
SUBSTITUTE SENATE BILL 6575

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Government Operations (originally sponsored by Senators Hale, T. Sheldon, McCaslin, Snyder, Horn, McDonald, Sellar, Newhouse, Schow, Strannigan, Benton, Zarelli, Stevens, Roach, Heavey and Oke)

Read first time 02/06/98.

1 AN ACT Relating to extending the powers of the joint administrative
2 rules review committee; and amending RCW 34.05.630, 34.05.640, and
3 34.05.655.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 34.05.630 and 1996 c 318 s 4 are each amended to read
6 as follows:

7 (1) All rules required to be filed pursuant to RCW 34.05.380, and
8 emergency rules adopted pursuant to RCW 34.05.350, are subject to
9 selective review by the ((legislature)) committee.

10 (2) All agency policy and interpretive statements, guidelines, and
11 documents that are of general applicability, or their equivalents, are
12 subject to selective review by the ((legislature)) committee to
13 determine whether or not a statement, guideline, or document that is of
14 general applicability, or its equivalent, is being used as a rule that
15 has not been adopted in accordance with all applicable provisions of
16 law.

17 (3) If the rules review committee finds by a majority vote of its
18 members: (a) That an existing rule is not within the intent of the
19 legislature as expressed by the statute which the rule implements, (b)

1 that the rule has not been adopted in accordance with all applicable
2 provisions of law, or (c) that an agency is using a policy or
3 interpretive statement in place of a rule, the agency affected shall be
4 notified of such finding and the reasons therefor. Within thirty days
5 of the receipt of the rules review committee's notice, the agency shall
6 file notice of a hearing on the rules review committee's finding with
7 the code reviser and mail notice to all persons who have made timely
8 request of the agency for advance notice of its rule-making proceedings
9 as provided in RCW 34.05.320. The agency's notice shall include the
10 rules review committee's findings and reasons therefor, and shall be
11 published in the Washington state register in accordance with the
12 provisions of chapter 34.08 RCW.

13 (4) The agency shall consider fully all written and oral
14 submissions regarding (a) whether the rule in question is within the
15 intent of the legislature as expressed by the statute which the rule
16 implements, (b) whether the rule was adopted in accordance with all
17 applicable provisions of law, ~~((or))~~ and (c) whether the agency is
18 using a policy or interpretive statement, guideline, or document that
19 is of general applicability, or its equivalent, in place of a rule.

20 **Sec. 2.** RCW 34.05.640 and 1996 c 318 s 5 are each amended to read
21 as follows:

22 (1) Within seven days of an agency hearing held after notification
23 of the agency by the rules review committee pursuant to RCW 34.05.620
24 or 34.05.630, the affected agency shall notify the committee of its
25 intended action on a proposed or existing rule to which the committee
26 objected or on a committee finding of the agency's failure to adopt
27 rules.

28 (2) If the rules review committee finds by a majority vote of its
29 members: (a) That the proposed or existing rule in question will not
30 be modified, amended, withdrawn, or repealed by the agency so as to
31 conform with the intent of the legislature, (b) that an existing rule
32 was not adopted in accordance with all applicable provisions of law, or
33 (c) that the agency will not replace the policy or interpretive
34 statement, guideline, or document that is of general applicability, or
35 its equivalent, with a rule, the rules review committee may, within
36 thirty days from notification by the agency of its intended action,
37 file with the code reviser notice of its objections together with a

1 concise statement of the reasons therefor. Such notice and statement
2 shall also be provided to the agency by the rules review committee.

3 (3)(a) If the rules review committee makes an adverse finding
4 regarding an existing rule under subsection (2) (a) or (b) of this
5 section, the committee may, by a majority vote of its members,
6 recommend suspension of the rule. Within seven days of such vote the
7 committee shall transmit to the appropriate standing committees of the
8 legislature, the governor, the code reviser, and the agency written
9 notice of its objection and recommended suspension and the concise
10 reasons therefor. Within thirty days of receipt of the notice, the
11 governor shall transmit to the committee, the code reviser, and the
12 agency written approval or disapproval of the recommended suspension.
13 If the suspension is approved by the governor, it is effective from the
14 date of that approval and continues until ninety days after the
15 expiration of the next regular legislative session.

16 (b) If the rules review committee makes an adverse finding
17 regarding a policy or interpretive statement, guideline, or document
18 that is of general applicability, or its equivalent, under subsection
19 (2)(c) of this section, the committee may, by a majority vote of its
20 members, advise the governor of its finding.

21 (4) The code reviser shall publish transmittals from the rules
22 review committee or the governor issued pursuant to subsection (2) or
23 (3) of this section in the Washington state register and shall publish
24 in the next supplement and compilation of the Washington Administrative
25 Code a reference to the committee's objection or recommended suspension
26 and the governor's action on it and to the issue of the Washington
27 state register in which the full text thereof appears.

28 (5) The reference shall be removed from a rule published in the
29 Washington Administrative Code if a subsequent adjudicatory proceeding
30 determines that the rule is within the intent of the legislature or was
31 adopted in accordance with all applicable laws, whichever was the
32 objection of the rules review committee.

33 **Sec. 3.** RCW 34.05.655 and 1996 c 318 s 7 are each amended to read
34 as follows:

35 (1) Any person may petition the rules review committee for a review
36 of a proposed or existing rule or a proposed or existing policy or
37 interpretive statement, guideline, or document that is of general
38 applicability, or its equivalent. A petition to review a statement,

1 guideline, or document that is of general applicability, or its
2 equivalent, may only be filed for the purpose of requesting the
3 committee to determine whether the statement, guideline, or document
4 that is of general applicability, or its equivalent, is being used as
5 a rule that has not been adopted in accordance with all provisions of
6 law. Within thirty days of the receipt of the petition, the rules
7 review committee shall acknowledge receipt of the petition and describe
8 any initial action taken. If the rules review committee rejects the
9 petition, a written statement of the reasons for rejection shall be
10 included.

11 (2) A person may petition the rules review committee under
12 subsection (1) of this section requesting review of an existing rule
13 only if the person has petitioned the agency to amend or repeal the
14 rule under RCW 34.05.330(1) and such petition was denied.

15 (3) A petition for review of a rule under subsection (1) of this
16 section shall:

17 (a) Identify with specificity the proposed or existing rule to be
18 reviewed;

19 (b) Identify the specific statute identified by the agency as
20 authorizing the rule, the specific statute which the rule interprets or
21 implements, and, if applicable, the specific statute the department is
22 alleged not to have followed in adopting the rule;

23 (c) State the reasons why the petitioner believes that the rule is
24 not within the intent of the legislature, or that its adoption was not
25 or is not in accordance with law, and provide documentation to support
26 these statements;

27 (d) Identify any known judicial action regarding the rule or
28 statutes identified in the petition.

29 A petition to review an existing rule shall also include a copy of
30 the agency's denial of a petition to amend or repeal the rule issued
31 under RCW 34.05.330(1) and, if available, a copy of the governor's
32 denial issued under RCW 34.05.330(3).

33 (4) A petition for review of a policy or interpretive statement,
34 guideline, or document that is of general applicability, or its
35 equivalent, under subsection (1) of this section shall:

36 (a) Identify the specific policy or interpretative statement,
37 guideline, or document that is of general applicability, or its
38 equivalent, to be reviewed;

1 (b) Identify the specific statute which the rule interprets or
2 implements;

3 (c) State the reasons why the petitioner believes that the policy
4 or interpretive statement, guideline, or document that is of general
5 applicability, or its equivalent, meets the definition of a rule under
6 RCW 34.05.010 and should have been adopted according to the procedures
7 of this chapter;

8 (d) Identify any known judicial action regarding the policy or
9 interpretive statement, guideline, or document that is of general
10 applicability, or its equivalent, or statutes identified in the
11 petition.

12 (5) Within ninety days of receipt of the petition, the rules review
13 committee shall make a final decision on the rule for which the
14 petition for review was not previously rejected.

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