SENATE BILL REPORT
SB 5371

As of February 16, 2015

Title: An act relating to limitations on agency declaratory orders.

Brief Description: Modifying limitations on agency declaratory orders.

Sponsors: Senators Dansel, Padden, Honeyford and Roach.

Brief History:
　　Committee Activity: Government Operations & Security: 2/02/15.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

　　Staff: Curt Gavigan (786-7437)

　　Background: Administrative Procedure Act (APA) Generally. The APA establishes the general procedures for agency rulemaking and adjudicatory proceedings.
Under the APA, a rule includes an agency order, directive, or regulation of general applicability that:
- could result in a penalty or sanction;
- establishes a process for agency hearings;
- addresses qualifications or requirements relating to benefits or privileges conferred by law; and
- addresses qualifications or standards for commercial activity or professional licenses professions.

Declaratory Orders. A person may petition an agency for a declaratory order on how a rule, order, or statute applies in specific circumstances. A petition must include information, including that shows:
- there is uncertainty requiring resolution;
- there is an actual controversy; and
- the adverse impact of the uncertainty on the petitioner outweighs adverse impacts on others from issuing the order.

However, an agency may not issue a declaratory order that would substantially prejudice the rights of a person who would be a necessary party and who does not consent in writing to the declaratory order process.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: An agency is prohibited from issuing a declaratory order that would substantially prejudice the rights of a necessary party who does not consent in writing to the declaratory order process only if they are not named as a party to the proceeding.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill would promote the ability of citizens to use the declaratory order process.

Persons Testifying: PRO: Senator Dansel, prime sponsor; Cindy Alia, Citizens Alliance for Property Rights; Ed Moats, citizen.