

2 **SHB 1032** - S COMM AMD
3 By Committee on Government Operations

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5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 34.05.464 and 1989 c 175 s 20 are each amended to
8 read as follows:

9 (1) As authorized by law, an agency may by rule provide that
10 initial orders in specified classes of cases may become final without
11 further agency action unless, within a specified period, (a) the agency
12 head upon its own motion determines that the initial order should be
13 reviewed, or (b) a party to the proceedings files a petition for
14 administrative review of the initial order. Upon occurrence of either
15 event, notice shall be given to all parties to the proceeding.

16 (2) As authorized by law, an agency head may appoint a person to
17 review initial orders and to prepare and enter final agency orders.

18 (3) RCW 34.05.425 and 34.05.455 apply to any person reviewing an
19 initial order on behalf of an agency as part of the decision process,
20 and to persons communicating with them, to the same extent that it is
21 applicable to presiding officers.

22 (4) The officer reviewing the initial order (including the agency
23 head reviewing an initial order) is, for the purposes of this chapter,
24 termed the reviewing officer.

25 (a) In licensing and rate-making proceedings, in custodial parent
26 address disclosure proceedings under RCW 26.23.120, and with respect to
27 an initial order entered in a proceeding brought pursuant to Title 80
28 or 81 RCW, the reviewing officer shall exercise all the decision-making
29 power that the reviewing officer would have had to decide and enter the
30 final order had the reviewing officer presided over the hearing, except
31 to the extent that the issues subject to review are limited by a
32 provision of law or by the reviewing officer upon notice to all the
33 parties. In reviewing findings of fact by presiding officers, the
34 reviewing officers shall give due regard to the presiding officer's
35 opportunity to observe the witnesses.

36 (b) In all other adjudicative proceedings, the reviewing officer's

1 authority to modify the findings of fact, conclusions of law, and
2 decision is limited to the following grounds:

3 (i) Irregularity in the proceedings preventing the petitioning
4 party from having a fair hearing. This includes misconduct by the
5 prevailing party and misconduct or abuse of discretion by the presiding
6 officer;

7 (ii) The findings of fact are unsupported by substantial evidence
8 in view of the entire record or contain clerical or mathematical
9 errors;

10 (iii) Errors of law; or

11 (iv) Need for clarification in order for the parties to implement
12 the decision.

13 (5) The reviewing officer shall personally consider the whole
14 record or such portions of it as may be cited by the parties.

15 (6) The reviewing officer shall afford each party an opportunity to
16 present written argument and may afford each party an opportunity to
17 present oral argument.

18 (7) The reviewing officer shall enter a final order disposing of
19 the proceeding or remand the matter for further proceedings, with
20 instructions to the presiding officer who entered the initial order.
21 Upon remanding a matter, the reviewing officer shall order such
22 temporary relief as is authorized and appropriate.

23 (8) A final order shall include, or incorporate by reference to the
24 initial order, all matters required by RCW 34.05.461(3).

25 (9) The reviewing officer shall cause copies of the final order or
26 order remanding the matter for further proceedings to be served upon
27 each party.

28 NEW SECTION. Sec. 2. If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected."

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35 On page 1, line 1 of the title, after "procedure;" strike the

1 remainder of the title and insert "and amending RCW 34.05.464."

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