

## HB 2042 - Gubernatorial powers to waive statutory obligations during a State of Emergency

**BACKGROUND AND PROBLEM:** The governor has the authority to proclaim a state of emergency in any area of the state affected by a public disorder, disaster, energy emergency or riot under RCW 43.06.010(12), but lacks clear authority to temporarily waive many statutory and regulatory requirements if determined necessary during a proclaimed state of emergency. Laws in other states allow governors to temporarily suspend or waive state statutes and regulations following disasters based on immediate emergent needs.

In 2008, the Legislature passed SB 6950 (adding RCW 43.06.220(2)) providing explicit authority for the governor to temporarily waive or suspend a limited set of specifically identified laws that were an issue during the emergency response to the 2007 flood event. Consequently, during a proclaimed state of emergency, the governor **only has the ability under current statute to temporarily waive or suspend laws and rules in the following areas:**

a) Liability for participation in interlocal agreements; b) Inspection fees owed to the Department of Labor and Industries; c) Application of the family emergency assistance program; d) Regulations, tariffs and notice requirements under the jurisdiction of the Utilities and Transportation Commission; e) Application of tax due dates and penalties relating to collection of taxes; and f) Permits for industrial, business or medical uses of alcohol.

Each emergency event is unique and involves a variety of hazards and emergency response issues. The differences between emergency responses may present the need for varying statutes or rules to be temporarily waived or suspended to ensure impacted communities receive appropriate assistance quickly. In a catastrophic emergency,

local government may need relief from a wide variety of statutes or rules that would not be possible under current law (like highway restrictions, debris removal, licensing, livestock provisions and emergency water treatment).



**PROPOSED SOLUTION:** Many states have enacted statutes authorizing the governor to temporarily suspend or waive state and local laws and regulations following disasters based on immediate emergent needs. For example, the state of New York has adopted the following language: “Subject to the state constitution, the federal constitution and federal statutes and regulations, the governor may by executive order temporarily suspend specific provisions of any statute, local law, ordinance, or orders, rules or regulations, or parts thereof, of any agency during a state disaster emergency, if compliance with such provisions would prevent, hinder, or delay action necessary to cope with the disaster.”

The proposed technical revision maintains the clarity achieved for the specific statutes of concern within the 2008 legislation and provides the governor with the authority to temporarily waive or suspend statutory and regulatory obligations or limitations in other areas when reasonably believed necessary to help preserve and maintain life, health, property or public peace during a proclaimed state of emergency. This technical revision is also consistent with the broad authority stated in RCW 43.06.220(1)(i) and restores the responsive, temporary flexibility the governor had in statute prior to the 2008 legislation that added RCW 43.06.220(2).