

2 **SSB 5803** - H COMM AMD **ADOPTED 4-8-97**
3 By Committee on Government Administration

4
5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 34.05 RCW
8 to read as follows:

9 (1) In order to provide the greatest possible access to agency
10 documents to the most people, agencies are encouraged to make their
11 rule, interpretive, and policy information available through electronic
12 distribution as well as through the regular mail. Agencies that have
13 the capacity to transmit electronically may ask persons who are on
14 mailing lists or rosters for copies of interpretive statements, policy
15 statements, preproposal statements of inquiry, and other similar
16 notices whether they would like to receive the notices electronically.

17 (2) Electronic distribution to persons who request it may
18 substitute for mailed copies related to rule making or policy or
19 interpretive statements. If a notice is distributed electronically,
20 the agency is not required to transmit the actual notice form but must
21 send all the information contained in the notice.

22 (3) Agencies which maintain mailing lists or rosters for any
23 notices relating to rule making or policy or interpretive statements
24 may establish different rosters or lists by general subject area.

25 **Sec. 2.** RCW 34.05.010 and 1992 c 44 s 10 are each amended to read
26 as follows:

27 The definitions set forth in this section shall apply throughout
28 this chapter, unless the context clearly requires otherwise.

29 (1) "Adjudicative proceeding" means a proceeding before an agency
30 in which an opportunity for hearing before that agency is required by
31 statute or constitutional right before or after the entry of an order
32 by the agency. Adjudicative proceedings also include all cases of
33 licensing and rate making in which an application for a license or rate
34 change is denied except as limited by RCW 66.08.150, or a license is
35 revoked, suspended, or modified, or in which the granting of an

1 application is contested by a person having standing to contest under
2 the law.

3 (2) "Agency" means any state board, commission, department,
4 institution of higher education, or officer, authorized by law to make
5 rules or to conduct adjudicative proceedings, except those in the
6 legislative or judicial branches, the governor, or the attorney general
7 except to the extent otherwise required by law and any local
8 governmental entity that may request the appointment of an
9 administrative law judge under chapter 42.41 RCW.

10 (3) "Agency action" means licensing, the implementation or
11 enforcement of a statute, the adoption or application of an agency rule
12 or order, the imposition of sanctions, or the granting or withholding
13 of benefits.

14 Agency action does not include an agency decision regarding (a)
15 contracting or procurement of goods, services, public works, and the
16 purchase, lease, or acquisition by any other means, including eminent
17 domain, of real estate, as well as all activities necessarily related
18 to those functions, or (b) determinations as to the sufficiency of a
19 showing of interest filed in support of a representation petition, or
20 mediation or conciliation of labor disputes or arbitration of labor
21 disputes under a collective bargaining law or similar statute, or (c)
22 any sale, lease, contract, or other proprietary decision in the
23 management of public lands or real property interests, or (d) the
24 granting of a license, franchise, or permission for the use of
25 trademarks, symbols, and similar property owned or controlled by the
26 agency.

27 (4) "Agency head" means the individual or body of individuals in
28 whom the ultimate legal authority of the agency is vested by any
29 provision of law. If the agency head is a body of individuals, a
30 majority of those individuals constitutes the agency head.

31 (5) "Entry" of an order means the signing of the order by all
32 persons who are to sign the order, as an official act indicating that
33 the order is to be effective.

34 (6) "Filing" of a document that is required to be filed with an
35 agency means delivery of the document to a place designated by the
36 agency by rule for receipt of official documents, or in the absence of
37 such designation, at the office of the agency head.

38 (7) "Institutions of higher education" are the University of
39 Washington, Washington State University, Central Washington University,

1 Eastern Washington University, Western Washington University, The
2 Evergreen State College, the various community colleges, and the
3 governing boards of each of the above, and the various colleges,
4 divisions, departments, or offices authorized by the governing board of
5 the institution involved to act for the institution, all of which are
6 sometimes referred to in this chapter as "institutions."

7 (8) "Interpretive statement" means a written expression of the
8 opinion of an agency, entitled an interpretive statement by the agency
9 head or its designee, as to the meaning of a statute or other provision
10 of law, of a court decision, or of an agency order.

11 (9)(a) "License" means a franchise, permit, certification,
12 approval, registration, charter, or similar form of authorization
13 required by law, but does not include (i) a license required solely for
14 revenue purposes, or (ii) a certification of an exclusive bargaining
15 representative, or similar status, under a collective bargaining law or
16 similar statute, or (iii) a license, franchise, or permission for use
17 of trademarks, symbols, and similar property owned or controlled by the
18 agency.

19 (b) "Licensing" includes the agency process respecting the
20 issuance, denial, revocation, suspension, or modification of a license.

21 (10) "Mail" or "send," for purposes of any notice relating to rule
22 making or policy or interpretive statements, means regular mail or
23 electronic distribution, as provided in section 1 of this act.
24 "Electronic distribution" or "electronically" means distribution by
25 electronic mail or facsimile mail.

26 (11)(a) "Order," without further qualification, means a written
27 statement of particular applicability that finally determines the legal
28 rights, duties, privileges, immunities, or other legal interests of a
29 specific person or persons.

30 (b) "Order of adoption" means the official written statement by
31 which an agency adopts, amends, or repeals a rule.

32 (~~(11)~~) (12) "Party to agency proceedings," or "party" in a
33 context so indicating, means:

34 (a) A person to whom the agency action is specifically directed; or

35 (b) A person named as a party to the agency proceeding or allowed
36 to intervene or participate as a party in the agency proceeding.

37 (~~(12)~~) (13) "Party to judicial review or civil enforcement
38 proceedings," or "party" in a context so indicating, means:

1 (a) A person who files a petition for a judicial review or civil
2 enforcement proceeding; or

3 (b) A person named as a party in a judicial review or civil
4 enforcement proceeding, or allowed to participate as a party in a
5 judicial review or civil enforcement proceeding.

6 (~~(13)~~) (14) "Person" means any individual, partnership,
7 corporation, association, governmental subdivision or unit thereof, or
8 public or private organization or entity of any character, and includes
9 another agency.

10 (~~(14)~~) (15) "Policy statement" means a written description of the
11 current approach of an agency, entitled a policy statement by the
12 agency head or its designee, to implementation of a statute or other
13 provision of law, of a court decision, or of an agency order, including
14 where appropriate the agency's current practice, procedure, or method
15 of action based upon that approach.

16 (~~(15)~~) (16) "Rule" means any agency order, directive, or
17 regulation of general applicability (a) the violation of which subjects
18 a person to a penalty or administrative sanction; (b) which
19 establishes, alters, or revokes any procedure, practice, or requirement
20 relating to agency hearings; (c) which establishes, alters, or revokes
21 any qualification or requirement relating to the enjoyment of benefits
22 or privileges conferred by law; (d) which establishes, alters, or
23 revokes any qualifications or standards for the issuance, suspension,
24 or revocation of licenses to pursue any commercial activity, trade, or
25 profession; or (e) which establishes, alters, or revokes any mandatory
26 standards for any product or material which must be met before
27 distribution or sale. The term includes the amendment or repeal of a
28 prior rule, but does not include (i) statements concerning only the
29 internal management of an agency and not affecting private rights or
30 procedures available to the public, (ii) declaratory rulings issued
31 pursuant to RCW 34.05.240, (iii) traffic restrictions for motor
32 vehicles, bicyclists, and pedestrians established by the secretary of
33 transportation or his designee where notice of such restrictions is
34 given by official traffic control devices, or (iv) rules of
35 institutions of higher education involving standards of admission,
36 academic advancement, academic credit, graduation and the granting of
37 degrees, employment relationships, or fiscal processes.

38 (~~(16)~~) (17) "Rules review committee" or "committee" means the
39 joint administrative rules review committee created pursuant to RCW

1 34.05.610 for the purpose of selectively reviewing existing and
2 proposed rules of state agencies.

3 ((~~17~~)) (18) "Rule making" means the process for formulation and
4 adoption of a rule.

5 ((~~18~~)) (19) "Service," except as otherwise provided in this
6 chapter, means posting in the United States mail, properly addressed,
7 postage prepaid, or personal service. Service by mail is complete upon
8 deposit in the United States mail. Agencies may, by rule, authorize
9 service by electronic telefacsimile transmission, where copies are
10 mailed simultaneously, or by commercial parcel delivery company."

11 Correct the title.

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