

sons or circumstances is not affected.

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CHAPTER 168
[Substitute House Bill No. 563]
AIR POLLUTION CONTROL--WASHINGTON
CLEAN AIR ACT AMENDED

AN ACT Relating to environmental quality; providing for the control of air pollution; amending section 1, chapter 238, Laws of 1967 and RCW 70.94.011; amending section 3, chapter 232, Laws of 1957 as last amended by section 1, chapter 61, Laws of 1967 ex. sess. and RCW 70.94.030; amending section 11, chapter 238, Laws of 1967 and RCW 70.94.068; amending section 12, chapter 238, Laws of 1967 and RCW 70.94.069; amending section 7, chapter 232, Laws of 1957 as amended by section 13, chapter 238, Laws of 1967 and RCW 70.94.070; amending section 14, chapter 238, Laws of 1967 and RCW 70.94.081; amending section 15, chapter 238, Laws of 1967 and RCW 70.94.091; amending section 16, chapter 238, Laws of 1967 and RCW 70.94.092; amending section 17, chapter 238, Laws of 1967 and RCW 70.94.093; amending section 18, chapter 238, Laws of 1967 and RCW 70.94.094; amending section 19, chapter 238, Laws of 1967 and RCW 70.94.095; amending section 20, chapter 238, Laws of 1967 and RCW 70.94.096; amending section 10, chapter 232, Laws of 1957 as amended by section 21, chapter 238, Laws of 1967 and RCW 70.94.100; amending section 12, chapter 232, Laws of 1957 as amended by section 23, chapter 238, Laws of 1967 and RCW 70.94.120; amending section 13, chapter 232, Laws of 1957 as amended by section 24, chapter 238, Laws of 1967 and RCW 70.94.130; amending section 25, chapter 238, Laws of 1967 and RCW 70.94.141; amending section 26, chapter 238, Laws of 1967 and RCW 70.94.142; amending section 27, chapter 238, Laws of 1967 and RCW 70.94.143; amending section 28, chapter 238, Laws of 1967 and RCW 70.94.151; amending section 29, chapter 238, Laws of 1967 and RCW 70.94.152;

amending section 17, chapter 232, Laws of 1957 as amended by section 30, chapter 238, Laws of 1967 and RCW 70.94.170; amending section 31, chapter 238, Laws of 1967 and RCW 70.94-.181; amending section 33, chapter 238, Laws of 1967 and RCW 70.94.205; amending section 34, chapter 238, Laws of 1967 and RCW 70.94.211; amending section 35, chapter 238, Laws of 1967 and RCW 70.94.221; amending section 36, chapter 238, Laws of 1967 and RCW 70.94.222; amending section 37, chapter 238, Laws of 1967 and RCW 70.94.223; amending section 23, chapter 232, Laws of 1957 as amended by section 38, chapter 238, Laws of 1967 and RCW 70.94.230; amending section 39, chapter 238, Laws of 1967 and RCW 70.94.231; amending section 24, chapter 232, Laws of 1957 as amended by section 41, chapter 238, Laws of 1967 and RCW 70.94.240; amending section 26, chapter 232, Laws of 1957 as amended by section 43, chapter 238, Laws of 1967 and RCW 70.94.260; amending section 1, chapter 188, Laws of 1961 as amended by section 44, chapter 238, Laws of 1967 and RCW 70.94.300; amending section 3, chapter 188, Laws of 1961 and RCW 70.94.320; amending section 46, chapter 238, Laws of 1967 and RCW 70.94.331; amending section 49, chapter 238, Laws of 1967 and RCW 70.94.334; amending section 50, chapter 238, Laws of 1967 and RCW 70.94.380; amending section 51, chapter 238, Laws of 1967 and RCW 70.94.385; amending section 52, chapter 238, Laws of 1967 and RCW 70.94.390; amending section 53, chapter 238, Laws of 1967 and RCW 70.94.395; amending section 54, chapter 238, Laws of 1967 and RCW 70.94.400; amending section 55, chapter 238, Laws of 1967 and RCW 70.94.405; amending section 56, chapter 238, Laws of 1967 and RCW 70.94.410; amending section 57, chapter 238, Laws of 1967 and RCW 70.94.415; amending section 58, chapter 238, Laws of 1967 and RCW 70.94.420; adding new sections to chapter 238, Laws of 1967 and to chapter 70.94 RCW; and repealing section 7, chapter 238, Laws of 1967 and RCW 70.94.061; repealing section 8, chapter 238, Laws of

1967 and RCW 70.94.062; repealing section 9, chapter 238, Laws of 1967 and RCW 70.94.064; repealing section 10, chapter 23, Laws of 1967 and RCW 70.94.066; providing penalties; and declaring an emergency.

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

Section 1. Section 1, chapter 238, Laws of 1967 and RCW 70.94.011 are each amended 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 attractions 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.

It is also declared to be the public policy of the state 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. 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.

In addition, the state is divided into two major areas, each having unique characteristics as to natural climactic 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 chapter 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 as last amended by section 1, chapter 61, Laws of 1967 ex. sess. and RCW 70.94.030 are each amended to read as follows:

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 is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interfere with 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 (~~(ex a-regional-authority)~~).

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

(7) "State board" means the state air pollution control board, or any department or agency which by law shall succeed to its powers, duties and functions.

(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 RCW 70.94.062.~~

~~(10))~~ (9) "Department" means the state department of health.

~~((11))~~ (10) "Ambient air" means the surrounding outside air.

~~((12))~~ (11) "Multicounty authority" means an authority (~~(other than a regional authority)~~) which consists of two or more counties.

(12) "Emission standard" means a limitation on the release of a contaminant or multiple contaminants into the ambient air.

(13) "Air quality standard" means an established concentration, exposure time and frequency of occurrence of a contaminant or multiple contaminants in the ambient air which shall not be exceeded.

(14) "Air quality objective" means the concentration and exposure time of a contaminant or multiple contaminants in the ambient air below which undesirable effects will not occur.

Sec. 3. Section 11, chapter 238, Laws of 1967 and RCW 70.94-.068 are each amended to read as follows:

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.

~~((Nothing in this section shall prevent any combination of the inactive or activated authorities located within the respective regional authorities as provided in RCW 70.94.062 from merging in accordance with this section to form an activated regional authority.))~~

Sec. 4. Section 12, chapter 238, Laws of 1967 and RCW 70.94-.069 are each amended to read as follows:

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 RCW 70.94.100, 70.94.110, and 70.94.120.

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 RCW 70.94.230.

Sec. 5. Section 7, chapter 232, Laws of 1957 as amended by section 13, chapter 238, Laws of 1967 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 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.

Any authority (~~(or-regional-authority)~~) activated by the provisions of this chapter shall cause a certified copy of all information required by this section to be filed in the office of the secretary of the state of Washington.

Sec. 6. Section 14, chapter 238, Laws of 1967 and RCW 70.94-.081 are each amended to read as follows:

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 disburse funds, employ per-

sonnel, 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.

Sec. 7. Section 15, chapter 238, Laws of 1967 and RCW 70.94-.091 are each amended to read as follows:

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)~~).

Sec. 8. Section 16, chapter 238, Laws of 1967 and RCW 70.94-.092 are each amended 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 pre-

ceding 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.

Sec. 9. Section 17, chapter 238, Laws of 1967 and RCW 70.94-.093 are each amended to read as follows:

(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:

(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 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 assessed 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. 10. Section 18, chapter 238, Laws of 1967 and RCW 70.94-.094, are each amended to read as follows:

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 (~~(ex-the-regional-authority)~~) treasurer. The treasurer of the county so designated to serve as treasurer of the authority (~~(ex-the-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 (~~(ex-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.

Sec. 11. Section 19, chapter 238, Laws of 1967 and RCW 70.94-.095 are each amended to read as follows:

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 (~~(ex-activated-regional-authority)~~) as the same appears from the last assessment roll of his county.

Sec. 12. Section 20, chapter 238, Laws of 1967 and RCW 70.94-.096 are each amended to read as follows:

An activated authority (~~(ex-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 (~~(ex-activated-regional-authority)~~).

Sec. 13. Section 10, chapter 232, Laws of 1957 as amended by section 21, chapter 238, Laws of 1967 and RCW 70.94.100 are each amended to read as follows:

(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 RCW 70.94.062, the board shall be comprised of these appointees and/or commissioners as provided in subsection (2) of this section.~~

~~(4))~~ (3) 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.

Sec. 14. Section 12, chapter 232, Laws of 1957 as amended by section 23, chapter 238, Laws of 1967 and RCW 70.94.120 are each amended to read as follows:

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.

Sec. 15. Section 13, chapter 232, Laws of 1957 as amended by section 24, chapter 238, Laws of 1967 and RCW 70.94.130, are each amended to read as follows:

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 RCW 70.94.100. 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. Any member of the board may designate a regular alternate to serve on the board in his place with the same authority as the member when he is unable to attend. Each member

of the board, or his representative, 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.

Sec. 16. Section 25, chapter 238, Laws of 1967 and RCW 70.94-.141 are each amended to read as follows:

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)~~) shall have power to:

(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.

(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. 17. Section 26, chapter 239, Laws of 1967 and RCW 70.94-.142 are each amended to read as follows:

In connection with the subpoena powers given in RCW 70.94-.141(2):

(1) In any hearing held under RCW 70.94.181, 70.94.221 and 70.94.333, the ((governing-body-of)) 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 RCW 70.94.141(2) shall be state-wide in effect.

(3) Witnesses appearing under the compulsion of a subpoena in a hearing before ~~((a-governing-body-or))~~ the 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 ~~((7))~~ or state board, shall be paid by the ~~((governing-body))~~ board ~~((7))~~ 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 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 chapter.

Sec. 18. Section 27, chapter 238, Laws of 1967 and RCW 70.94-.143 are each amended to read as follows:

~~((cities, towns, counties, activated authorities, and activated regional authorities))~~ Any authority 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 RCW 70.94.141(12): PROVIDED, That any such application shall be submitted to and approved by the ~~((department))~~ state board. The ~~((department))~~ state board shall ~~((based upon such standards established by the state board))~~ adopt rules and regulations establishing standards for such approval and shall approve any such application, if it is consistent with this chapter, and any other applicable requirements of law.

Sec. 19. Section 28, chapter 238, Laws of 1967 and RCW 70.94-.151 are each amended 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.

(2) Any person operating or responsible for the operation of air contaminant sources of any class for which the ordinances, reso-

lutions, 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 board shall preclude a further registration with any other (~~governing-body-or~~) board or the state board.

Sec. 20. Section 29, chapter 238, Laws of 1967 and RCW 70.94-.152 are each amended to read as follows:

(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 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 ordinances, 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. 21. Section 17, chapter 232, Laws of 1957 as amended by section 30, chapter 238, Laws of 1967 and RCW 70.94.170 are each amended to read as follows:

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 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.

Sec. 22. Section 31, chapter 238, Laws of 1967 and RCW 70.94-.181 are each amended to read as follows:

(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 RCW 70.94.390, 70.94.395, 70.94.410, and 70.94.420, (~~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 (~~(ex-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 (~~(ex-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 (~~(ex-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 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 (~~(ex-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 (~~(ex-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 (~~(ex-governing-body)~~) or board shall give public notice of such application in accordance with rules and regulations of the state board (~~(ex-governing-body)~~) or board.

(5) A variance or renewal shall not be a right of the applicant or holder thereof but shall be granted at the discretion of the state board (~~(ex-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 (~~(ex-governing-body)~~) or board may obtain judicial review thereof (~~(only)~~) under the provisions of (~~(this-chapter)~~) chapter 34-.04 RCW as now or hereafter amended.

(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 RCW 70.94.415 to any person or his property.

Sec. 23. Section 33, chapter 238, Laws of 1967 and RCW 70.94-.205 are each amended to read as follows:

Whenever any records or other information furnished to or obtained by the state board (~~(7-ex-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 (~~(ex-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.

Sec. 24. Section 34, chapter 238, Laws of 1967 and RCW 70.94-.211 are each amended to read as follows:

Whenever the (~~(governing-body-ex)~~) board or the control officer has reason to believe that any provision of this chapter or any ordinance, (~~(regulation)~~) resolution, rule or regulation relating to the control or prevention of air pollution has been violated, such (~~(governing-body-ex)~~) 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-ex)~~) board or the control officer may require that the alleged violator or violators appear before the (~~(governing-body-ex)~~) 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)~~) pursuant to the provisions of chapter 34.04 RCW as now or hereafter amended, or in addition to or in place of an order or hearing, the (~~(governing-body-ex)~~) board or control officer may initiate action pursuant to RCW 70.94.425, 70.94.430, and 70.94.435.

Sec. 25. Section 35, chapter 238, Laws of 1967 and RCW 70.94-.221 are each amended to read as follows:

(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))~~ twenty 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))~~ pursuant to the provisions of chapter 34.04 RCW as now or hereafter amended.

(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 hearings held under this section or under RCW 70.94.181 ((+)) shall be conducted in accordance with the rules of evidence as set forth in RCW 34.04.100 as now or hereafter amended.

~~((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 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.)~~

Sec. 26. Section 36, chapter 238, Laws of 1967 and RCW 70.94-.222 are each amended to read as follows:

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)) in accordance with the provisions of chapter 34.04 RCW as now or hereafter amended. ((Such order shall then be subject to appeal and to trial de novo on the record in the superior court.))

Sec. 27. Section 37, chapter 238, Laws of 1967 and RCW 70.94-.223 are each amended to read as follows:

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 chapter 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. 28. Section 23, chapter 232, Laws of 1957 as amended by section 38, chapter 238, Laws of 1967 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 chapter: 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)~~).

Sec. 29. Section 39, chapter 238, Laws of 1967 and RCW 70.94-231 are each amended to read as follows:

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 June 8, 1967 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 dissolved 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 RCW 70.94.230. 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.

Sec. 30. Section 24, chapter 232, Laws of 1957 as amended by section 41, chapter 238, Laws of 1967 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-)~~) Each member of the council shall receive from the authority per diem and travel expenses in an amount not to exceed that provided for the state board in this act (but not to exceed one thousand dollars per year) for each full day spent in the performance of his duties under this chapter.

Sec. 31. Section 26, chapter 232, Laws of 1957 as amended by section 43, chapter 238, Laws of 1967 and RCW 70.94.260 are each amended to read as follows:

A district formed under chapter 70.94 RCW prior to June 8, 1967 may be dissolved ((7)) or an authority ((~~ex-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 ((~~ex-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 ((~~ex-regional-authority~~)). In such event, the board shall proceed to wind up the affairs of the district ((7)) or authority ((~~ex-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 ((~~ex-regional-authority~~)) in proportion to their last contribution. Upon the completion of the process of closing the affairs of the district((7)) or authority ((~~ex-regional-authority~~)), the board shall by resolution entered in its minutes declare the district dissolved or the authority ((~~ex-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 ((~~ex-the-regional-authority~~)) shall be deemed inactive.

Sec. 32. Section 1, chapter 188, Laws of 1961 as amended by section 44, chapter 238, Laws of 1967, 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~~) the administrator of air quality control activities for the state board.

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.

Sec. 33. Section 3, chapter 188, Laws of 1961 and RCW 70.94-.320 are each amended to read as follows:

Members of the state board shall serve without compensation (~~other than reimbursement for their actual and necessary expenses while attending meetings of the board and for such other expenses incurred in the performance of their duties as approved by a majority of the board~~) but shall be reimbursed twenty-five dollars per diem for each day or portion thereof spent in serving as members of the board, and shall be paid their necessary traveling expenses while engaged, in business of the board as prescribed in chapter 43.03 RCW.

The director of health shall receive subsistence and travel allowances in accordance with the provisions of RCW 43.03.050 and 43.03-.060.

Sec. 34. Section 46, chapter 238, Laws of 1967 and RCW 70.94-.331 are each amended to read as follows:

(1) The state board shall have all the powers as provided in RCW 70.94.141.

(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 (~~(7-may)~~) and chapter 34.04 RCW shall:

(a) Adopt ((ambient-air-quality-goals)) rules and regulations establishing air quality objectives and air quality standards;

(b) Adopt emission standards which shall constitute minimum emission standards throughout the state. An authority may enact more stringent emission standards, but in no event may less stringent standards be enacted by an authority without the prior approval of the state board after public hearing and due notice to interested parties;

(c) Adopt by rule and regulation ((requirements)) air quality standards and emission standards 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)) standards and emission standards ((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)) shall enforce the ~~((requirements for the control or prohibitions of emissions under the conditions and in such areas as provided in RCW 70.94.390, 70.94.395, and 70.94.410))~~ air quality standards and emission standards throughout the state except where a local authority is enforcing the state regulations or its own regulations which are more stringent than those of the state.

(7) The state board ((may)) shall 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.

(8) The state board shall have the power to require the addition to or deletion of a county from an existing authority in order to carry out the purposes of this 1969 amendatory act: PROVIDED, HOWEVER, That no such addition or deletion shall be made without the concurrence of any existing authority involved. Such action shall only be taken after a public hearing held pursuant to the provisions of chapter 34.04 RCW.

Sec. 35. Section 49, chapter 238, Laws of 1967 and RCW 70.94-.334 are each amended to read as follows:

(1) In all instances where the state board or board of any authority is permitted or required to hold hearings under the provisions of this chapter, such hearings shall be held before the state board or board of any authority, or the state board or board of any authority may appoint a hearing officer, who shall be an attorney ad-

mitted to practice in the state.

(2) A duly appointed hearing officer shall have all the powers, rights and duties of the state board or board of any authority 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~~) proposed 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~~) as provided in RCW 34.04.110 through 34.04.120, as now or hereafter amended.

Sec. 36. Section 50, chapter 238, Laws of 1967 and RCW 70.94-.380 are each amended 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 stringent 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.

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. 37. Section 51, chapter 238, Laws of 1967 and RCW 70.94-.385 are each amended to read as follows:

(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))~~. The state board shall by rule and regulation establish the ratio of state funds to the local funds taking into consideration available federal and state funds. Any such aid shall be expended from the general fund from such appropriations as the legislature may provide for this purpose: PROVIDED, That federal funds shall be utilized to the maximum unless otherwise approved by the state board: PROVIDED FURTHER, That the ratio of state funds to local funds of the previous year shall not be changed without a public hearing held by the state board.

(2) Before any such application is approved and financial aid is given or approved by the state board, the ~~((city, town, county))~~ authority ~~((or-regional-authority))~~ shall demonstrate to the satisfaction of the state board that it is fulfilling the requirements of RCW 70.94.380, or, if the state board has not adopted ambient air quality ~~((goals-and-requirements))~~ standards and objectives as permitted by RCW 70.94.331, 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.

(3) The state board shall adopt rules and regulations requiring the submission of such information by each authority including the submission of its proposed budget and a description of its pro-

gram in support of the application for state financial aid as necessary to enable the state board to determine the need for state aid.

Sec. 38. Section 52, chapter 238, Laws of 1967 and RCW 70.94-.390 are each amended to read as follows:

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~~) and chapter 34.04 RCW. 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 RCW 70.94.410.

All expenses incurred by the state board in the control and prevention of air pollution in any county pursuant to the provisions

of RCW 70.94.390 and 70.94.410 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 provided in this section shall be placed in the general fund in the account of the state air pollution control board.

Sec. 39. Section 53, chapter 238, Laws of 1967 and RCW 70.94-.395 are each amended to read as follows:

If the state board finds, after public hearing upon due notice to all interested parties, that the ~~((control-of))~~ emissions from a particular type or class of air contaminant source ~~((is-beyond-the-reasonable-capability-of-the-local-or-regional-air-pollution-control-agencies))~~ should be regulated on a state-wide basis in the public interest and for the protection of the welfare of the citizens of the state, 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: PROVIDED, That an authority may, after public hearing and a finding by the board of a need for more stringent rules and regulations than those adopted by the state board under this section, propose the adoption of such rules and regulations by the

state board for the control of emissions from the particular type or class or air contaminant source within the geographical area of the authority. The state board shall hold a public hearing and shall adopt the proposed rules and regulations within the area of the requesting authority, unless it finds that the proposed rules and regulations are inconsistent with the rules and regulations adopted by the state board under this section: PROVIDED, FURTHER, That when such standards are adopted by the state board it shall delegate to the authority all powers necessary for their enforcement at the request of the authority: PROVIDED, That the state board may delegate the responsibility for the enforcement of such rules and regulations to any authority which it deems capable of enforcing such regulations: PROVIDED FURTHER, That if after public hearing the state board finds that the regulation on a state-wide basis of a particular type of class of air contaminant source is no longer required for the public interest and the protection of the welfare of the citizens of the state, the state board may relinquish exclusive jurisdiction over such source.

Sec. 40. Section 54, chapter 238, Laws of 1967 and RCW 70.94-.400 are each amended to read as follows:

If, at the end of ninety days after the state board issues a report as provided for in RCW 70.94.390, 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 RCW 70.94.100 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 and chapter 34.04 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 RCW 70.94.410.

Sec. 41. Section 55, chapter 238, Laws of 1967 and RCW 70.94-.405 are each amended to read as follows:

~~((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))~~ and chapter 34.04 RCW, as now or hereafter amended 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 June 8, 1967. If at such hearing the board finds that such ~~((city, town, county))~~ authority (~~(or regional authority)~~) is not carrying out its air pollution 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 recom-

mendations 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 ((ex-regional-authority)) in carrying out the recommendations of the state board.

Sec. 42. Section 56, chapter 238, Laws of 1967 and RCW 70.94-.410 are each amended to read as follows:

(1) If, after thirty days from the time that the state board issues a report or order to ((a-city,-town,-county)) an authority ((ex-regional-authority)) under RCW 70.94.400 and 70.94.405, such ((city,-town,-county)) authority ((ex-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 ((ex-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 ((ex-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 ((ex-regional-authority)) which are not less stringent than those requirements which the state board may have found applicable to the area under RCW 70.94.331 until such time as the board adopts its own rules and regulations. Any rules and regulations promulgated and any enforcement action, as provided in RCW 70.94.333, 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 RCW 70.94.425 and 70.94.435 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 ~~((ex-regional-authority))~~ from re-establishing its air pollution control program which meet 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 chapter shall prevent the state board from withdrawing the exercise of its jurisdiction over ~~((a-city, town, county))~~ an authority ~~((ex-regional-authority))~~ upon its own motion: PROVIDED, That the state board has found at a hearing held in accordance with chapter 42.32 RCW and chapter 34.04 RCW as now or hereafter amended, ~~((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 ~~((ex-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 accomplished and guidelines which will assist the ~~((city, town, county))~~ authority ~~((ex-regional-authority))~~ in carrying out the recommendations of the state board.

Sec. 43. Section 57, chapter 238, Laws of 1967 and RCW 70.94-.415 are each amended to read as follows:

(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 ~~((ex-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 with-

out 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.

Sec. 44. Section 58, chapter 238, Laws of 1967 and RCW 70.94-.420 are each amended to read as follows:

(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.

(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 determined 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~~) authority. 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.

NEW SECTION. Sec. 45. There is added to chapter 238, Laws of 1967 and to chapter 70.94 RCW a new section to read as follows:

It is declared to be the policy of the state of Washington through the state air pollution control board to cooperate with the federal government in order to insure the coordination of the provisions of the federal and state clean air acts, and the state air pollution control board is authorized and directed to implement and enforce the provisions of this 1969 amendatory act in carrying out this policy as follows:

(1) To accept and administer grants from the federal govern-

ment for carrying out the provisions of this 1969 amendatory act.

(2) To take all action necessary to secure to the state the benefits of the federal clean air act.

NEW SECTION. Sec. 46. The following acts or parts of acts are each repealed:

(1) Section 7, chapter 238, Laws of 1967, and RCW 70.94.061;

(2) Section 8, chapter 238, Laws of 1967, and RCW 70.94.062;

(3) Section 9, chapter 238, Laws of 1967, and RCW 70.94.064;

and

(4) Section 10, chapter 238, Laws of 1967, and RCW 70.94.066.

Such repeals shall not be construed as affecting any authority in existence on the effective date of this 1969 amendatory act, nor as affecting any action, activities or proceedings initiated by such authority prior hereto, nor as affecting any civil or criminal proceedings instituted by such authority, nor any rule, regulation, resolution, ordinance, or order promulgated by such authority, nor any administrative action taken by such authority, nor the term of office, or appointment or employment of any person appointed or employed by such authority.

NEW SECTION. Sec. 47. It is the purpose of sections 48, 49, 50 and 51 of this 1969 amendatory act to allow the state board to establish air quality standards and emission standards by district 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 48, 49, 50 and 51 of this 1969 amendatory act are enacted to provide district offices of the state board to assist authorities in their efforts to suppress air pollution in the state.

NEW SECTION. Sec. 48. The state is hereby divided into five districts to carry out the purposes of sections 49, 50 and 51 of this act.

(1) The counties of Whatcom, Skagit, Snohomish, King, Pierce,

Thurston, Kitsap, Mason, Jefferson, Clallam, Island, San Juan, Grays Harbor and Pacific shall constitute the Puget Sound air pollution control district. The boundaries of such district shall be co-extensive with the boundaries of the counties therein.

(2) The counties of Wahkiakum, Lewis, Cowlitz, Clark and Skamania shall constitute the Southwestern Washington air pollution control district. The boundaries of such district shall be coextensive with the boundaries of the counties therein.

(3) The counties of Okanogan, Chelan, Douglas, Kittitas, Grant, Yakima and Klickitat shall constitute the Columbia Basin air pollution control district. The boundaries of such district shall be coextensive with the boundaries of the counties therein.

(4) The counties of Ferry, Stevens, Pend Oreille, Lincoln and Spokane shall constitute the Eastern Washington air pollution control district. The boundaries of such district shall be coextensive with the boundaries of the counties therein.

(5) The counties of Benton, Franklin, Walla Walla, Columbia, Garfield, Asotin, Whitman and Adams shall constitute the Southeastern Washington air pollution control district. The boundaries of such district shall be coextensive with the boundaries of the counties therein.

PROVIDED, That the state board shall have the power to require the deletion of any county from any district set forth above and its addition to another district after a public hearing held pursuant to the provisions of chapter 34.04 RCW: PROVIDED FURTHER, That no change in the composition of a district shall result in any authority being located in more than one district.

NEW SECTION. Sec. 49. District offices of the state board established by this 1969 amendatory act shall include an administrative division, a standards division, and an enforcement division. The duties of district offices established by this 1969 amendatory act shall be to assist authorities in their efforts to suppress air pollution in the state, to assist the state board in establishing air quality stan-

dards and minimum emission standards for the district, to insure the enforcement of such standards, to review and file for reference such reports as may be required of authorities in the district by this 1969 amendatory act or by the state board, and to discharge such other duties as may be designated by the state board.

NEW SECTION. Sec. 50. (1) A first class district is one having at least one million population.

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

(3) The population of a district 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. 51. The state board shall establish a district office in all first class districts existing on July 1, 1969, and shall establish a district office, in any district which becomes a first class district after July 1, 1969, within sixty days after a determination in accordance with the provisions of section 50(3) of this 1969 amendatory act that it has at least one million population. In addition, the state board may establish district offices in second class districts at its discretion.

NEW SECTION. Sec. 52. All authorities in the state shall submit quarterly reports to the state board detailing the current status of air pollution control regulations in the authority and, by county, the progress made toward bringing all sources in the authority into compliance with authority standards and with district minimum standards.

NEW SECTION. Sec. 53. In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of chapter 70.94 RCW or any of the rules and regulations of the state board or the board shall incur a penalty in the form of a fine in an amount not to exceed two hundred fifty dollars per day for each violation. Each such violation shall be a separate and dis-

inct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalty shall become due and payable when the person incurring the same receives a notice in writing from the executive director of the state board or the control officer of the authority describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the state board or board. The hearing shall be conducted pursuant to the provisions of chapter 34.04 RCW. If the amount of such penalty is not paid to the state board or the board within fifteen days after receipt of notice imposing the same, and a request for a hearing has not been made, the attorney general, upon the request of the executive director or the attorney for the authority, shall bring an action to recover such penalty in the superior court of the county in which the violation occurred. All penalties recovered under this section by the state board shall be paid into the state treasury and credited to the general fund or, if recovered by the authority, shall be paid into the treasury of the authority and credited to its funds.

To secure the penalty incurred under this section, the state or the authority shall have a lien on any vessel used or operated in violation of this act which shall be enforced as provided in RCW 60-.36.050.

NEW SECTION. Sec. 54. This 1969 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 16, 1969

Passed the Senate April 8, 1969

Approved by the Governor April 24, 1969

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