

CHAPTER 236

[Recengrossed Substitute Senate Bill No. 3498]
RECREATIONAL WATER CONTACT FACILITIES

AN ACT Relating to recreational water contact facilities; adding new sections to chapter 70.90 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature recognizes that recreational water contact activities are becoming increasingly popular. Recreational water contact facilities are expanding in number and in the variety of equipment and activities offered. The legislature, to protect the public health, safety, and welfare and promote the safe use of recreational water contact facilities finds it necessary to regulate these facilities.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise the definitions in this section apply throughout this chapter.

(1) "Recreational water contact facility" means an artificial water contact facility with design and operational features that provide patron recreational activity which is different from that associated with a conventional swimming pool and purposefully involves immersion of the body partially or totally in the water, including but not limited to, water slides, wave pools, and water amusement lagoons which bring water in contact with patrons.

(2) "Local health officer" means the health officer of the city, county, or city-county department or district or a representative authorized by the local health officer.

(3) "Secretary" means the secretary of social and health services.

(4) "Person" means an individual, firm, partnership, co-partnership, corporation, company, association, club, government entity, or organization of any kind.

(5) "Department" means the department of social and health services.

(6) "Board" means the state board of health.

NEW SECTION. Sec. 3. (1) The board shall adopt rules under the administrative procedures act, chapter 34.04 RCW, setting safety, sanitation, and water quality standards for recreational water contact facilities. The rules shall include but not be limited to requirements for design; operation; injury and illness reports; biological and chemical contamination standards; water quality monitoring; inspection; permit application and issuance; fees sufficient to cover the costs incurred by the department for the administration and enforcement of this chapter; and enforcement procedures.

(2) In adopting rules under subsection (1) of this section regarding the operation or design of a recreational water contact facility, the board shall

review and consider any recommendations made by the recreational water contact facility advisory committee.

NEW SECTION. Sec. 4. (1) A recreational water contact facility advisory committee is established and shall be appointed by the board which shall consist of the following members:

- (a) A representative of the board of health;
- (b) A private operator of a recreational water contact facility;
- (c) A public operator of a recreational water contact facility;
- (d) A representative from the department of social and health services;
- (e) A representative of the county health departments;
- (f) A representative from those who engage in the construction or design of recreational water contact facilities; and
- (g) A representative from those who engage in the manufacturing or design of goods or services for recreational water contact facilities.

(2) The advisory committee shall have the following powers and duties:

- (a) To assist in reviewing and drafting proposed rules regarding the design or operation of any recreational water contact facility which recommendations shall be transmitted to the board;
- (b) To provide technical assistance regarding the review of new products, equipment and procedures, and periodic program review; and
- (c) To provide recommendations upon request in the settlement of grievances.

(3) The committee may appoint subcommittees as it deems necessary.

NEW SECTION. Sec. 5. The secretary shall enforce the rules adopted under this chapter. The secretary may develop joint plans of responsibility with any local health jurisdiction to administer this chapter.

NEW SECTION. Sec. 6. (1) Local health officers may establish and collect fees sufficient to cover their costs incurred in carrying out their duties under this chapter and the rules adopted under this chapter.

(2) The department may establish and collect fees sufficient to cover its costs incurred in carrying out its duties under this chapter. The fees shall be deposited in the state general fund.

(3) A person shall not be required to submit fees at both the state and local levels.

NEW SECTION. Sec. 7. A permit is required for any modification to or construction of any recreational water contact facility after the effective date of this act. The plans and specifications for the modification or construction shall be submitted to the applicable local authority or the department as applicable, but a person shall not be required to submit plans at both the state and local levels or apply for both a state and local permit. The plans shall be reviewed and may be approved or rejected or modifications or conditions imposed consistent with this chapter as the public health or safety may require, and a permit shall be issued or denied.

NEW SECTION. Sec. 8. An operating permit from the department or local health officer, as applicable, is required for each recreational water contact facility operated in this state. The permit shall be renewed annually. The permit shall be conspicuously displayed at the recreational water contact facility.

NEW SECTION. Sec. 9. Nothing in this chapter or the rules adopted under this chapter creates or forms the basis for any liability: (1) On the part of the state and local health jurisdictions, or their officers, employees, or agents, for any injury or damage resulting from the failure of the owner or operator of recreational water contact facilities to comply with this chapter or the rules adopted under this chapter; or (2) by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter or the rules adopted under this chapter on the part of the state and local health jurisdictions, or by their officers, employees, or agents.

All actions of local health officers and the secretary shall be deemed an exercise of the state's police power.

NEW SECTION. Sec. 10. Any person operating a recreational water contact facility shall report to the local health officer or the department any serious injury, communicable disease, or death occurring at or caused by the recreational water contact facility.

NEW SECTION. Sec. 11. County, city, or town legislative authorities and the secretary, as applicable, may establish civil penalties for a violation of this chapter or the rules adopted under this chapter not to exceed five hundred dollars. Each day upon which a violation occurs constitutes a separate violation. A person violating this chapter may be enjoined from continuing the violation.

NEW SECTION. Sec. 12. (1) Any person aggrieved by an order or action of the department may request a hearing under the administrative procedure act, chapter 34.04 RCW. Notice shall be provided by the department as required under chapter 34.04 RCW for contested cases.

(2) Any person aggrieved by an order or action of a local health officer may request a hearing which shall be held consistent with the local health jurisdiction's administrative appeals process. Notice shall be provided by the local health jurisdiction consistent with its due process requirements.

NEW SECTION. Sec. 13. The provisions of this chapter shall not affect local health ordinances existing as of the effective date of this act which regulate water contact facilities.

NEW SECTION. Sec. 14. (1) A recreational water contact facility shall not be operated within the state unless the owner or operator has purchased insurance in an amount not less than one hundred thousand dollars against liability for bodily injury to or death of one or more persons in any one accident arising out of the use of the recreational water contact facility.

(2) The board may require a recreational water contact facility to purchase insurance in addition to the amount required in subsection (1) of this section.

NEW SECTION. Sec. 15. The recreational water contact facility advisory committee shall be reviewed under the process provided in chapter 43.131 RCW before December 1, 1989. Unless extended by law, the committee shall be terminated on June 30, 1990, and section 4 of this act shall expire June 30, 1991.

NEW SECTION. Sec. 16. Sections 1 through 15 of this act are added to chapter 70.90 RCW.

NEW SECTION. Sec. 17. 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 Senate March 11, 1986.

Passed the House March 11, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 237

[Substitute Senate Bill No. 3847]

TEACHERS—RETIREMENT BENEFITS

AN ACT Relating to retired teachers; amending RCW 41.32.570; and adding a new section to chapter 41.32 RCW.

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

Sec. 1. Section 57, chapter 80, Laws of 1947 as last amended by section 5, chapter 151, Laws of 1967 and RCW 41.32.570 are each amended to read as follows:

(1) Any retired teacher who enters service in any public educational institution in Washington state shall cease to receive pension payments while engaged in such service: PROVIDED, That service may be rendered up to seventy-five days per school year without reduction of pension.

(2) Subsection (1) of this section shall apply to all persons governed by the provisions of RCW 41.32.005, regardless of the date of their retirement, but shall apply only to benefits payable after the effective date of this act.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.