

SENATE BILL REPORT

ESB 5744

As Passed Senate, March 18, 1997

Title: An act relating to legislative review of agency rules.

Brief Description: Extending the time for legislative review of agency rules.

Sponsors: Senators Hale, Anderson, Haugen, Deccio, West and Oke.

Brief History:

Committee Activity: Government Operations: 2/20/97, 2/27/97 [DP-WM].

Ways & Means: 3/10/97 [DP, DNP].

Passed Senate, 3/18/97, 49-0.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: Do pass and be referred to Committee on Ways & Means.

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

Staff: Diane Smith (786-7410)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

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

Minority Report: Do not pass.

Signed by Senators Brown, Fraser, Kohl, Sheldon, Snyder, Spanel and Thibaudeau.

Staff: Cathy Baker (786-7708)

Background: The Regulatory Reform Act of 1995 requires the Departments of Ecology, Labor and Industries, Health, Revenue, Natural Resources, and Employment Security, the Forest Practices Board, the Office of Insurance Commissioner and the Department of Fish and Wildlife in some circumstances, to subject significant, nonemergency legislative rules to an extensive analysis prior to their adoption. This analysis includes consideration of the consequences of not adopting the rule, a cost-benefit analysis for the rule and the alternatives to the rule, comparison of the rule to existing federal and state law to check for differences and comparison of the performance requirements of the rule to ensure they are not more stringent on private entities than on public entities.

Any rule of any agency is also subject to the significant legislative rule-making requirement if made subject thereto by the Joint Administrative Rules Review Committee (JARRC) within 45 days of JARRC's receipt of the notice of proposed rule-making.

Selective legislative review of existing and proposed agency rules is conducted by JARRC. The committee determines whether an existing rule is not within the intent of the Legislature, whether a rule has not been adopted in accordance with all provisions of law and whether a policy or interpretive statement is being used in place of a rule.

Summary of Bill: JARRC may require that the significant legislative rule-making analysis be performed on any rule of any agency within 180 days of JARRC's receipt of the notice of proposed rule-making.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For (Government Operations): The current 45-day limitation discourages thoughtful review, especially considering we have a part-time legislature. This is a responsible bill.

Testimony Against (Government Operations): If a rule is held invalid later, there will be chaos. There are problems with separation of powers.

Testified (Government Operations): Melodie Bankers, Insurance Commissioner's office; Bruce Wishart, People for Puget Sound (con); Amber Balch, AWB (pro); Gary Smith, Independent Business Association (pro).

Testimony For (Ways & Means): The bill will give JARRC additional time to review agency rules. The current 45-day limitation does not allow JARRC enough time to thoughtfully review proposed rules.

Testimony Against (Ways & Means): The bill will allow JARRC to impose additional analysis on agencies at any time during or after rule adoption. It will make it difficult for agencies to budget for the additional costs associated with significant legislative rule analysis. If JARRC needs more time, consider extending the 45 days (to 90 days or 180 days).

Testified (Ways & Means): George Taylor, Office of Insurance Commissioner (con); Robby Stern, WA State Labor Council (con); Gary Smith, Independent Business Association (pro).