
HOUSE BILL 1813

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By Representatives Mulliken, Doumit, Alexander, Mielke, Kirby, Jarrett, Crouse, Hatfield, B. Chandler, Morell, Dunn and Pearson

Read first time 02/05/2001. Referred to Committee on State Government.

1 AN ACT Relating to local government regulatory fairness; amending
2 RCW 34.05.320 and 43.135.060; and adding a new chapter to Title 34 RCW.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that administrative
5 rules adopted by state agencies can have a disproportionate impact on
6 local governments due to the financial burdens of providing services to
7 its citizens. This disproportionate impact reduces service levels,
8 forces employee reductions, and threatens the very existence of some
9 small jurisdictions. The legislature therefore enacts the local
10 government regulatory fairness act with the intent of reducing the
11 disproportionate impact of state administrative rules on local
12 governments.

13 NEW SECTION. **Sec. 2.** The definitions in this section apply
14 throughout this chapter unless the context clearly requires otherwise.

15 (1) "Agency" means any state board, commission, department,
16 institution of higher education, or office, authorized by law to make
17 rules or conduct adjudicative proceedings, except those in the
18 legislative or judicial branch.

1 (2) "Local government" means any political subdivision or unit of
2 local government of this state including, but not limited to, municipal
3 corporations, quasi-municipal corporations, special purpose districts,
4 and local service districts.

5 **Sec. 3.** RCW 34.05.320 and 1995 c 403 s 302 are each amended to
6 read as follows:

7 (1) At least twenty days before the rule-making hearing at which
8 the agency receives public comment regarding adoption of a rule, the
9 agency shall cause notice of the hearing to be published in the state
10 register. The publication constitutes the proposal of a rule. The
11 notice shall include all of the following:

12 (a) A title, a description of the rule's purpose, and any other
13 information which may be of assistance in identifying the rule or its
14 purpose;

15 (b) Citations of the statutory authority for adopting the rule and
16 the specific statute the rule is intended to implement;

17 (c) A summary of the rule and a statement of the reasons supporting
18 the proposed action;

19 (d) The agency personnel, with their office location and telephone
20 number, who are responsible for the drafting, implementation, and
21 enforcement of the rule;

22 (e) The name of the person or organization, whether private,
23 public, or governmental, proposing the rule;

24 (f) Agency comments or recommendations, if any, regarding statutory
25 language, implementation, enforcement, and fiscal matters pertaining to
26 the rule;

27 (g) Whether the rule is necessary as the result of federal law or
28 federal or state court action, and if so, a copy of such law or court
29 decision shall be attached to the purpose statement;

30 (h) When, where, and how persons may present their views on the
31 proposed rule;

32 (i) The date on which the agency intends to adopt the rule;

33 (j) A short explanation of the rule, its purpose, and anticipated
34 effects, including in the case of a proposal that would modify existing
35 rules, a short description of the changes the proposal would make;

36 (k) A copy of the local government impact statement prepared under
37 section 6 of this act;

1 (1) A copy of the small business economic impact statement prepared
2 under chapter 19.85 RCW, or an explanation for why the agency did not
3 prepare the statement; and

4 (~~((1))~~) (m) A statement indicating whether RCW 34.05.328 applies to
5 the rule adoption.

6 (2) Upon filing notice of the proposed rule with the code reviser,
7 the adopting agency shall have copies of the notice on file and
8 available for public inspection and shall forward three copies of the
9 notice to the rules review committee.

10 (3) No later than three days after its publication in the state
11 register, the agency shall cause a copy of the notice of proposed rule
12 adoption to be mailed to each person, city, and county that has made a
13 request to the agency for a mailed copy of such notices. An agency may
14 charge for the actual cost of providing a requesting party mailed
15 copies of these notices.

16 (4) In addition to the notice required by subsections (1) and (2)
17 of this section, an institution of higher education shall cause the
18 notice to be published in the campus or standard newspaper of the
19 institution at least seven days before the rule-making hearing.

20 **Sec. 4.** RCW 43.135.060 and 1998 c 321 s 15 are each amended to
21 read as follows:

22 (1) After July 1, 1995, the legislature, or a state agency through
23 the rule-making process, shall not impose responsibility for new
24 programs or increased levels of service under existing programs on any
25 political subdivision of the state unless the subdivision is fully
26 reimbursed by the state for the costs of the new programs or increases
27 in service levels. Reimbursement by the state may be made by: (a) A
28 specific appropriation; (~~((or))~~) (b) increases in state distributions of
29 revenue to political subdivisions occurring after January 1, 1998; or
30 (c) funding from the state agency.

31 (2) If by order of any court, or legislative enactment, the costs
32 of a federal or local government program are transferred to or from the
33 state, the otherwise applicable state expenditure limit shall be
34 increased or decreased, as the case may be, by the dollar amount of the
35 costs of the program.

36 (3) The legislature, in consultation with the office of financial
37 management or its successor agency, shall determine the costs of any
38 new programs or increased levels of service under existing programs

1 imposed on any political subdivision or transferred to or from the
2 state.

3 (4) Subsection (1) of this section does not apply to the costs
4 incurred for voting devices or machines under RCW 29.04.200.

5 (5) For the purposes of this section:

6 (a) "Agency" means any state board, commission, department,
7 institution of higher education, or office, authorized by law to make
8 rules or conduct adjudicative proceedings, except those in the
9 legislative or judicial branch; and

10 (b) "Local government" means any political subdivision or unit of
11 local government of this state including, but not limited to, municipal
12 corporations, quasi-municipal corporations, special purpose districts,
13 and local service districts.

14 NEW SECTION. Sec. 5. Proposed rules to be adopted by state
15 agencies that have a fiscal impact greater than fifty thousand dollars,
16 as determined by the local government impact statement, may not be
17 imposed without full reimbursement according to RCW 43.135.060.

18 NEW SECTION. Sec. 6. (1) In the adoption of a rule under chapter
19 34.05 RCW, an agency shall prepare a local government impact statement
20 if: (a) The proposed rule will impose more than minor costs on local
21 governments; or (b) requested to do so by a majority vote of the joint
22 administrative rules review committee within forty-five days of
23 receiving the notice of proposed rule making under RCW 34.05.320.

24 An agency shall prepare the local government impact statement, and
25 file it with the office of the code reviser along with the notice
26 required under RCW 34.05.320. An agency shall file a statement
27 prepared at the request of the joint administrative rules review
28 committee with the office of the code reviser upon its completion
29 before the adoption of the rule. An agency shall provide a copy of the
30 local government impact statement to any person requesting it.

31 (2) Based upon the extent of disproportionate impact on local
32 governments identified in the statement prepared under this chapter,
33 the agency shall, where legal and feasible in meeting the stated
34 objectives of the statutes upon which the rule is based, reduce the
35 costs imposed by the rule on local governments. Methods to reduce the
36 costs on local governments may include:

- 1 (a) Reducing, modifying, or eliminating substantive regulatory
- 2 requirements;
- 3 (b) Delaying compliance timetables;
- 4 (c) Eliminating agency review requirements; or
- 5 (d) Any other mitigation techniques.

6 NEW SECTION. **Sec. 7.** (1) A local government impact statement must
7 include a brief description of the reporting, recordkeeping, and other
8 compliance requirements of the proposed rule, and the kinds of
9 regulatory changes a local government would need to implement to comply
10 with such requirements. It shall analyze the costs of compliance for
11 local governments required to comply with the proposed rule, including
12 costs of labor, planning, implementation, court defense, and
13 administrative costs. It shall consider, based on input received from
14 local governments affected, whether compliance with the rule will
15 result in a total cost of fifty thousand dollars or more to any one
16 jurisdiction.

17 (2) A local government impact statement must also include:

18 (a) A statement of the steps taken by the agency to reduce the
19 costs of the rule on local jurisdictions as required by section 6 of
20 this act, or reasonable justification for not doing so, addressing the
21 options listed in section 6 of this act;

22 (b) A description of how the agency will involve local governments
23 in the development of the rule; and

24 (c) A list of local governments that will be required to comply
25 with the rule.

26 (3) To obtain information for purposes of this section, an agency
27 may survey a representative sample of affected local governments or
28 their associations, and should, whenever possible, appoint a committee
29 under RCW 34.05.310(2) to assist in the accurate assessment of the
30 costs of a proposed rule, and the means to reduce the costs imposed on
31 local governments.

32 NEW SECTION. **Sec. 8.** This chapter may be known and cited as the
33 local government regulatory fairness act of 2001.

34 NEW SECTION. **Sec. 9.** Sections 1, 2, and 5 through 8 of this act
35 constitute a new chapter in Title 34 RCW.

1 NEW SECTION. **Sec. 10.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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