

SENATE BILL REPORT

ESB 5052

As Passed Senate, January 26, 2004

Title: An act relating to significant legislative rules.

Brief Description: Delaying the effect of significant legislative rules.

Sponsors: Senators Hale, T. Sheldon, Hewitt, Johnson, Sheahan and Oke.

Brief History:

Committee Activity: Government Operations & Elections: 1/21/03, 2/25/03 [DP, DNP].
Passed Senate: 3/7/03, 33-16; 1/26/04, 38-10.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: Do pass.

Signed by Senators Roach, Chair; Stevens, Vice Chair; Horn, McCaslin and Reardon.

Minority Report: Do not pass.

Signed by Senators Fairley and Kastama.

Staff: Diane Smith (786-7410)

Background: Under the Administrative Procedure Act (APA), any agency rule that qualifies as a "significant legislative rule," either by meeting the statutory definition or by being voluntarily treated as such by the agency, must undergo extensive analysis before its adoption.

A significant legislative rule is one that carries a penalty for its violation, impacts licensing or permitting, or adopts new policy.

Even though otherwise significant, the extensive analysis is only required for rules of the departments, boards and offices of Ecology, Labor and Industries, Health, Revenue, Social and Health Services, Natural Resources, Employment Security, Forest Practices, Insurance Commissioner, and certain legislative rules of Fish and Wildlife.

The primary institutional means for providing notice to the public of the agencies' rule-making activities is the Washington Administrative Code that is published by the Code Reviser in the Washington State Register. Persons interested in receiving copies of particular rule-making documents 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 rule-making document from an agency shall be provided with one.

Summary of Bill: Significant legislative rules to which the extensive pre-adoption analysis applies must be adopted before December 1 of any year and may not take effect before the end of the next regular legislative session.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Our state is fifth out of 50 as the worst regulating environment for business. This bill allows the Legislature to make sure that agency directors interpret their statutory authority as we intended. We must attend to the needs and rights of small business people. They create the jobs in this state. We are lagging one and one-half years behind the nation in recovering from our recessionary spiral.

Testimony Against: One of the points of regulations, as opposed to statutes, is the ability of the agency to respond to fluid situations in a timely and technically competent manner. Mandatory delays of up to 18 months could cause unforeseen crises throughout the regulated communities.

Testified: L. Mike Freeman, Citizen Advocate (con); Amber Balch, AWB (pro); Joe Sternola, Permagas (pro); Dave Williams, AWC (pro); Paul Parker, WA State Assn. of Counties (pro); Ivy Sager-Rosenthal, WashPIRG (con); Jeff Johnson, WA State Labor Council, AFL-CIO (con).