

# HOUSE BILL REPORT

## SHB 1722

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### As Amended by Senate

**Title:** An act relating to hearings conducted by the utilities and transportation commission.

**Brief Description:** Exempting the UTC from administrative law judge requirements.

**Sponsors:** By House Committee on Law & Justice (originally sponsored by Representatives Padden, Appelwick and Mastin; by request of Utilities & Transportation Commission).

**Brief History:**

**Committee Activity:**

Law & Justice: 2/22/95, 2/28/95 [DPS].

**Floor Activity:**

Passed House: 3/8/95, 97-1.

Senate Amended.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Sheahan; Smith; Thibaudeau and Veloria.

**Staff:** Edie Adams (786-7180).

**Background:** The Administrative Procedure Act governs procedures to appeal agency action. A person or business adversely affected by an agency action may ask the agency for an adjudicative proceeding. The presiding officer in an adjudicatory hearing may be either: (1) the agency head or a member of the agency head; (2) if the agency has statutory authority to do so, a person other than the agency head or an administrative law judge designated by the agency head to make the final decision and enter the final order; or (3) an administrative law judge assigned by the Office of Administrative Hearings.

If the agency conducts an adjudicatory hearing which is not presided over by officials of the agency who are to render the final decision, the hearing shall be conducted by

an administrative law judge assigned by the Office of Administrative Hearings. The Office of Administrative Hearings is independent of all state agencies.

Certain agencies are exempt from the requirement of using the Office of Administrative Hearings in adjudicatory proceedings, including: (1) the Growth Planning Hearings Board; (2) the Pollution Control Hearings Board; (3) the Shorelines Hearings Board; and (4) the Public Employment Relations Commission.

The Washington Utilities and Transportation Commission (commission) is composed of three commissioners, appointed by the Governor with the consent of the Senate. The commission is required to regulate in the public interest the rates, services, facilities, and practices of persons engaging in the commercial transportation of persons or property, and persons engaging in the business of supplying any utility service or commodity to the public.

**Summary of Bill:** The Washington Utilities and Transportation Commission is exempted from the requirement that adjudicative hearings conducted by the commission be presided over by an administrative law judge appointed by the Office of Administrative Hearings.

The commission is allowed to designate employees of the commission as hearing examiners, administrative law judges, and review judges who have the power to administer oaths, issue subpoenas, examine witnesses, receive testimony, preside over adjudicative proceedings, and enter initial orders. The commission may, by order, delegate to such persons the authority to hear and enter a final order in adjudications involving the transportation of persons or property and cases involving rates or services of water companies.

A provision is repealed which excludes transportation tariff docket hearings held by the commission from the requirement of using an administrative law judge appointed by the Office of Administrative Hearings.

#### **EFFECT OF SENATE AMENDMENT(S):**

**Commission employees designated by the commission as hearing examiners or administrative law judges may not enter final orders except in emergency adjudications. Designated employees may not issue initial orders in rate increase filings by a natural gas, electric, or telecommunications company unless the company making the filing agrees in writing. Initial orders are to be entered in conformance with provisions of the Administrative Procedures Act.**

**In any case where the designated employee does not enter an initial order , a majority of the commission members who are to enter the final order must hear or review substantially all of the record.**

**Technical changes are made.**

**Appropriation:** None.

**Fiscal Note:** Requested February 23, 1995.

**Effective Date of Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Exempting the commission from the requirement of using the Office of Administrative Hearings for the appointment of an administrative law judge will allow flexibility and efficiency in the operation of the commission. Recent federal legislation preempting the field of intrastate trucking has substantially decreased the number of hearings over which the commission needs an administrative law judge to preside. The commission is similar to other agencies that are currently exempted from the requirement of utilizing the Office of Administrative Hearings in that the commission is independent of the companies it regulates and the parties which litigate cases before it.

**Testimony Against:** None.

**Testified:** Dick Hemstad, Washington Utilities and Transportation Commission (pro).

**Votes on Final Passage:**

Yeas 97; Nays 1

Nays: Silver