
HOUSE BILL 1530

State of Washington

58th Legislature

2003 Regular Session

By Representatives Grant, Holmquist, Armstrong, Blake, Shabro, Talcott, Ruderman, Schual-Berke, Schoesler, Hinkle, Condotta, Newhouse, Skinner, Sehlin, Bailey, Woods, Kristiansen and Alexander

Read first time 01/29/2003. Referred to Committee on Judiciary.

1 AN ACT Relating to venue for declaratory judgments under the
2 administrative procedure act; and amending RCW 34.05.570.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 34.05.570 and 1995 c 403 s 802 are each amended to
5 read as follows:

6 (1) Generally. Except to the extent that this chapter or another
7 statute provides otherwise:

8 (a) The burden of demonstrating the invalidity of agency action is
9 on the party asserting invalidity;

10 (b) The validity of agency action shall be determined in accordance
11 with the standards of review provided in this section, as applied to
12 the agency action at the time it was taken;

13 (c) The court shall make a separate and distinct ruling on each
14 material issue on which the court's decision is based; and

15 (d) The court shall grant relief only if it determines that a
16 person seeking judicial relief has been substantially prejudiced by the
17 action complained of.

18 (2) Review of rules. (a) A rule may be reviewed by petition for
19 declaratory judgment filed pursuant to this subsection or in the

1 context of any other review proceeding under this section. In an
2 action challenging the validity of a rule, the agency shall be made a
3 party to the proceeding.

4 (b) The validity of any rule may be determined upon petition for a
5 declaratory judgment addressed to the superior court (~~(of Thurston~~
6 ~~county)~~), when it appears that the rule, or its threatened application,
7 interferes with or impairs or immediately threatens to interfere with
8 or impair the legal rights or privileges of the petitioner. The
9 declaratory judgment order may be entered whether or not the petitioner
10 has first requested the agency to pass upon the validity of the rule in
11 question. A petition for declaratory judgment under this section may
12 be brought in the superior court for: (i) The county of the
13 petitioner's residence or principal place of business; (ii) any county
14 where property owned by the petitioner may be affected by the rule; or
15 (iii) Thurston county.

16 (c) In a proceeding involving review of a rule, the court shall
17 declare the rule invalid only if it finds that: The rule violates
18 constitutional provisions; the rule exceeds the statutory authority of
19 the agency; the rule was adopted without compliance with statutory
20 rule-making procedures; or the rule is arbitrary and capricious.

21 (3) Review of agency orders in adjudicative proceedings. The court
22 shall grant relief from an agency order in an adjudicative proceeding
23 only if it determines that:

24 (a) The order, or the statute or rule on which the order is based,
25 is in violation of constitutional provisions on its face or as applied;

26 (b) The order is outside the statutory authority or jurisdiction of
27 the agency conferred by any provision of law;

28 (c) The agency has engaged in unlawful procedure or decision-making
29 process, or has failed to follow a prescribed procedure;

30 (d) The agency has erroneously interpreted or applied the law;

31 (e) The order is not supported by evidence that is substantial when
32 viewed in light of the whole record before the court, which includes
33 the agency record for judicial review, supplemented by any additional
34 evidence received by the court under this chapter;

35 (f) The agency has not decided all issues requiring resolution by
36 the agency;

37 (g) A motion for disqualification under RCW 34.05.425 or 34.12.050
38 was made and was improperly denied or, if no motion was made, facts are

1 shown to support the grant of such a motion that were not known and
2 were not reasonably discoverable by the challenging party at the
3 appropriate time for making such a motion;

4 (h) The order is inconsistent with a rule of the agency unless the
5 agency explains the inconsistency by stating facts and reasons to
6 demonstrate a rational basis for inconsistency; or

7 (i) The order is arbitrary or capricious.

8 (4) Review of other agency action.

9 (a) All agency action not reviewable under subsection (2) or (3) of
10 this section shall be reviewed under this subsection.

11 (b) A person whose rights are violated by an agency's failure to
12 perform a duty that is required by law to be performed may file a
13 petition for review pursuant to RCW 34.05.514, seeking an order
14 pursuant to this subsection requiring performance. Within twenty days
15 after service of the petition for review, the agency shall file and
16 serve an answer to the petition, made in the same manner as an answer
17 to a complaint in a civil action. The court may hear evidence,
18 pursuant to RCW 34.05.562, on material issues of fact raised by the
19 petition and answer.

20 (c) Relief for persons aggrieved by the performance of an agency
21 action, including the exercise of discretion, or an action under (b) of
22 this subsection can be granted only if the court determines that the
23 action is:

24 (i) Unconstitutional;

25 (ii) Outside the statutory authority of the agency or the authority
26 conferred by a provision of law;

27 (iii) Arbitrary or capricious; or

28 (iv) Taken by persons who were not properly constituted as agency
29 officials lawfully entitled to take such action.

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