

CHAPTER 5

[Substitute Senate Bill No. 3679]

MUTUAL SAVINGS BANKS—GUARANTY FUNDS—PAYMENT OF
INTEREST, DIVIDENDS

AN ACT Relating to mutual savings banks; adding a new section to chapter 32.08 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Section 1. It is hereby recognized that the savings banks of the state of Washington are affected adversely by the uncertainties and ambiguities in the law relating to guaranty funds. It is the express purpose of the legislature in enacting section 2 of this act to clarify that the law permits payment of interest and dividends from the guaranty funds of savings banks and section 2 of this act shall be liberally construed to that end.

NEW SECTION. Sec. 2. There is added to chapter 32.08 RCW a new section to read as follows:

A savings bank not having net earnings or undivided profits or other surplus may pay interest and dividends from its guaranty fund upon prior written approval of the supervisor, which approval shall not be withheld unless the supervisor has determined that such payments would place the savings bank in an unsafe and unsound condition.

NEW SECTION. Sec. 3. This 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 Senate February 12, 1982.

Passed the House February 24, 1982.

Approved by the Governor February 25, 1982.

Filed in Office of Secretary of State February 25, 1982.

CHAPTER 6

[House Bill No. 385]

REGULATORY FAIRNESS ACT

AN ACT Relating to administrative rules; amending section 3, chapter 240, Laws of 1977 ex. sess. as amended by section 15, chapter 186, Laws of 1980 and RCW 34.08.020; amending section 1, chapter 84, Laws of 1977 ex. sess. as amended by section 10, chapter 186, Laws of 1980 and RCW 34.04.045; amending section 7, chapter 234, Laws of 1959 and RCW 34.04.070; amending section 3, chapter 70, Laws of 1977 ex. sess. and RCW 43.31.925; and creating a new chapter in Title 19 RCW.

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

NEW SECTION. Section 1. The legislature finds that small businesses in the state of Washington have in the past been subjected to rules adopted

by agencies, departments, and instrumentalities of the state government which have placed a proportionately higher burden on the small business community in Washington state. The legislature also finds that such proportionately higher burdens placed on small businesses have reduced competition, reduced employment, reduced new employment opportunities, reduced innovation, and threatened the very existence of some small businesses. Therefore, it is the intent of the legislature that rules affecting the business community shall not place proportionately higher burdens on small businesses. The legislature therefore enacts this Regulatory Fairness Act to minimize such proportionately higher impacts of rules on small businesses in the future.

NEW SECTION. Sec. 2. Unless the context clearly indicates otherwise, the definitions in this section apply through this chapter.

(1) "Small business" has the meaning given in RCW 43.31.920.

(2) "Small business economic impact statement" means a statement meeting the requirements of section 4 of this act prepared by a state agency pursuant to section 3 of this act.

(3) "Industry" means all of the businesses in this state in any one three-digit standard industrial classification as published by the United States department of commerce.

NEW SECTION. Sec. 3. In the adoption of any rule pursuant to RCW 34.04.025 which will have an economic impact on more than twenty percent of all industries, or more than ten percent of any one industry, the adopting agency:

(1) Shall reduce the economic impact of the rule on small business by doing one or more of the following when it is legal and feasible in meeting the stated objective of the statutes which are the basis of the proposed rule:

(a) Establish differing compliance or reporting requirements or timetables for small businesses;

(b) Clarify, consolidate, or simplify the compliance and reporting requirements under the rule for small businesses;

(c) Establish performance rather than design standards;

(d) Exempt small businesses from any or all requirements of the rule;

(2) Shall prepare a small business economic impact statement in accordance with section 4 of this act and file such statement with the code reviser along with the notice required under RCW 34.04.025;

(3) May request from the office of small business available statistics which the agency can use in the preparation of the small business economic impact statement.

NEW SECTION. Sec. 4. A small business economic impact statement shall analyze the costs of compliance for businesses required to comply with the provisions of a rule adopted pursuant to RCW 34.04.025, including costs of equipment, supplies, labor, and increased administrative costs, and

compare to the greatest extent possible the cost of compliance for small business with the cost of compliance for the ten percent of firms which are the largest businesses required to comply with the proposed new or amendatory rules. The small business economic impact statement shall use one or more of the following as a basis for comparing costs:

- (1) Cost per employee;
- (2) Cost per hour of labor;
- (3) Cost per one hundred dollars of sales;
- (4) Any combination of (1), (2), or (3).

NEW SECTION. Sec. 5. (1) Within one year after the effective date of this act, each agency shall publish and deliver to the office of financial management and to all persons who make requests of the agency for a copy of a plan to periodically review all rules then in effect and which have been issued by the agency which have an economic impact on more than twenty percent of all industries or ten percent of the businesses in any one industry. Such plan may be amended by the agency at any time by publishing a revision to the review plan and delivering such revised plan to the office of financial management and to all persons who make requests of the agency for the plan. The purpose of the review is to determine whether such rules should be continued without change or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize the economic impact on small businesses as described by this chapter. The plan shall provide for the review of all such agency rules in effect on the effective date of this act, within ten years of that date.

(2) In reviewing rules to minimize any significant economic impact of the rule on small businesses as described by this chapter, and in a manner consistent with the stated objectives of applicable statutes, the agency shall consider the following factors:

- (a) The continued need for the rule;
- (b) The nature of complaints or comments received concerning the rule from the public;
- (c) The complexity of the rule;
- (d) The extent to which the rule overlaps, duplicates, or conflicts with other state or federal rules, and, to the extent feasible, with local governmental rules; and
- (e) The degree to which technology, economic conditions, or other factors have changed in the subject area affected by the rule.

(3) Each year each agency shall publish a list of rules which are to be reviewed pursuant to this section during the next twelve months and deliver a copy of the list to the office of financial management and all persons who make requests of the agency for the list. The list shall include a brief description of the legal basis for each rule as described by RCW 34.04.026(1)(a) or 34.04.026(1)(b), and shall invite public comment upon the rule.

Sec. 6. Section 3, chapter 240, Laws of 1977 ex. sess. as amended by section 15, chapter 186, Laws of 1980 and RCW 34.08.020 are each amended to read as follows:

There is hereby created a state publication to be called the Washington State Register, which shall be published on no less than a monthly basis. The register shall contain, but is not limited to, the following materials received by the code reviser's office during the pertinent publication period:

(1) (a) The full text of any proposed new or amendatory rule, as defined in RCW 34.04.010, and the citation of any existing rules the repeal of which is proposed, prior to the public hearing on such proposal. Such material shall be considered, when published, to be the official notification of the intended action, and no state agency or official thereof may take action on any such rule except on emergency rules adopted in accordance with RCW 34.04.030, until twenty days have passed since the distribution date of the register in which the rule and hearing notice have been published or a notice regarding the omission of the rule has been published pursuant to RCW 34.04.050(3) as now or hereafter amended;

(b) The small business economic impact statement, if required by section 3 of this 1982 act, preceding the full text of the proposed new or amendatory rule;

(2) The full text of any new or amendatory rule adopted, and the citation of any existing rule repealed, on a permanent or emergency basis;

(3) Executive orders and emergency declarations of the governor;

(4) Public meeting notices of any and all agencies of state government, including state elected officials whose offices are created by Article III of the state Constitution or RCW 48.02.010;

(5) Rules of the state supreme court which have been adopted but not yet published in an official permanent codification; and

(6) Summaries of attorney general opinions and letter opinions, noting the number, date, subject, and other information, and prepared by the attorney general for inclusion in the register.

Sec. 7. Section 1, chapter 84, Laws of 1977 ex. sess. as amended by section 10, chapter 186, Laws of 1980 and RCW 34.04.045 are each amended to read as follows:

(1) For the purpose of legislative review of agency rules filed pursuant to this chapter, any proposed new or amendatory rule (~~((proposed after June 12, 1980;))~~) shall be accompanied by a statement prepared by the adopting agency which generally describes the rule's purpose and how the rule is to be implemented. Such statement shall be on the agency's stationery or a form bearing the agency's name and shall contain, but is not limited to, the following:

(a) A title, containing a description of the rule's purpose, the statutory authority for the rule, and any other information which may be of assistance in identifying the rule or its purpose;

(b) A summary of the rule and a statement of the reasons supporting the proposed action;

(c) The agency personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

(d) The name of the person or organization, whether private, public, or governmental, proposing the rule;

(e) Agency comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

(f) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a copy of such law or court decision shall be attached to the purpose statement;

(g) A copy of the small business economic impact statement, where applicable.

(2) Upon filing notice of the proposed rule with the code reviser, the adopting agency shall have copies of the statement on file and available for public inspection and shall forward three copies each of the statement to the secretary of the senate and the chief clerk of the house of representatives, who will in turn forward the statement to the majority and minority caucuses and to the appropriate legislative committees.

Sec. 8. Section 7, chapter 234, Laws of 1959 and RCW 34.04.070 are each amended to read as follows:

(1) The validity of any rule may be determined upon petition for a declaratory judgment thereon addressed to the superior court of Thurston county, when it appears that the rule, or its threatened application, interferes with or impairs or immediately threatens to interfere with or impair, the legal rights or privileges of the petitioner. The agency shall be made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question.

(2) In a proceeding under subsection (1) of this section the court shall declare the rule invalid only if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without compliance with statutory rule-making procedures.

(3) A petition for a declaratory judgment pursuant to this section may not be solely based on the contents of the small business economic impact statement. However, in the case of a petition for a declaratory judgment as to the validity of any rule which is adopted after the effective date of this 1982 act, and which is based on grounds other than the contents of the small business economic impact statement, the compliance or noncompliance by the agency with the provisions of this chapter and where applicable the small business economic impact statement shall constitute part of the whole record of the agency's action in connection with the petition.

Sec. 9. Section 3, chapter 70, Laws of 1977 ex. sess. and RCW 43.31-.925 are each amended to read as follows:

The department through its office of small business shall:

(1) Provide a focal point and assist small businesses in their dealings with federal, state, and local governments, including but not limited to providing ready access to information regarding government requirements which affect small businesses;

(2) Develop programs which will assist or otherwise encourage professional or business associations and other service organizations in the public sector to provide useful and needed services to small businesses;

(3) Arrange for and hold meetings, in cooperation with public schools, community colleges, colleges, universities, and other public and private educational programs to the extent practicable, which provide worthwhile training and dissemination of information beneficial to the state's small businesses;

(4) Assist small businesses in obtaining available technical and financial assistance and counsel;

(5) Coordinate with all other state agencies to foster participation of small businesses in providing services and materials to state agencies as follows:

(a) Provide a guide to businesses on the purchasing procedures and practices of state agencies, including a list of state employees responsible for such state purchases. The guide shall be updated at least every two years;

(b) Assist the state agencies in developing master bid lists which include small businesses;

(c) Secure information from all state agencies as to the size of businesses supplying goods and services to each state agency; and

(d) Assist each state agency so that a larger percentage of the goods and services purchased by each state agency can be supplied by small businesses; ((and))

(6) Conduct research in the following areas:

(a) Identify business associations which represent small businesses and maintain an up to date list of such associations;

(b) Develop methods and practices to encourage prime contractors to let subcontracts to small businesses;

(c) Research methods to ((utilize)) use small businesses for developing economically depressed areas or providing jobs for unemployed persons;

(d) Develop programs to be ((utilized)) used by all state agencies to encourage the development of small businesses. The office shall coordinate these programs with the political subdivisions of the state; and

(e) Coordinate the office's activities with the federal small business administration, the small business committees of the two houses of the United States congress, and all other state or federal agencies formed for the purpose of aiding small businesses; and

(7) Upon request by any agency, provide assistance in the preparation of a small business economic impact statement relative to a proposal to adopt, amend, or repeal any rule which will have an economic impact on more than twenty percent of all businesses or more than ten percent of all of the businesses in any one industry.

NEW SECTION. Sec. 10. Sections 1 through 5 of this act shall constitute a new chapter in Title 19 RCW.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House January 21, 1982.

Passed the Senate February 17, 1982.

Approved by the Governor February 26, 1982.

Filed in Office of Secretary of State February 26, 1982.

CHAPTER 7

[Substitute Senate Bill No. 4510]

MT. ST. HELENS RECOVERY OPERATIONS—DREDGE SPOILS SITE ACQUISITION—STATE, LOCAL ACTIONS—OVERSIGHT COMMITTEE— APPROPRIATION

AN ACT Relating to Mt. St. Helens recovery operations; adding a new section to chapter 36.01 RCW; adding a new section to chapter 43.01 RCW; adding a new section to chapter 43.21 RCW; adding a new section to chapter 43.21C RCW; adding a new section to chapter 75.20 RCW; adding a new section to chapter 89.16 RCW; adding a new section to chapter 90.58 RCW; creating new sections; making an appropriation; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Section 1. (1) The legislature finds that:

(a) The May 1980 eruption of Mount St. Helens has caused serious economic and physical damage to the land surrounding the mountain;

(b) There are continuing siltation problems which could severely affect the Toutle, Cowlitz, Coweeman, and Columbia Rivers areas;

(c) There is an immediate need for sites for dredge spoils and funds to continue the rehabilitation of the areas affected by the natural disaster; and

(d) Failure to dredge and dike along the rivers would directly affect the lives and property of the forty-five thousand residents in the Cowlitz and Toutle River valleys with severe negative impacts on local, state, and national transportation systems, public utilities, public and private property, and the Columbia river which is one of the major navigation channels for world-wide commerce.

(2) The intent of this act is to authorize and direct maximum cooperative effort to meet the problems noted in subsection (1) of this section.