
HOUSE BILL 2928

State of Washington

61st Legislature

2010 Regular Session

By Representatives Hasegawa, Kretz, Kelley, Kristiansen, and Hudgins

Read first time 01/18/10. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to implementing the recommendations of the joint
2 administrative rules review committee; amending RCW 34.05.640; creating
3 new sections; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) The joint administrative rules review
6 committee, a bipartisan committee of the legislature made up of members
7 from both caucuses and both chambers of the legislature serves as a
8 watchdog for the citizens of the state to ensure that agency rules are
9 adopted in accordance with all applicable provisions of law and are
10 consistent with legislative intent.

11 (2) Typically, concerns related to proposed or adopted rules are
12 resolved informally, through discussions with agency staff. On
13 occasion, however, concerns regarding agency rules are either not able
14 to be resolved at the staff level or are sufficiently complex or
15 significant to necessitate a rules review committee hearing or work
16 session. On rare occasions, the rules review committee makes an
17 adverse finding or findings against an agency as it relates to adopted
18 or proposed rules. It is unprecedented for a majority of the rules

1 review committee to find that an agency has failed to adequately
2 respond to a formal request by the rules review committee for
3 additional information consistent with statutory requirements.

4 (3) The legislature finds that the rules review committee provides
5 an important service; and further finds that when a majority of the
6 committee expresses concerns that are not adequately addressed or
7 resolved by the agency this must serve as a red flag for the
8 legislature. It is the intent of the legislature to recognize the
9 concerns of the rules review committee by requiring an affirmative
10 action of the legislature to approve agency rules in response to
11 certain adverse findings of the rules review committee.

12 **Sec. 2.** RCW 34.05.640 and 1998 c 21 s 2 are each amended to read
13 as follows:

14 (1) Within seven days of an agency hearing held after notification
15 of the agency by the rules review committee pursuant to RCW 34.05.620
16 or 34.05.630, the affected agency shall notify the committee of its
17 intended action on a proposed or existing rule to which the committee
18 objected or on a committee finding of the agency's failure to adopt
19 rules.

20 (2) If the rules review committee finds by a majority vote of its
21 members: (a) That the proposed or existing rule in question will not
22 be modified, amended, withdrawn, or repealed by the agency so as to
23 conform with the intent of the legislature, (b) that an existing rule
24 was not adopted in accordance with all applicable provisions of law, or
25 (c) that the agency will not replace the policy or interpretive
26 statement, guideline, or document that is of general applicability, or
27 its equivalent, with a rule, the rules review committee may, within
28 thirty days from notification by the agency of its intended action,
29 file with the code reviser notice of its objections together with a
30 concise statement of the reasons therefor. Such notice and statement
31 shall also be provided to the agency by the rules review committee.

32 (3)(a) If the rules review committee makes an adverse finding
33 regarding an existing rule under subsection (2)(a) or (b) of this
34 section, the committee may, by a majority vote of its members,
35 recommend suspension of the rule. Within seven days of such vote the
36 committee shall transmit to the appropriate standing committees of the
37 legislature, the governor, the code reviser, and the agency written

1 notice of its objection and recommended suspension and the concise
2 reasons therefor. Within thirty days of receipt of the notice, the
3 governor shall transmit to the committee, the code reviser, and the
4 agency written approval or disapproval of the recommended suspension.
5 If the suspension is approved by the governor, it is effective from the
6 date of that approval and continues until ninety days after the
7 expiration of the next regular legislative session.

8 (b) If the rules review committee makes an adverse finding
9 regarding a policy or interpretive statement, guideline, or document
10 that is of general applicability, or its equivalent, under subsection
11 (2)(c) of this section, the committee may, by a majority vote of its
12 members, advise the governor of its finding.

13 (4) If the rules review committee finds by majority vote that
14 agency rules have not been adopted in accordance with all procedures of
15 law; that an agency failed to adequately respond to the rules review
16 committee's written request for additional information required by
17 statute; or that proposed or existing rules will not be modified,
18 amended, withdrawn, or repealed by the agency so as to conform with the
19 intent of the legislature, the legislature must affirmatively approve
20 the subject proposed or adopted rules, or direct the agency to modify
21 its rules, at the next regular session following the date of the rules
22 review committee's findings.

23 (5) The code reviser shall publish transmittals from the rules
24 review committee or the governor issued pursuant to subsection (2) or
25 (3) of this section in the Washington state register and shall publish
26 in the next supplement and compilation of the Washington Administrative
27 Code a reference to the committee's objection or recommended suspension
28 and the governor's action on it and to the issue of the Washington
29 state register in which the full text thereof appears.

30 ((+5)) (6) The reference shall be removed from a rule published in
31 the Washington Administrative Code if a subsequent adjudicatory
32 proceeding determines that the rule is within the intent of the
33 legislature or was adopted in accordance with all applicable laws,
34 whichever was the objection of the rules review committee.

35 NEW SECTION. **Sec. 3.** This act applies retroactively to all
36 actions of the joint administrative rules review committee taken
37 subsequent to the 2009 legislative session.

1 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

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