

SENATE BILL REPORT

SHJM 4018

As Reported By Senate Committee On:
State & Local Government, February 24, 2000

Brief Description: Petitioning the Governor to direct state agencies adopting rules to examine and minimize impacts that would create new costs for local governments.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Mulliken, Doumit, Mielke, Scott, Ericksen, Fortunato, Hatfield, Schindler, Dunn, Thomas, D. Sommers and Esser).

Brief History:

Committee Activity: State & Local Government: 2/21/2000, 2/24/2000 [DPA, DNP].

SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

Majority Report: Do pass as amended.

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

Minority Report: Do not pass.

Signed by Senator Gardner, Vice Chair.

Staff: Diane Smith (786-7410)

Background: Administrative agencies are created by the Legislature and have only the authority given to them by the Legislature. Administrative agency powers may be expressly stated in statute or may be implied from statutorily mandated duties. An administrative agency authorized or required to take some action has the implied authority to take those actions that are lawful and necessary to carry out the granted authority or to satisfy the statutory requirement. This "implied authority" of state agencies can be limited by constitutional or statutory conditions or restrictions.

Administrative agencies may be granted statutory authority to promulgate "rules," defined generally by the Administrative Procedure Act (APA) to include any agency orders, directives or regulations of general applicability that may impose penalties or sanctions, establish standards or qualifications, or relate to benefits conferred by law. Agency rules may also specify procedures for agency actions or hearings. The APA includes statutory procedural requirements for promulgation of agency rules, including public notice and opportunity to comment.

Coincident with the legislative package on regulatory reform, in 1997 the Governor issued Executive Order No. 97-02. By this executive order, a systematic review of the need, effectiveness, reasonableness, clarity, internal conflicts and consistency with legislative intent was instituted for selected administrative rules of state agencies.

Summary of Amended Bill: The Governor is requested to issue an executive order that requires state agencies to examine impacts of proposed rules to determine if the rule would create new costs for local governments. If determination is that the proposed rule would create new costs, the local government associations are notified, and agencies will mitigate cost impacts by using rule development processes in the APA, ensure that any new rule complies with Executive Order 97-02, and use rule development mechanisms to minimize cost impacts and maximize participation in rule development.

Amended Bill Compared to Substitute Bill: The striking amendment clarifies that any APA processes used will only be applied as specified in the APA.

Appropriation: None.

Fiscal Note: Not requested.

Testimony For: The continued pressure on local governments from additional rule-making especially in the shoreline and stormwater areas, while municipal staff must be laid off due to budget cuts, will lead us to a brick wall. Local governments will not have the funds to continue to enforce state rules.

Testimony Against: None.

Testified: Fred Hellberg, Governor's Office; Bill Vogler, WA State Assn. of Counties (pro).