S-0537.1

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**SENATE BILL 5373**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Dansel, Hobbs, Honeyford, and Roach

AN ACT Relating to modifying limitations on new evidence taken on judicial review of administrative actions; and amending RCW 34.05.562.

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

**Sec.**  RCW 34.05.562 and 1988 c 288 s 514 are each amended to read as follows:

(1) The court may receive evidence in addition to that contained in the agency record for judicial review, ((~~only if~~))whenever it relates to the validity of the agency action at the time it was taken ((~~and~~)), is necessary to avoid injustice, or is needed to decide disputed issues regarding:

(a) Improper constitution as a decision-making body or grounds for disqualification of those taking the agency action;

(b) Unlawfulness of procedure or of decision-making process; or

(c) Material facts in rule making, brief adjudications, or other proceedings not required to be determined on the agency record.

(2) The court may remand a matter to the agency, before final disposition of a petition for review, with directions that the agency conduct fact-finding and other proceedings the court considers necessary and that the agency take such further action on the basis thereof as the court directs, if:

(a) The agency was required by this chapter or any other provision of law to base its action exclusively on a record of a type reasonably suitable for judicial review, but the agency failed to prepare or preserve an adequate record;

(b) The court finds that (i) new evidence has become available that relates to the validity of the agency action at the time it was taken, that one or more of the parties did not know and was under no duty to discover or could not have reasonably been discovered until after the agency action, and (ii) the interests of justice would be served by remand to the agency;

(c) The agency improperly excluded or omitted evidence from the record; or

(d) A relevant provision of law changed after the agency action and the court determines that the new provision may control the outcome.

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