

EHB 1525 - S COMM AMD

By Committee on Labor, Commerce, Research & Development

ADOPTED 04/10/2007

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) A vibrant and growing small business sector is critical to  
5 creating jobs in a dynamic economy;

6 (2) Small businesses bear a disproportionate share of regulatory  
7 costs and burdens;

8 (3) Fundamental changes that are needed in the regulatory and  
9 enforcement culture of state agencies to make them more responsive to  
10 small business can be made without compromising the statutory missions  
11 of the agencies;

12 (4) When adopting rules to protect the health, safety, and economic  
13 welfare of Washington, state agencies should seek to achieve statutory  
14 goals as effectively and efficiently as possible without imposing  
15 unnecessary burdens on small employers;

16 (5) Uniform regulatory and reporting requirements can impose  
17 unnecessary and disproportionately burdensome demands including legal,  
18 accounting, and consulting costs upon small businesses with limited  
19 resources;

20 (6) The failure to recognize differences in the scale and resources  
21 of regulated businesses can adversely affect competition in the  
22 marketplace, discourage innovation, and restrict improvements in  
23 productivity;

24 (7) Unnecessary regulations create entry barriers in many  
25 industries and discourage potential entrepreneurs from introducing  
26 beneficial products and processes;

27 (8) The practice of treating all regulated businesses the same  
28 leads to inefficient use of regulatory agency resources, enforcement  
29 problems, and, in some cases, to actions inconsistent with the

1 legislative intent of health, safety, environmental, and economic  
2 welfare legislation;

3 (9) Alternative regulatory approaches which do not conflict with  
4 the state objective of applicable statutes may be available to minimize  
5 the significant economic impact of rules on small businesses; and

6 (10) The process by which state rules are developed and adopted  
7 should be reformed to require agencies to solicit the ideas and  
8 comments of small businesses, to examine the impact of proposed and  
9 existing rules on such businesses, and to review the continued need for  
10 existing rules.

11 **Sec. 2.** RCW 19.85.020 and 2003 c 166 s 1 are each amended to read  
12 as follows:

13 (~~Unless the context clearly indicates otherwise,~~) The definitions  
14 in this section apply through this chapter unless the context clearly  
15 requires otherwise.

16 (1) "Industry" means all of the businesses in this state in any one  
17 four-digit standard industrial classification as published by the  
18 United States department of commerce, or the North American industry  
19 classification system as published by the executive office of the  
20 president and the office of management and budget. However, if the use  
21 of a four-digit standard industrial classification or North American  
22 industry classification system would result in the release of data that  
23 would violate state confidentiality laws, "industry" means all  
24 businesses in a three-digit standard industrial classification or the  
25 North American industry classification system.

26 (2) "Minor cost" means a cost per business that is less than three-  
27 tenths of one percent of annual revenue or income, or one hundred  
28 dollars, whichever is greater, or one percent of annual payroll.  
29 However, for the rules of the department of social and health services  
30 "minor cost" means cost per business that is less than fifty dollars of  
31 annual cost per client or other appropriate unit of service.

32 (3) "Small business" means any business entity, including a sole  
33 proprietorship, corporation, partnership, or other legal entity, that  
34 is owned and operated independently from all other businesses, and that  
35 has fifty or fewer employees.

36 (~~(+2)~~) (4) "Small business economic impact statement" means a

1 statement meeting the requirements of RCW 19.85.040 prepared by a state  
2 agency pursuant to RCW 19.85.030.

3 ~~((3) "Industry" means all of the businesses in this state in any  
4 one four digit standard industrial classification as published by the  
5 United States department of commerce. However, if the use of a four  
6 digit standard industrial classification would result in the release of  
7 data that would violate state confidentiality laws, "industry" means  
8 all businesses in a three digit standard industrial classification.))~~

9 **Sec. 3.** RCW 19.85.030 and 2000 c 171 s 60 are each amended to read  
10 as follows:

11 (1) In the adoption of a rule under chapter 34.05 RCW, an agency  
12 shall prepare a small business economic impact statement: (a) If the  
13 proposed rule will impose more than minor costs on businesses in an  
14 industry; or (b) if requested to do so by a majority vote of the joint  
15 administrative rules review committee within forty-five days of  
16 receiving the notice of proposed rule making under RCW 34.05.320.  
17 However, if the agency has completed the pilot rule process as defined  
18 by RCW 34.05.313 before filing the notice of a proposed rule, the  
19 agency is not required to prepare a small business economic impact  
20 statement.

21 An agency shall prepare the small business economic impact  
22 statement in accordance with RCW 19.85.040, and file it with the code  
23 reviser along with the notice required under RCW 34.05.320. An agency  
24 shall file a statement prepared at the request of the joint  
25 administrative rules review committee with the code reviser upon its  
26 completion before the adoption of the rule. An agency shall provide a  
27 copy of the small business economic impact statement to any person  
28 requesting it.

29 (2) Based upon the extent of disproportionate impact on small  
30 business identified in the statement prepared under RCW 19.85.040, the  
31 agency shall, where legal and feasible in meeting the stated objectives  
32 of the statutes upon which the rule is based, reduce the costs imposed  
33 by the rule on small businesses. Methods to reduce the costs on small  
34 businesses may include:

35 (a) Reducing, modifying, or eliminating substantive regulatory  
36 requirements;

1 (b) Simplifying, reducing, or eliminating recordkeeping and  
2 reporting requirements;

3 (c) Reducing the frequency of inspections;

4 (d) Delaying compliance timetables;

5 (e) Reducing or modifying fine schedules for noncompliance; or

6 (f) Any other mitigation techniques.

7 (3) If the agency determines it cannot reduce the costs imposed by  
8 the rule on small businesses, the agency shall provide a clear  
9 explanation of why it has made that determination and include that  
10 statement with its filing of the proposed rule pursuant to RCW  
11 34.05.320.

12 (4)(a) All small business economic impact statements are subject to  
13 selective review by the joint administrative rules review committee  
14 pursuant to RCW 34.05.630.

15 (b) Any person affected by a proposed rule where there is small  
16 business economic impact statement may petition the joint  
17 administrative rules review committee for review pursuant to the  
18 procedure in RCW 34.05.655.

19 **Sec. 4.** RCW 19.85.040 and 1995 c 403 s 403 are each amended to  
20 read as follows:

21 (1) A small business economic impact statement must include a brief  
22 description of the reporting, recordkeeping, and other compliance  
23 requirements of the proposed rule, and the kinds of professional  
24 services that a small business is likely to need in order to comply  
25 with such requirements. It shall analyze the costs of compliance for  
26 businesses required to comply with the proposed rule adopted pursuant  
27 to RCW 34.05.320, including costs of equipment, supplies, labor,  
28 professional services, and increased administrative costs. It shall  
29 consider, based on input received, whether compliance with the rule  
30 will cause businesses to lose sales or revenue. To determine whether  
31 the proposed rule will have a disproportionate cost impact on small  
32 businesses, the impact statement must compare the cost of compliance  
33 for small business with the cost of compliance for the ten percent of  
34 businesses that are the largest businesses required to comply with the  
35 proposed rules using one or more of the following as a basis for  
36 comparing costs:

37 (a) Cost per employee;

1 (b) Cost per hour of labor; or  
2 (c) Cost per one hundred dollars of sales.  
3 (2) A small business economic impact statement must also include:  
4 (a) A statement of the steps taken by the agency to reduce the  
5 costs of the rule on small businesses as required by RCW  
6 19.85.030(~~(+3)~~) (2), or reasonable justification for not doing so,  
7 addressing the options listed in RCW 19.85.030(~~(+3)~~) (2);  
8 (b) A description of how the agency will involve small businesses  
9 in the development of the rule; (~~and~~)  
10 (c) A list of industries that will be required to comply with the  
11 rule. However, this subsection (2)(c) shall not be construed to  
12 preclude application of the rule to any business or industry to which  
13 it would otherwise apply; and  
14 (d) An estimate of the number of jobs that will be created or lost  
15 as the result of compliance with the proposed rule.  
16 (3) To obtain information for purposes of this section, an agency  
17 may survey a representative sample of affected businesses or trade  
18 associations and should, whenever possible, appoint a committee under  
19 RCW 34.05.310(2) to assist in the accurate assessment of the costs of  
20 a proposed rule, and the means to reduce the costs imposed on small  
21 business."

**EHB 1525** - S COMM AMD

By Committee on Labor, Commerce, Research & Development

**ADOPTED 04/10/2007**

22 On page 1, line 1 of the title, after "businesses;" strike the  
23 remainder of the title and insert "amending RCW 19.85.020, 19.85.030,  
24 and 19.85.040; and creating a new section."

**EFFECT:** Removes the requirement that, whenever possible, an agency appoint a committee to engage in negotiated rule making under RCW

34.05.310(2) to assist in the accurate assessment of the costs of the proposed rule. Instead, the statute is returned to its current language. An agency will, whenever possible, appoint a committee under RCW 34.05.310(2) to assist in the accurate assessment of the costs of the proposed rule.

--- END ---