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## State Government Committee

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### ESB 5255

**Brief Description:** Limiting the rule-making authority of certain entities to those instances where there is a specific grant of legislative authority.

**Sponsors:** Senators Roach, Hale, Stevens, Mulliken, T. Sheldon, Hewitt, Parlette, Horn, Rossi, Benton, Schmidt, Johnson and Esser.

<p style="text-align: center;"><b>Brief Summary of Engrossed Bill</b></p> <ul style="list-style-type: none"><li>• Requires certain agencies to only adopt rules that are derived from a specific grant of legislative authority.</li></ul>
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**Hearing Date:** 2/26/04

**Staff:** Katie Blinn (786-7114).

**Background:**

State agencies enact rules according to the Administrative Procedure Act (APA) to implement legislation. In addition to regular administrative rules, there are emergency rules, expedited rules, significant legislative rules, procedural rules, and interpretative rules. An agency may not rely solely on an intent section or on the agency's enabling statute for authority to adopt a rule. However, an agency may use the intent section or enabling statute to interpret ambiguities in other provisions of a statute.

**Summary of Bill:**

Certain agencies may only adopt rules derived from a specific grant of legislative authority. The rules must include the specific statutory section from which the grant of authority is derived, and may not rely solely on an intent section or the agency's general enabling provisions. This applies to:

- The Office of the Superintendent of Public Instruction;
- The Department of Retirement Systems;
- The Office of the Family and Children's Ombudsman;
- The Department of Social and Health Services;
- The Department of Ecology;
- The Department of Labor and Industries;
- The Department of Agriculture;
- The Department of Fish and Wildlife;

- The Department of Transportation;
- The Department of Licensing;
- The Department of General Administration;
- The Department of Community, Trade, and Economic Development;
- The Department of Veterans Affairs;
- The Department of Revenue;
- The Department of Corrections;
- The Department of Health;
- The Department of Financial Institutions;
- The Department of Natural Resources;
- The State Finance Committee;
- The State Investment Board;
- The Washington Traffic Safety Commission;
- The Washington State Criminal Justice Training Commission;
- The Washington State Commission on Hispanic Affairs;
- The Washington State Commission on Asian Pacific American Affairs;
- The Washington Council for the Prevention of Child Abuse and Neglect;
- The Public Works Board;
- The Community Economic Revitalization Board;
- The Washington Economic Development Finance Authority;
- The Washington State Housing Finance Commission;
- The Office of the Insurance Commissioner;
- The Washington State Liquor Control Board; and
- The Washington Utilities and Transportation Commission.

However, if the Governor issues a proclamation of emergency, an agency may adopt an emergency rule to address circumstances affecting life, health, property, or the public peace.

ESB 5255 was introduced during the 2003 legislative session and originally applied to rules adopted after July 1, 2003. The striking amendment changes the date of application to July 1, 2004.

**Appropriation:** None.

**Fiscal Note:** Available.

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