
SENATE BILL 6834

State of Washington 61st Legislature 2010 Regular Session

By Senators Swecker and Haugen

Read first time 02/03/10. Referred to Committee on Judiciary.

1 AN ACT Relating to declaratory orders entered by agencies; and
2 amending RCW 34.05.240.

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

4 **Sec. 1.** RCW 34.05.240 and 1988 c 288 s 204 are each amended to
5 read as follows:

6 (1) Any person may petition an agency for a declaratory order with
7 respect to the applicability to specified circumstances of a rule,
8 order, or statute enforceable by the agency. The petition shall set
9 forth facts and reasons on which the petitioner relies to show:

10 (a) That uncertainty necessitating resolution exists;

11 (b) That there is actual controversy arising from the uncertainty
12 such that a declaratory order will not be merely an advisory opinion;

13 (c) That the uncertainty adversely affects the petitioner;

14 (d) That the adverse effect of uncertainty on the petitioner
15 outweighs any adverse effects on others or on the general public that
16 may likely arise from the order requested; and

17 (e) That the petition complies with any additional requirements
18 established by the agency under subsection (2) of this section.

1 (2) Each agency may adopt rules that provide for: (a) The form,
2 contents, and filing of petitions for a declaratory order; (b) the
3 procedural rights of persons in relation thereto; and (c) the
4 disposition of those petitions. These rules may include a description
5 of the classes of circumstances in which the agency will not enter a
6 declaratory order and shall be consistent with the public interest and
7 with the general policy of this chapter to facilitate and encourage
8 agencies to provide reliable advice.

9 (3) Within fifteen days after receipt of a petition for a
10 declaratory order, the agency shall give notice of the petition to all
11 persons to whom notice is required by law, and may give notice to any
12 other person it deems desirable.

13 (4) RCW 34.05.410 through 34.05.494 apply to agency proceedings for
14 declaratory orders only to the extent an agency so provides by rule or
15 order.

16 (5) Within thirty days after receipt of a petition for a
17 declaratory order an agency, in writing, shall do one of the following:

18 (a) Enter an order declaring the applicability of the statute,
19 rule, or order in question to the specified circumstances;

20 (b) Set the matter for specified proceedings to be held no more
21 than ninety days after receipt of the petition;

22 (c) Set a specified time no more than ninety days after receipt of
23 the petition by which it will enter a declaratory order; or

24 (d) Decline to enter a declaratory order, stating the reasons for
25 its action.

26 (6) The time limits of subsection (5) (b) and (c) of this section
27 may be extended by the agency for good cause.

28 (7) An agency may not enter a declaratory order that would
29 substantially prejudice the rights of a person not joined as a party to
30 the administrative proceeding who would be a necessary party and who
31 does not consent in writing to the determination of the matter by a
32 declaratory order proceeding.

33 (8) A declaratory order has the same status as any other order
34 entered in an agency adjudicative proceeding. Each declaratory order
35 shall contain the names of all parties to the proceeding on which it is
36 based, the particular facts on which it is based, and the reasons for

1 its conclusions.

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