

2 **E2SHB 1032** - S AMD TO S AMD (S-3173.3/97) - 465
3 By Senator Patterson

4 NOT ADOPTED - ROLL CALL VOTE 21-28; 4/17/97

5 On page 25, after line 34 of the amendment, insert the following:

6 "NEW SECTION. **Sec. 214.** The legislature finds:

7 (1) Administrative rules are necessary to implement laws that
8 protect the public health, safety, welfare, and the environment, and to
9 ensure efficient administration of state government.

10 (2) In recent years, there has been a steady growth in the number
11 and complexity of administrative rules and their impact on businesses
12 and the general public without a systematic review of their need,
13 effectiveness, reasonableness, clarity, potential conflicting
14 requirements, and consistency with legislative intent.

15 (3) To achieve meaningful regulatory reform, clear goals,
16 timelines, and commitments must be established and adhered to by the
17 state agencies, the committee on management improvement and results,
18 and each agency head.

19 NEW SECTION. **Sec. 215.** The purpose of this act is to accomplish
20 the following:

21 (1) To ensure that state regulations that have significant impact
22 on labor, consumers, businesses, and the environment are reviewed on an
23 open and systematic basis and to ensure that they meet standards of
24 need, reasonableness, effectiveness, clarity, fairness, stakeholder
25 involvement, coordination among regulatory agencies, and consistency
26 with legislative intent and statutory authority.

27 (2) To ensure that state regulations are consistent with all
28 requirements of chapter 34.05 RCW, the Administrative Procedure Act and
29 that rule making occurs when required by law.

30 (3) To create a committee on management improvement and results to
31 oversee the regulatory review process and to ensure that state
32 government pursues a fair, effective, and sensible regulatory strategy
33 that emphasizes:

34 (a) Priorities, whereby rules focus on issues of greatest need;

1 (b) Partnership, whereby rule making involves participation of
2 business, labor, the environmental community, nonprofit groups, local
3 government, and other stakeholders;

4 (c) Plain language, whereby rules are written and organized so they
5 may be easily understood and used by people who are affected by them;
6 and

7 (d) Performance, whereby rules are fair, effective, and achieve
8 maximum public protection with reasonable requirements.

9 NEW SECTION. **Sec. 216.** A new section is added to chapter 34.05
10 RCW to read as follows:

11 (1) Upon the effective date of this act, each state agency shall
12 begin a review of its rules that have significant effects on
13 businesses, labor, consumers, and the environment. Agencies shall
14 determine if their rules should be (a) retained in their current form,
15 or (b) amended or repealed, if they do not meet the review criteria
16 specified in chapter . . . , Laws of 1997 (this act). Agencies shall
17 concentrate their regulatory review on rules or portions of a rule that
18 have been the subject of petitions filed under RCW 34.05.330 or have
19 been the source of complaints, concerns, or other difficulties that
20 relate to matters other than the specific mandates of the statute on
21 which the rule is based. Agencies that have already established
22 regulatory review processes shall make them consistent with the
23 requirements of chapter . . . , Laws of 1997 (this act). Each agency
24 head shall designate a person responsible for regulatory review who
25 shall serve as the agency's contact for regulatory review with the
26 legislature, the office of the governor, and the office of financial
27 management.

28 (2) The following criteria shall be used for the review of each
29 rule identified for review:

30 (a) Need. Is the rule necessary to comply with the statutes that
31 authorize it? Is the rule obsolete, duplicative, or ambiguous to a
32 degree that warrants repeal or revision? Have laws or other
33 circumstances changed so that the rule should be amended or repealed?
34 Is the rule necessary to protect or safeguard the health, welfare, or
35 safety of Washington's citizens?

36 (b) Effectiveness and efficiency. Is the rule providing the
37 results that it was originally designed to achieve in a reasonable

1 manner? Are there regulatory alternatives or new technologies that
2 could more effectively or efficiently achieve the same objectives?

3 (c) Clarity. Is the rule written and organized in a clear and
4 concise manner so that it can be readily understood by those to whom it
5 applies?

6 (d) Intent and statutory authority. Is the rule consistent with
7 the legislative intent of the statutes that authorize it? Is the rule
8 based upon sufficient statutory authority? Is there a need to develop
9 a more specific legislative authorization in order to protect the
10 health, safety, and welfare of Washington's citizens?

11 (e) Coordination. Could additional consultation and coordination
12 with other governmental jurisdictions and state agencies with similar
13 regulatory authority eliminate or reduce duplication and inconsistency?
14 Agencies should consult with and coordinate with other jurisdictions
15 that have similar regulatory requirements when it is likely that
16 coordination can reduce duplication and inconsistency.

17 (f) Cost. Have qualitative and quantitative benefits of the rule
18 been considered in relation to its cost?

19 (g) Fairness. Does the rule result in equitable treatment of those
20 required to comply with it? Should it be modified to eliminate or
21 minimize any disproportionate impacts on the regulated community?
22 Should it be strengthened to provide additional protection?

23 (3) Unless the context clearly requires otherwise, the definition
24 in this section applies throughout sections 214 through 218 of this
25 act.

26 "Agency" means any state board, commission, department, institution
27 of higher education, or officer, authorized by law to make rules or to
28 conduct adjudicative proceedings, whose executive or board is appointed
29 by the governor.

30 NEW SECTION. **Sec. 217.** A new section is added to chapter 34.05
31 RCW to read as follows:

32 (1) Each state agency shall develop a plan for the review of its
33 rules and submit the plan to the legislature and the governor no later
34 than September 1, 1997. The plan must be submitted to the senate
35 government operations committee, the house of representatives
36 government reform and land use committee, and the joint administrative
37 rules review committee. Agencies shall consult with their major
38 stakeholders and constituent groups in the development of the plan.

1 The plan shall: (a) Contain a schedule that identifies which rules
2 will be reviewed and when the review will occur; (b) state the method
3 by which the agency will determine if the rules meet the criteria in
4 section 216 of this act; (c) provide a means of public participation in
5 the review process and specify how interested persons may participate
6 in the review; (d) take into account the need and resources required,
7 if any, to amend significant legislative rules; (e) identify instances
8 where the agency may require an exception to regulatory review
9 requirements; and (f) provide a process for ongoing review of rules
10 after the initial four-year review period provided for in chapter
11 . . . , Laws of 1997 (this act) has expired. Any new rules or
12 significant amendments for which a notice of intent to adopt is filed
13 after the effective date of this act shall be consistent with its
14 principles and objectives and must also be adopted in accordance with
15 applicable laws. Agencies shall provide the plan to any person who has
16 requested notification of agency rule making and shall submit the plan
17 for publication in the Washington State Register.

18 (2) By October 15, 1997, and on that date in the first year of the
19 biennium, each agency shall report to the legislature as listed in
20 subsection (1) of this section and the governor on the progress made
21 toward completing its regulatory review and other measures taken to
22 improve its regulatory program. The reports shall include, but not be
23 limited to: (a) A summary of the number of rule sections amended or
24 repealed and the number of pages eliminated in the Washington
25 Administrative Code; (b) a summary of rules amended or repealed based
26 on the review criteria in section 216 of this act; (c) a summary of
27 agency actions in response to petitions under RCW 34.05.330; (d) a
28 summary of the results of the agency's review of policy and
29 interpretive statements and similar documents; (e) a summary of the
30 agency's review of reporting requirements imposed on businesses; (f)
31 recommendations for statutory or administrative changes resulting from
32 the regulatory reviews; and (g) other information the agency deems
33 necessary or that may be required by the legislature and the governor.
34 More frequent reports may be requested, as necessary. Agencies shall
35 make the reports available to persons who have requested notification
36 of agency rule making and shall submit them for publication in the
37 Washington State Register.

38 (3) As part of its regulatory review, each agency shall review its
39 existing policy and interpretive statements or similar documents to

1 determine whether or not they must, by law, be adopted as rules. The
2 review shall include consultation with the attorney general. Agencies
3 shall concentrate their review on those statements and documents that
4 have been the source of complaints, concerns, or other difficulties.

5 Each agency shall also review its reporting requirements that are
6 applied generally to all businesses or classes of businesses to ensure
7 that they are necessary and consistent with the principles and
8 objectives of chapter . . . , Laws of 1997 (this act). The goals of the
9 review shall be to achieve reporting requirements that, to the extent
10 possible, are coordinated with other state agencies with similar
11 requirements, are economical and easy to understand, and rely on
12 electronic transfer of information.

13 (4) The office of financial management shall develop procedures to
14 ensure that agencies notify and consult with the legislature and the
15 governor or the legislature's and the governor's staff on the substance
16 of any significant legislative rules upon notice of proposed rule
17 making by the agency. The office of financial management shall report
18 the number of rules mandated by the legislature each session to the
19 legislature and the governor.

20 (5) The legislature may grant exceptions to regulatory review
21 requirements in those instances where the substance of rules is
22 mandated by federal law or where an agency can demonstrate an
23 unreasonable conflict with established priorities.

24 NEW SECTION. **Sec. 218.** A new section is added to chapter 34.05
25 RCW to read as follows:

26 (1) There is created the committee on management improvement and
27 results to consist of the heads of the following agencies: Office of
28 financial management, department of labor and industries, department of
29 ecology, department of social and health services, department of
30 revenue, employment security department, and department of health. The
31 chair of the committee is the governor's deputy chief of staff.
32 Staffing for the committee is provided by the office of financial
33 management, with assistance from the member agencies. All state
34 agencies shall provide the committee with periodic reports and other
35 information and assistance as may be requested.

36 (2) The responsibilities of the committee are:

37 (a) To study and make recommendations to the legislature and the
38 governor for statutory, administrative, and organizational changes and

1 for special pilot projects that result in regulatory improvements in
2 state government. Recommendations shall be designed to improve service
3 to citizens, provide effective and fair public protection, reduce the
4 complexity of compliance, ensure reasonableness and effectiveness,
5 simplify administrative processes, eliminate unnecessary procedures and
6 paperwork, and reduce costs. The committee shall report to the
7 legislature as listed in section 217 of this act and the governor on
8 these items no later than December 1, 1997. Subsequent reports must be
9 submitted in the first year of the biennium no later than December 1st.

10 (b) To oversee the regulatory review process established by chapter
11 . . . , Laws of 1997 (this act) and report to the legislature as listed
12 in section 217 of this act and the governor on the progress of state
13 agencies in complying with these requirements. The first such report
14 must be submitted to the legislature and the governor no later than
15 December 1, 1997. Subsequent reports must be submitted in the first
16 year of the biennium no later than December 1st.

17 (c) To assist the office of financial management in the preparation
18 of reports to the legislature required by RCW 34.05.328(6) and
19 43.05.900.

20 (d) To convene work groups and other special committees for the
21 purpose of assisting the committee in the development of
22 recommendations and reports required by chapter . . . , Laws of 1997
23 (this act) and in the design and implementation of special pilot
24 projects for regulatory improvement. Depending on their purpose,
25 membership of such groups may include representatives from business,
26 labor, environmental organizations, state agencies, local government,
27 nonprofit organizations, citizens, and other interests.

28 NEW SECTION. **Sec. 219.** A new section is added to chapter 34.05
29 RCW to read as follows:

30 (1) There is created in each of the following agencies a committee
31 on management improvement and results: Office of the attorney general,
32 office of the state auditor, office of the insurance commissioner,
33 department of natural resources, superintendent of public instruction,
34 office of the secretary of state, and office of the state treasurer.

35 (2) The responsibilities of the committees are:

36 (a) To study and make recommendations to the legislature, the
37 governor, and their respective agency head for statutory,
38 administrative, and organizational changes and for special pilot

1 projects that result in regulatory improvements in state government.
2 Recommendations shall be designed to improve service to citizens,
3 provide effective and fair public protection, reduce the complexity of
4 compliance, ensure reasonableness and effectiveness, simplify
5 administrative processes, eliminate unnecessary procedures and
6 paperwork, and reduce costs. The committee shall report to the
7 legislature as listed in section 217 of this act, the governor, and
8 their respective agency head on these items no later than December 1,
9 1997. Subsequent reports must be submitted in the first year of the
10 biennium no later than December 1st.

11 (b) To oversee the regulatory review process established by chapter
12 . . . , Laws of 1997 (this act) and report to the legislature as listed
13 in section 217 of this act, the governor, and their respective agency
14 head on the progress of state agencies in complying with these
15 requirements. The first such report must be submitted to the
16 legislature and the governor no later than December 1, 1997.
17 Subsequent reports must be submitted in the first year of the biennium
18 no later than December 1st.

19 (c) To assist the office of financial management in the preparation
20 of reports to the legislature required by RCW 34.05.328(6) and
21 43.05.900.

22 (d) To convene work groups and other special committees for the
23 purpose of assisting the committees in the development of
24 recommendations and reports required by chapter . . . , Laws of 1997
25 (this act) and in the design and implementation of special pilot
26 projects for regulatory improvement. Depending on their purpose,
27 membership of such groups may include representatives from business,
28 labor, environmental organizations, state agencies, local government,
29 nonprofit organizations, citizens, and other interests."

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32 NOT ADOPTED 4/17/97

33 On page 44, line 1 of the amendment, after "**Sec. 608.**" strike
34 "Section 605 of this act is" and insert "Sections 216 through 219 and
35 605 of this act are"

1 On page 44, line 4 of the amendment, after "and" strike "takes" and
2 insert "take"

--- **END** ---