

HOUSE BILL REPORT

HB 1531

As Passed Legislature

Title: An act relating to the governor's signature on significant legislative rules.

Brief Description: Requiring the governor's signature on significant legislative rules.

Sponsors: By Representatives Grant, Holmquist, Kessler, Buck, Linville, Haigh, Ruderman, Armstrong, O'Brien, Miloscia, Lovick, Newhouse, Morris, Gombosky, Hatfield, Chandler, Veloria, McMahan, Quall, Schindler, Blake, Shabro, Talcott, Clibborn, Schual-Berke, Bush, Schoesler, Upthegrove, Hinkle, Condotta, Skinner, Sehlin, Bailey, Woods, Kristiansen and Alexander.

Brief History:

Committee Activity:

State Government: 2/18/03, 2/28/03 [DP].

Floor Activity:

Passed House: 3/13/03, 91-5.

Passed Senate: 4/9/03, 38-11.

Passed Legislature.

Brief Summary of Bill

- Requires the Governor to sign all significant legislative rules adopted by agencies under his authority.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Haigh, Chair; Miloscia, Vice Chair; Armstrong, Ranking Minority Member; Shabro, Assistant Ranking Minority Member; Nixon, Tom and Wallace.

Minority Report: Do not pass. Signed by 2 members: Representatives Hunt and McDermott.

Staff: Katie Blinn (786-7114).

Background:

The Administrative Procedure Act (APA) details certain requirements that must be satisfied in order for an agency to adopt a significant legislative rule. A significant legislative rule is one that:

- adopts substantive provisions of law, the violation of which subjects the violator to a penalty or sanction;
- establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or
- adopts a new policy or regulatory program, or makes significant amendments to a policy or regulatory program.

Significant legislative rules do not include emergency rules, procedural rules, interpretative rules, or rules adopted through expedited rulemaking. Examples of the requirements for adoption of a significant legislative rule include a cost/benefit analysis, a determination of whether the rule imposes more stringent requirements on private entities than on public entities, and a determination of whether the rule differs from federal regulations and law. The following agencies must satisfy the APA requirements in order to adopt a significant legislative rule:

- The Department of Ecology;
- The Department of Labor and Industries;
- The Department of Health;
- The Department of Revenue;
- The Department of Social and Health Services;
- The Department of Natural Resources;
- The Employment Security Department;
- The Forest Practices Board;
- The Office of the Insurance Commissioner; and
- The Department of Fish and Wildlife

The final order by which any rule is adopted by an agency must contain the date the agency adopted the rule, a concise description of the purpose of the rule, a reference to all rules repealed, amended or suspended by the rule, a reference to the specific authority, statutory or otherwise, authorizing the agency to adopt the rule, any findings required for adoption of the rule, and the effective date.

Summary of Bill:

For significant legislative rules adopted by agencies under the authority of the Governor, the final order of adoption must also include the Governor's signature.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Agencies and the Legislature often disagree on the correct interpretation or implementation of laws. The bill provides accountability for those important rules that make significant changes. This bill was a recommendation of the Governor's Competitiveness Council and is an important regulatory reform issue. The bill will allow the Governor to be fully aware and accountable for the actions of the agencies under his control.

Testimony Against: Rules that qualify as significant legislative rules are possibly 80 percent of all rules adopted. Agency directors already have to sign many rules. Customer-based performance issues should be addressed by agencies, not the rulemaking process itself. The Joint Legislative Audit and Review Committee is a good vehicle to raise questionable rules, if that committee were more active. Although the intent of the bill is to make the Governor aware of all the issues and processes involved in rulemaking, the result would be a substantial delay in the effective dates of rules, which is not in the public's interest. The bill creates red tape and inefficiency. The APA already has a method for citizens to petition the Governor if concerned about a rule. Cabinet directors are making the Governor aware of rules of significant policy. There were 103 significant legislative rules adopted last year. The Governor has vetoed the bill twice before. Members of the public and the Legislature want the rulemaking process to be improved. The transition from the Office of Permit Assistance to the Office of Regulatory Assistance is a step in the right direction to improving rulemaking and the regulatory process. The rulemaking process has been prolonged by legislation passed the previous eight years. It is not the rulemaking process that upsets people but the substance of the rule so changing the process will not solve that problem.

Testified: (In support) Representative Grant, prime sponsor; and Representative Holmquist, sponsor.

(Opposed) Loren Michael Freeman; and Carol Jolly, Office of the Governor.