

# SENATE BILL REPORT

## ESHB 1530

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As Reported By Senate Committee On:  
Judiciary, April 4, 2003

**Title:** An act relating to venue for declaratory judgments under the administrative procedure act.

**Brief Description:** Changing rules for venue for declaratory judgments under the administrative procedure act.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Grant, Holmquist, Armstrong, Blake, Shabro, Talcott, Ruderman, Schual-Berke, Schoesler, Hinkle, Condotta, Newhouse, Skinner, Sehlin, Bailey, Woods, Kristiansen and Alexander).

**Brief History:**

**Committee Activity:** Judiciary: 4/3/03, 4/4/03 [DP, DNP].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Hargrove, Haugen, Johnson and Roach.

**Minority Report:** Do not pass.

Signed by Senator Kline.

**Staff:** Jinnah Rose-McFadden (786-7421)

**Background:** The Administrative Procedure Act (APA) details procedures state agencies are required to follow when adopting rules. Under the APA, the validity of any rule adopted by an agency may be challenged by a petition for declaratory judgment, when it appears that the rule or application of the rule impairs the legal rights or privileges of a petitioner.

A petition for declaratory judgment challenging the validity of an agency rule must be filed in Thurston County Superior Court.

**Summary of Bill:** A declaratory action challenging an agency rule under the APA may be brought in Clark, Spokane, Whatcom or Yakima counties, in addition to Thurston County.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** Agency rules often impact small businesses. It is extremely important for business owners to have a reasonable and accessible right to challenge rules. Requiring business owners, throughout the state, to travel to Thurston County to challenge an agency rule is onerous and expensive. Citizens should be able to file challenges to agency rules in their local superior court. Allowing declaratory judgment petitions to be filed in more than one county 1) spreads out the caseload, 2) alleviates the impact on Thurston County, and 3) increases citizens' access to justice.

**Testimony Against:** It is inefficient for the Attorney General's office to travel to multiple jurisdictions to defend challenges under the APA. This area of the law is highly specialized and Thurston County Superior Court has extensive expertise in APA challenges to agency rules, expertise that will be lost if actions are brought all over the state.

Additionally, the bill will result in multiple determinations concerning the validity of a single rule. This increases the costs associated with appeals.

**Testified:** PRO: Mark Johnson, National Federation of Independent Business; Tonia Neil, Building Industry Association of Washington; Duke Schaub, ACC of Washington. CON: Carol Jolly, Governor's Office.