

SENATE BILL REPORT

SHB 1076

As Reported By Senate Committee On:
Government Operations, March 27, 1997
Ways & Means, April 7, 1997

Title: An act relating to state and local government.

Brief Description: Reforming regulatory activities.

Sponsors: 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 Operations: 3/20/97, 3/27/97 [DPA].
Ways & Means: 4/4/97, 4/7/97 [DPA (GO)].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: Do pass as amended.

Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn and Swanson.

Staff: Diane Smith (786-7410)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Government Operations.

Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Hochstatter, Long, Loveland, McDonald, Rossi, Schow, Sheldon, Snyder, Swecker, Winsley and Zarelli.

Staff: Tim Yowell (786-7435)

Background: As part of significant changes to agency rulemaking 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 rulemaking 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 rulemaking 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 Amended Bill: The Department of Social and Health Services (DSHS) is added to the list of agencies required to follow the procedures for significant legislative rules. An exception is made for medical and financial eligibility rules and rules concerning liability for dependent care.

A DSHS committee or council required by federal law to recommend policy regarding reimbursement for drugs is subject to the Open Public Meetings Act and the meetings chapter.

Amended Bill Compared to Substitute Bill: The amended bill narrows the categories of DSHS rules subject to the significant legislative rulemaking analysis from all rules to those rules not concerning client eligibility or dependent care liability.

The only type of DSHS meeting made subject to the Open Public Meetings Act is that which recommends reimbursement for drugs pursuant to federal law.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For (Government Operations): This is a far reaching expansion of the Open Public Meetings Act to internal policy discussions.

Without the amendment concerning client eligibility rules, costs could be higher without achieving a positive goal.

Testimony Against (Government Operations): None.

Testified (Government Operations): PRO: Fred Hellberg, Governor's Office, OFM; Ken Harden, DSHS; Kristina Hermach, Parke-Davis; Amber Balch, AWB; Scott Sigmon, WA Health Care Association.

Testimony For (Ways & Means): The purpose of the legislation is to assure that rules which affect providers' bottom line go through a cost/benefit assessment. DSHS should be on an even playing field with other agencies which are subject to these rule-making requirements.

Testimony Against (Ways & Means): None.

Testified (Ways & Means): Amber Balch, Association of Washington Business; Scott Sigmon, Washington Health Care Association; Kristina Hermach, Parke-Davis.