

SENATE BILL REPORT

SB 6749

As Passed Senate, February 27, 2002

Title: An act relating to the burden of proof in actions asserting invalidity of agency rules.

Brief Description: Shifting the burden of proof in actions against rules.

Sponsors: Senators West, Hale, Honeyford, Johnson, Hewitt, Zarelli, Gardner, Sheahan, Rasmussen, Prentice, Winsley, Fairley, Shin, Kastama, Swecker, Snyder and Rossi.

Brief History:

Committee Activity: State & Local Government:

Passed Senate: 2/27/02, 33-16.

SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

Staff: Diane Smith (786-7410)

Background: When an administrative decision is contested in court, the burden of demonstrating the invalidity of the agency's action is on the party asserting invalidity. In general law, ordinarily the burden to prove a fact is upon the party asserting the fact to be true.

Two kinds of questions presented to the courts are the validity of an agency's rule and whether to grant relief from an agency's order. The person alleging that the agency's rule is invalid has the burden of showing the rule is invalid. The person wanting relief from an agency's order has the burden of showing the order to be invalid.

Summary of Bill: The statutes are silent on the question of whether the agency or the party asserting invalidity of the agency's action has the burden of demonstrating the invalidity of the agency's action.

Appropriation: None.

Fiscal Note: Not requested.

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