

HOUSE BILL ANALYSIS

HB 1076

Background: To provide greater public access to administrative rule making and to promote consensus among interested parties, the Administrative Procedures Act (APA) requires agencies to solicit comments from the public on a subject of possible rule making before filing the proposed rule with the Code Reviser. An agency is also encouraged to develop and use new procedures, such as negotiated rule making and pilot rule making, for reaching agreement among interested parties. These procedures do not apply to rules that set or adjust fees or rates pursuant to legislative standards.

Before adopting significant legislative rules, 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 must make certain determinations. The Department of Fish and Wildlife must also make these determinations when adopting certain hydraulics 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 identified 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.

Summary: Rules relating to reimbursements under Title XVIII or Title XIX of the Social Security Act (medicare and medicaid) are subject to the requirements of the APA relating to soliciting comments and otherwise involving interested parties before publishing notice of a proposed rule.

The Department of Social and Health Services is added to the list of agencies required to follow the procedures for significant legislative rules. Rules relating to reimbursements under Title XVIII or Title XIX of the Social Security Act are subject to the requirements.

The governing bodies subject to the Open Public Meetings Act are modified. A governing body is an individual or body of individuals in whom the ultimate legal authority of the public agency is vested. If the governing body is a body of individuals, a majority of those individuals constitutes the governing body. A committee or council that acts on behalf of the governing body, conducts hearings, or takes testimony or public comment is also subject to the Open Public Meetings Act.