of fact or of law for use in any lawsuit brought by a private citizen.

Sec. 66. The following acts and parts of acts are each hereby repealed: Repeal.

(1) (a) Sections 1, 2, 6, 8, 9, 14, 15, 16, 18, 19, 21, 22, and 27, chapter 232, Laws of 1957;

(b) Sections 4, 7, 9, and 10, chapter 188, Laws of 1961;

(c) Sections 2 and 3, chapter 27, Laws of 1963.

(2) RCW 70.94.010; 70.94.020; 70.94.060; 70.94.065; 70.94.080; 70.94.090; 70.94.140; 70.94.150; 70.94.160; 70.94.180; 70.94.190; 70.94.210; 70.94.220; 70.94.330; 70.94.360; 70.94.500; 70.94.900, and 70.94.910.

Passed the Senate March 9, 1967.

Passed the House March 9, 1967.

Approved by the Governor March 21, 1967, with the exception of an item in Section 44 which was vetoed.

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

"This is the Washington Clean Air Act. In my State of the State message, I urged enactment of this legislation in stating that 'no single manifestation of our prosperity, no single realization of our growth exacts such a cruel price as the pollution of our air and water. In city after city, and now in state after state, growth and success have blotted out the works of man and the genius of nature.' After careful review of this legislation, I believe Substitute Senate Bill 46, introduced at the request of the Legislative Council modified in the legislative process and approved by the Governor, represents an excellent vehicle with which to begin the effort to protect the clean air of the Pacific Northwest. I congratulate both the Legislative Council for its work over the last biennium, and the Legislature for its action in enacting the Washington Clean Air Act.

"I have vetoed an item in Section 44 which could be interpreted as making ineffective the provisions dealing with appointment of members of the Air Pollution Control Board until after the terms of the present members expire. The legislature has designated an entirely new appointment procedure commensurate with the new responsibilities contained in Substitute Senate Bill 46. While it is not my intention to markedly alter the makeup of the Board, I believe the new procedure for selection of members should become effective at the same time as the remainder of the act.

"I have therefore vetoed the final paragraph in Section 44, and approved the remainder of the bill."

DANIEL J. EVANS,
Governor.