

HOUSE BILL REPORT

SHB 1076

As Amended by the Senate

Title: An act relating to state and local government.

Brief Description: Reforming regulatory activities.

Sponsors: By House Committee on Government Reform & Land Use (originally sponsored by Representatives Reams, Poulsen, Mastin, Hatfield, Skinner, Linville, Dyer, Kessler, Sherstad, Grant, Pennington, Mielke, Thompson, Carlson, Boldt, Bush, Smith and D. Schmidt).

Brief History:

Committee Activity:

Government Reform & Land Use: 1/22/97, 2/6/97 [DPS].

Floor Activity:

Passed House: 2/24/97, 74-22.

Senate Amended.

HOUSE COMMITTEE ON GOVERNMENT REFORM & LAND USE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Sherstad, Vice Chairman; Bush; Mielke; Mulliken and Thompson.

Minority Report: Without recommendation. Signed by 4 members: Representatives Romero, Ranking Minority Member; Lantz, Assistant Ranking Minority Member; Fisher and Gardner.

Staff: Joan Elgee (786-7135).

Background: As part of significant changes to agency rule-making in 1995, the Legislature imposed requirements on some agencies when they adopt significant legislative rules. These requirements apply to the departments of Labor and Industries, Revenue, Ecology, Health, Employment Security, and Natural Resources, as well as the Forest Practices Board and the Insurance Commissioner. The Department of Fish and Wildlife must also follow these requirements when adopting certain hydraulics rules. A significant legislative rule is a rule which: 1) subjects a person to a penalty or sanction if the rule is violated; 2) changes any qualification or standard for a license or permit; or 3) adopts a new, or makes significant amendments to, a policy or regulatory program.

The identified agencies must make certain determinations when adopting significant legislative rules. These determinations include that probable benefits exceed probable costs, that the rule does not require persons to take an action which violates another federal or state law, and other determinations. In the rule-making file, the agencies must place sufficient documentation to justify the determinations, as well as a rule implementation plan. The agencies must also coordinate implementation and enforcement of the rule with other federal and state entities that regulate the same activity or subject matter. The Joint Administrative Rules Review Committee may require that any state agency rule be subject to these requirements. Certain rules, including emergency rules, procedural and interpretive rules, fee-setting rules, and other types of rules are exempt from these requirements.

Under the Open Public Meetings Act, all meetings of the governing body of a public agency must be open and public. A governing body is a multi-member board, commission, committee, council, or other policy or rule-making body of a public agency, or a committee of the governing body when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment. Agencies with single director management are excluded from the act.

Summary of Bill: The Department of Social and Health Services is added to the list of agencies required to follow the procedures for significant legislative rules.

The governing bodies subject to the Open Public Meetings Act are modified. Multi-member boards, commissions, committees, councils, and other policy or rule-making bodies of a public agency are covered by the act regardless of whether the agency is governed by an individual or body of individuals. Committees or councils that make policy recommendations are also covered.

EFFECT OF SENATE AMENDMENT(S): Rules of the DSHS relating to client medical or financial eligibility and rules concerning liability for care of dependents are exempt from the significant legislative rules requirements.

The general amendments to the Open Public Meetings Act are deleted. Instead, committees or councils required by federal law, within DSHS, that make policy recommendations regarding drug reimbursement are subject to the Open Public Meetings Act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The application of HB 1010 (1995 regulatory reform) standards to the Department of Social and Health Services is quite reasonable. Committees or councils should not be exempt from the Open Public Meetings Act simply because the agency head is an individual.

Testimony Against: None.

Testified: Scott Sigmon, Washington Health Care Association; Kristina Hermach, Parke-Davis; Michael T. Killeen, Davis Wright Tremaine; Amber Balch, Association of Washington Business; and Dave Broderick, Washington State Hospital Association (all in favor).