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SENATE BILL 6406

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State of Washington                      58th Legislature                      2004 Regular Session

By Senators Hale, T. Sheldon, Roach, McCaslin, Rasmussen and Stevens

Read first time 01/20/2004.      Referred to Committee on Government Operations & Elections.

1            AN ACT Relating to a small business exception to exhaustion of  
2 administrative remedies; and amending RCW 34.05.534.

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

4            **Sec. 1.** RCW 34.05.534 and 1997 c 409 s 302 are each amended to  
5 read as follows:

6            A person may file a petition for judicial review under this chapter  
7 only after exhausting all administrative remedies available within the  
8 agency whose action is being challenged, or available within any other  
9 agency authorized to exercise administrative review, except:

10            (1) A petitioner for judicial review of a rule need not have  
11 participated in the rule-making proceeding upon which that rule is  
12 based, have petitioned for its amendment or repeal, have petitioned the  
13 joint administrative rules review committee for its review, or have  
14 appealed a petition for amendment or repeal to the governor;

15            (2) A petitioner for judicial review need not exhaust  
16 administrative remedies to the extent that this chapter or any other  
17 statute states that exhaustion is not required; ((~~or~~))

18            (3) A petitioner for judicial review who is a small business as

1 defined in RCW 19.85.020 need not exhaust administrative remedies if  
2 the petition is filed within two years of the agency action that is the  
3 subject of the petition; or

4 (4) The court may relieve a petitioner of the requirement to  
5 exhaust any or all administrative remedies upon a showing that:

6 (a) The remedies would be patently inadequate;

7 (b) The exhaustion of remedies would be futile; or

8 (c) The grave irreparable harm that would result from having to  
9 exhaust administrative remedies would clearly outweigh the public  
10 policy requiring exhaustion of administrative remedies.

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