

State Government Committee

HB 2051

Brief Description: *Revising rule-making procedures.*

Sponsors: *Representatives Roach, Quall, Bush, G. Chandler, Hatfield, McMorris, Grant, Kessler and Woods.*

Brief Summary of Bill

- *Expires an agency's statement of inquiry if the agency has not officially proposed a rule within 180 days.*
- *Requires that the determinations required by the significant legislative rules process be made before the rule is proposed.*

Hearing Date: *2/19/01*

Staff: *Jim Morishima (786-7191).*

Background:

I. Pre-Notice Inquiry

For most rules, agencies must solicit comments from the public on the subject of possible rule making before filing an official notice of proposed rule making. Also, before filing an official notice of proposed rule making, the agency must prepare a statement of inquiry and file it with the Code Reviser. The statement of inquiry must:

- *Identify the statute authorizing the agency to adopt the rules;*
- *Discuss the reason the rules are necessary;*
- *Identify other federal and state agencies that regulate the subject, and describe how the agency would coordinate the rule with the other agencies;*
- *Discuss the process by which the rule will be developed, including negotiated rule making, pilot rule making, or agency studies; and*
- *Specify the process by which interested parties can participate in the rule making process.*

Currently there is no expiration date for statements of inquiry; i.e., a proposed rule could theoretically be filed years after the statement of inquiry is filed.

II. Significant Legislative Rules

Significant legislative rules are rules that:

- *Adopt substantive provisions of law the violation of which results in penalties or sanctions;*
- *Affect the issuance, suspension, or revocation of a license or permit; or*
- *Make significant changes to regulatory programs.*

The significant legislative rules of certain agencies are subject to additional procedural requirements in their adoption. Other agencies may also voluntarily subject their rules to these requirements, or may have the requirements imposed on them by the Joint Administrative Rules Review Committee. The additional requirements include making certain determinations before adopting the rule, including:

- *A determination that the rule is needed to achieve the goals of the statute the rule purports to implement;*
- *A determination that the rule would not force persons to violate other state or federal laws;*
- *A determination that the rule does not require more stringent requirements on private entities than are imposed on public entities;*
- *A determination that the rule is the least burdensome alternative available;*
- *A determination of whether the rule differs from any federal requirements on the subject; and*
- *A determination of whether the benefits of the rule are greater than the costs.*

Before adopting significant legislative rules, the agency must file an implementation plan. The plan must detail how the agency plans to implement and enforce the rule, inform the public about the rule, promote and assist voluntary compliance, and evaluate the effectiveness of the rule.

Summary of Bill:

I. Pre-Notice Inquiry

A statement of inquiry expires if an agency has not proposed a rule within 180 days after the publication of the statement in the State Register.

II. Significant Legislative Rules

For significant legislative rules that are subject to the additional procedural requirements, the agency must make the required determinations before the rule is proposed. The determination of whether the benefits of the rule outweigh the costs must be included in the agency's official rule proposal.

Rulemaking Authority: *No express authority.*

Appropriation: None.

Fiscal Note: Not Requested.

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