

**SENATE BILL REPORT**

**ESB 6242**

**AS PASSED SENATE, FEBRUARY 12, 1994**

**Brief Description:** Implementing regulatory reform.

**SPONSORS:** Senators Sheldon, Sellar, Moore, Anderson, Gaspard, Snyder, Quigley, Franklin, McAuliffe, Oke, Pelz, M. Rasmussen, Winsley, Drew and Ludwig; by request of Governor Lowry

**SENATE COMMITTEE ON LABOR & COMMERCE**

**Majority Report:** That Substitute Senate Bill No. 6242 be substituted therefor, and the substitute bill do pass.

Signed by Senators Moore, Chairman; Prentice, Vice Chairman; McAuliffe, Newhouse, Pelz, Prince, Sellar and Vognild.

**Minority Report:** Do not pass substitute.

Signed by Senators Amondson, Fraser and Sutherland.

**Staff:** Jonathan Seib (786-7427); Blaine Gibson (786-7375)

**Hearing Dates:** January 19, 1994; February 4, 1994

**BACKGROUND:**

The Governor's Task Force on Regulatory Reform was created by Governor Lowry by Executive Order in August, 1993. It consists of 23 members representing a variety of interests. The task force was charged with the development of recommendations for statutory and administrative changes leading to more reasonable, efficient, cost-effective, and coordinated regulatory actions. The Interim Report and Recommendations were submitted to the Governor on December 17. This legislation is based on the interim report.

**SUMMARY:**

**Grants of Authority by the Legislature.** (Section 1) (a) Legislative standing committees are directed to selectively review legislative intent clauses and grants of rulemaking authority to agencies and clarify such provisions. Priority is to be given to certain listed agencies; (b) the Legislature is to ensure that bills granting rulemaking authority contain clear and specific direction regarding the authority granted; (c) standing committees are to prepare "regulatory notes" on bills describing the rulemaking authority granted in the bill.

**Administrative Procedure Act Modifications.** (Sections 2-8) (a) An agency must include in the rulemaking file citations to the studies on which it relied in adoption of the rule; (b) within seven days of its adoption, citizens are authorized to petition the Governor seeking immediate repeal of certain

emergency rules based on the Governor's determination that it was not necessary to adopt the rule on an emergency basis; (c) rules imposing a penalty, or setting licensing and product standards may not be adopted unless certain specified criteria are met; (d) an agency must meet the criteria in adopting emergency rules, or provide written justification for not doing so; (e) upon adoption of a rule an agency must undertake certain actions, including mitigation and coordination actions where the rule regulates an activity also regulated by another governmental entity; (f) citizens are authorized to petition the Governor for repeal or amendment of a rule if an agency denies such a petition; (g) agencies are required to prepare a substantive response to comments or categories of comments received on a proposed rule indicating how the rule reflects consideration of the comments.

**Regulatory Fairness Act - Improving Impact Statements.**

(Sections 9-15) (a) "Industry" is redefined as businesses in any 4-digit, rather than 3-digit, Standard Industrial Classification Code; (b) impact statements are prepared on all rules that impose more than minor cost on businesses in an industry or where requested by a vote of JARRC; (c) impact statements are prepared before a notice is filed of a proposed rule; (d) agencies are encouraged to use outreach committees to analyze impacts and minimize cost; (e) agencies may use any available data in the preparation of impact statements; (f) the mitigation options that an agency may use are expanded; (g) the purpose of the act is clarified; (h) the Business Assistance Center is charged with certain oversight and education responsibilities with regard to impact statements.

**Joint Administrative Rules Review Committee.** (Sections 17-21)

(a) after a JARRC recommendation to suspend a rule is denied by the Governor, an agency is required to treat the recommendation as a petition to repeal; (c) a recommendation by JARRC to suspend a rule establishes a rebuttable presumption in court proceedings challenging the validity of a rule that the rule is invalid; (d) JARRC is given explicit authority to review for agency compliance with the rulemaking criteria listed in the bill.

**Standardized Forms.** (Section 22) The Department of Community, Trade, and Economic Development is required to develop a model standardization format for reporting information that is commonly required from the public by state and local government agencies for permits, licenses, approvals, and services. The standardization format and recommendations for implementation are submitted to the Legislature by December 1994.

**Technical Assistance For Voluntary Regulatory Compliance.**

(Section 23) For first time, non-serious violations of statutes or rules, certain listed agencies may not impose penalties. Instead, they are to provide a reasonable period for compliance, and appropriate technical assistance.

**Attorney Fees.** Fees up to \$50,000 may be awarded to certain small businesses and individuals upon judicial review of an agency action if an agency rule is declared invalid.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**TESTIMONY FOR (proposed substitute):**

The proposed substitute is a strong step towards imposing some rationality and accountability in the administrative rulemaking process.

**TESTIMONY AGAINST (proposed substitute):**

The proposed substitute would promote litigation and jeopardize ongoing environmental protection. It expands upon the recommendations of the Regulatory Reform Task Force in ways that change the meaning and intent of the original recommendations.

**TESTIFIED (proposed substitute):** Naki Stevens, People for Puget Sound (con); Jeff Parsons, National Audubon Society (con); Carolyn Logue, NFIB (pro); Julia Porter, Kris Backes, AWB (pro); Gary Smith, IBA (pro)