

HOUSE BILL REPORT

HB 1310

As Reported by House Committee On:

State Government

Title: An act relating to providing businesses with notice of administrative rules.

Brief Description: Providing businesses with notice of administrative rules.

Sponsors: Representatives Shabro, Holmquist, Armstrong, Anderson, Linville, Nixon, Condotta, Roach, Miloscia, Kristiansen, Bush, Carrell, McDonald, Woods, Benson, McMahan, Chase and Pflug.

Brief History:

Committee Activity:

State Government: 2/6/03, 2/14/03 [DPS].

Brief Summary of Substitute Bill

- State agencies must make a good faith attempt to notify businesses affected by rule changes.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Haigh, Chair; Miloscia, Vice Chair; Armstrong, Ranking Minority Member; Shabro, Assistant Ranking Minority Member; Hunt, McDermott, Nixon, Tom and Wallace.

Staff: Anne Warwick (786-7291) and Katie Blinn (786-7114).

Background:

The primary institutional means for providing notice to the public of an agency's rulemaking activity is the Washington Administrative Code that is published by the Code Reviser in the Washington State Register (Register). The Register is a biweekly publication distributed on the first and third Wednesday of each month. The Register website contains state agencies' pre-proposals, notices of proposed rules, emergency and permanently adopted rules, public meetings, requests for public input, notices of rules review, executive orders of the Governor, court rules, summaries of attorney general

opinions, juvenile disposition standards, basic filing procedures, agency rulemaking activities, quarterly rulemaking reports, state maximum interest rates, closing date calendars, pre-proposal calendars, and a list of designated rules coordinators. Persons interested in receiving only copies of rulemaking activities that are of interest to them may request them from the relevant agency's rules coordinator. There are some sections of the Administrative Procedure Act that state that all persons who request a rulemaking document from an agency shall be provided with one.

All rules proposed by an agency must either provide a Small Business Economic Impact Statement (SBEIS) or provide an explanation why the SBEIS was not prepared. The SBEIS process requires the agency to provide notice of a proposed rule to small businesses either by direct notification to known interested small businesses or trade organizations or by notification to relevant trade journals.

Summary of Substitute Bill:

State agencies must make a good faith attempt to notify businesses affected by rule changes in which noncompliance would result in a penalty or penalties. Within 200 days of the rules effective date, the agency must make a good faith effort to notify the businesses affected by the rule.

The departments of Employment Security, Labor and Industries, Ecology, and Revenue (Departments) will develop and use a notification process. Each agency will adopt rules to: assist interested persons; include a description of the organization and method of operation, including how the public may obtain information and make submissions or requests; and keep a public file, open for public inspection.

The notification shall announce the rule change, briefly summarize the rule change, and include a contact for more information. Notification may be by individual notice, agency bulletins or newsletters, or any other reasonable means to inform the affected businesses. Failure to notify a specific business will not invalidate a rule or waive the requirement to comply with the rule.

Substitute Bill Compared to Original Bill:

The rules proposed by an agency must be clearly stated and understood by those required to comply. The Departments must develop and use a notification process to communicate information to the public regarding rules. The substitute bill clarifies that adopted rules are the rules that agencies must notify the public on.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Notifying businesses of a change or adoption of an agency administrative rule is common sense and common courtesy. This communication between agency and businesses establishes trust.

(With concerns) This is a common sense approach to business and the intent of the bill is good, but often times early notices to businesses are bland and vague. These notices may create more frustration than information gained. It is important for agencies to contact small businesses because small businesses simply don't have the staff to look up every administrative rule that may have changed. It is noteworthy that many agencies have made improvements in their notification process, yet some have not.

Testimony Against: None.

Testified: (In support) Representative Shabro, prime sponsor; Representative Holmquist, sponsor; Amber Balch, Association of Washington Business; Carolyn Logue, National Federation of Independent Business; and Gary Smith, Independent Business Association.

(In support with concerns) Carol Jolly, Office of the Governor; Loren Mike Freeman, Citizen Advocate; and Ivy Sager-Rosenthal, Washington Public Interest Research Group.

(Concerns) Mike Ryherd, Northwest ECO Systems.