
State Government Committee

HB 1913

Brief Description: Concerning rule making, including requiring new information uncovered during the rule-making process to be provided to the appropriate legislative policy committees and a review of certain rules.

Sponsors: Representatives Wylie, Wilson, Gregerson, Ryu and Scott.

Brief Summary of Bill

- Requires an agency head to notify the appropriate committees of the legislature if new data, an unanticipated adverse impact, or new cost information is revealed during the rulemaking process.
- Requires the Joint Administrative Rules Review Committee (JARRC) to review proposed rules petitioned when the rule is not within the intent of the legislature or when new information regarding cost, adverse impacts, or other relevant information identified during the rulemaking process.
- Requires the JARRC to review any rule that has a fiscal impact of \$1 million or more.

Hearing Date: 2/10/15

Staff: Marsha Reilly (786-7135).

Background:

Administrative Procedure Act.

Washington's Administrative Procedure Act (APA) establishes procedures under which state agencies adopt rules and conduct adjudicative proceedings. Generally, a rule is any agency order, directive, or regulation of general applicability which: (1) subjects a person to a sanction if violated; or (2) establishes or changes any procedure or qualification relating to agency hearings, benefits or privileges conferred by law, licenses to pursue any commercial activity, trade, or profession, or standards for the sale or distribution of products or materials. An agency may not adopt rules absent a grant of authority by the Legislature. Such rule-making authority

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may be derived through a broad, general grant of such authority in the enabling statutes pertaining to an agency, or it may be explicitly conferred by statute in order to enable an agency to implement a specific legislative provision.

Before adopting a rule, an agency must follow specified procedures, including publishing notice in the Washington State Register and holding hearings. The APA designates certain types of rules as being "significant legislative rules," which are subject to special requirements and procedures before they may be adopted by an agency. A significant legislative rule is a rule other than a procedural or interpretive rule that:

- adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction;
- establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or
- adopts new, or makes significant amendments to, a policy or regulatory program.

The Joint Administrative Rules Review Committee.

The Legislature exercises some oversight over agency rulemaking through the Joint Administrative Rules Review Committee (JARRC). The JARRC is empowered to examine three main issues: whether a rule is consistent with the intent of the Legislature; whether a rule was adopted in accordance with the law; and whether an agency is using a policy or interpretive statement in place of a rule. The JARRC may also, by majority vote, order an agency to engage in the significant legislative rule-making process or develop a small business economic impact statement.

Any person may petition the JARRC for a review of a proposed or existing rule, a proposed or existing policy, or an interpretive statement of general applicability. A petition of review may only be filed for the purpose of requesting the JARRC to determine whether the rule has been adopted in accordance with the provisions of law.

If the JARRC issues an adverse finding on a rule, the agency in question is required to conduct a hearing on the committee's findings. If the JARRC is dissatisfied with the agency response to its findings, it may publish notice of its dissatisfaction in the State Register, recommend to the Governor that he or she suspend the rule, or refer the matter to a standing policy committee of the Legislature.

Summary of Bill:

If new data, an unanticipated adverse impact, or new cost information is revealed during the rule-making process, the agency head shall inform the appropriate legislative policy committees of the new information.

The JARRC must review proposed rules petitioned when the rule is not within the intent of the legislature as expressed in the statute which the rule implements or when new information regarding cost, adverse impacts, or other relevant information that was not known during the legislative process is identified. Any rule that has a fiscal impact of \$1 million or more must be reviewed by JARRC.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.