

SENATE BILL REPORT

SB 5240

As Reported By Senate Committee On:
Government Operations, February 13, 1997
Ways & Means, March 4, 1997

Title: An act relating to rule making.

Brief Description: Requiring the governor's signature on proposed agency rules filed with the code reviser.

Sponsors: Senators West, Anderson, Hochstatter, Hale, Morton, Oke, Johnson, Benton, McDonald, Schow, Zarelli, Long, Swecker, Haugen, Finkbeiner, Stevens, Bauer and Goings.

Brief History:

Committee Activity: Government Operations: 1/28/97, 2/13/97 [DPS-WM].
Ways & Means: 2/27/97, 3/4/97 [DP2S].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: That Substitute Senate Bill No. 5240 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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

Staff: Diane Smith (786-7410)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5240 be substituted therefor, and the second substitute bill do pass.

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

Staff: Steve Jones (786-7440)

Background: The Administrative Procedure Act (APA) provides that each agency must file with the Code Reviser all rules it adopts. In most cases, proposed rules become effective 30 days after filing with the Code Reviser. Some, however, become effective as much as two years later.

Cabinet agencies are under the direct control of the Governor because the agency director is appointed by, and serves at the pleasure of, the Governor. Other agencies are governed by a board or commission, the members of which are appointed by the Governor to a specific term of office and may be removed by the Governor in limited instances.

Some agency directors are not appointed by the Governor. The Insurance Commissioner, Commissioner of Public Lands, Superintendent of Public Instruction, Auditor, Treasurer, Secretary of State, Attorney General, and Lieutenant Governor are all separately elected officials.

Summary of Second Substitute Bill: For agencies the heads of which are appointed by, and serve at the pleasure of, the Governor, the Governor's signature is required on the rule after the proposed nonemergency rule has undergone the public hearing process, after it is adopted by order of the agency and before it is filed with the Code Reviser, for the rule to take effect.

Second Substitute Bill Compared to Substitute Bill: The second substitute bill clarifies that the signature requirement applies only to rules adopted by cabinet agencies.

Substitute Bill Compared to Original Bill: The substitute bill clarifies that the Governor's signature is required on the rule after all opportunity to change the rule has passed and before the rule is accepted by the Code Reviser for publication. This ensures that only rules that are effective are published in the Washington State Register.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This is a very simple concept which is analogous to the Governor's signature required on bills passed by the Legislature. It assures that accountability and responsibility for agency rules rests with the Governor. It places the ultimate responsibility with the elected official. This accountability is consistent with regulatory reform.

Testimony Against: This transforms the role of the Governor to that of a micromanager of agency activity, demeans the process, creates unnecessary redundancy and is a roadblock on rules.

Testified: Gary Smith, Independent Business Association (pro); Amber Balch, AWB (pro); Robert Stern, Washington State Labor Council (con); Robert Dilger, Washington State Building Trades (con); Dan Sexton, United Association of Plumbers and Pipefitters (con); Fred Hellberg, Governor's office.