

SENATE BILL REPORT

ESSB 5794

AS PASSED SENATE, MARCH 17, 1993

Brief Description: Revising administrative law.

SPONSORS: Senate Committee on Labor & Commerce (originally sponsored by Senators Moore, Amondson and Jesernig)

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5794 be substituted therefor, and the substitute bill do pass.

Signed by Senators Moore, Chairman; Amondson, Cantu, Fraser, McAuliffe, Newhouse, Pelz, Prince, and Vognild.

Staff: Jonathan Seib (786-7427)

Hearing Dates: February 19, 1993; February 26, 1993

BACKGROUND:

The state Administrative Procedure Act (APA) imposes certain procedural and substantive requirements on state agencies in their adoption of administrative rules. Procedurally the act requires public notice and participation and agency maintenance of a rule-making file. Substantively, a rule must not violate constitutional provisions, not exceed the statutory authority of the agency, and it must be conceivably the product of a rational decision-maker.

One means established to encourage agency compliance with APA requirements is the Legislature's Joint Administrative Rules Review Committee (JARRC). The committee consists of two members from each legislative caucus. It is authorized to review proposed non-emergency rules. If it finds that a proposed rule is not within legislative intent, the committee is to provide the affected agency with notice of its decision. JARRC is also authorized to selectively review adopted rules for consistency with legislative intent and compliance with proper rule-making procedure.

SUMMARY:

JARRC is required to maintain a continuous review of all proposed non-emergency rules to determine whether (1) the rule is within the intent of the Legislature, (2) the rule has been adopted in accordance with all applicable provisions of law, and (3) the statute the rule purports to implement has been repealed or found invalid by the courts.

If JARRC finds a proposed rule is not within the intent of the Legislature, or the agency may not be adopting the rule in accordance with all applicable provisions of the law, the

committee is to provide the affected agency and the Governor with notice of its decision.

JARRC reviews all adopted rules for consistency with legislative intent, compliance with the proper rule-making procedure, and determines whether the statute the rule purports to implement has been repealed or ruled invalid by the courts.

Agencies are prohibited from adopting rules, the violation of which subjects a person to a penalty or administrative sanction, or any regarding licensing or product standard, unless certain criteria are met. These include substantial evidence in the rule-making file that the rule is needed and that the agency considered its probable benefits and costs. The rule must be clearly written and understandable.

Absent specific statutory authority, the rule may not conflict with, overlap, or duplicate any other provision of law. If such authority is given, the agency must provide a list referencing the laws that the rule conflicts with, overlaps or duplicates, coordinate enforcement of the rule with the appropriate federal, state or local entities, and request legislation to further facilitate such coordination.

A rule, absent specific statutory authority, may not exceed any federal law. If such authority is given, the agency must, to the extent practicable, coordinate enforcement with the appropriate federal entities.

JARRC is directed to review for agency compliance with this list of criteria.

Appropriation: none

Revenue: none

Fiscal Note: requested February 17, 1993

TESTIMONY FOR: None

TESTIMONY AGAINST: None

TESTIFIED: No one