

SENATE BILL REPORT

ESHB 2123

As Reported By Senate Committee On:
State & Local Government, April 1, 1999

Title: An act relating to expedited rule making.

Brief Description: Consolidating procedures for expedited rule making.

Sponsors: House Committee on State Government (originally sponsored by Representatives Cox, Grant, McMorris, Romero, D. Schmidt and Doumit).

Brief History:

Committee Activity: State & Local Government: 3/31/99, 4/1/99 [DP].

SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

Majority Report: Do pass.

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

Staff: Diane Smith (786-7410)

Background: The Administrative Procedure Act contains procedures for most state agencies to adopt rules.

Various requirements are established for agencies to adopt rules. Further requirements are established for the adoption of significant legislative rules.

An expedited rule adoption process was established in 1997 that involves an abbreviated process. These provisions expire December 31, 2000. Rules may be adopted under this process without preparing a small business economic impact statement, publishing a statement indicating whether the rule constitutes a significant legislative rule, preparing a significant legislative rule analysis, making a pre-notice inquiry, or conducting a hearing. Notice is published indicating the use of the expedited rule adoption process. If any person files written objections to use of this process within 45 days of the publishing of the notice, the use of the expedited rule adoption process stops, and the agency may proceed to adopt the proposed rules following the regular rule adoption process.

The expedited rule adoption process may only be used to adopt rules that: (a) relate to internal governmental operations that are not subject to violation by a person; (b) adopt or incorporate by reference, without material change, federal laws or regulations, state laws or rules of other agencies, shoreline master programs other than those governing shorelines of statewide significance, or national consensus codes that are referenced in state law establishing industry standards; (c) correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; (d) contain matters that are explicitly and specifically dictated by statute; (e) have been the subject of negotiated rule

making, pilot rule making, or some other process involving substantial participation by interested parties before development of the rule; or (f) are being amended after the significant legislative rule adoption process.

A separate section of law provides for an expedited process to repeal rules that follows the expedited rule adoption process.

Legislation was enacted in 1998 altering the Administrative Procedure Act. In part, this legislation deleted the expedited rule adoption process from one statute and inserted the same provisions into a new section of law. This new section of law included a provision terminating the section on December 31, 2000. The Governor vetoed the section that deleted the expedited rule adoption process but did not veto the new section containing the same language. As a result, the same expedited rule making procedure is included in two separate sections of law.

Summary of Bill: The duplicative provisions of state law relating to the expedited rules adoption process are eliminated. The authority for expedited repeal of rules is placed into the single statute that provides for expedited rule adoption. The termination of these provisions in December 31, 2000, is eliminated.

An agency may adopt a rule without filing a statement of inquiry if the rule may be adopted using the expedited rule making procedure.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect on January 1, 2000.

Testimony For: This was a good idea when first incorporated into regulatory reform and remains a good idea. It continues to maintain the chair-trigger, forcing reversion to the full rule adoption process if one person objects to the expedited process.

Testimony Against: None.

Testified: Amber Balch, AWB (pro).