

SENATE BILL REPORT

SB 6464

As Reported by Senate Committee On:
Law & Justice, February 3, 2016

Title: An act relating to deadlines for final determinations and dispositions in agency adjudicative proceedings.

Brief Description: Establishing deadlines for final determinations and dispositions in agency adjudicative proceedings.

Sponsors: Senator Padden.

Brief History:

Committee Activity: Law & Justice: 1/28/16, 2/03/16 [DPS-WM].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6464 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Darneille, Frockt, Pearson and Roach.

Staff: Tim Ford (786-7423)

Background: The Administrative Procedure Act (APA) sets the process that state agencies must use when the agency takes administrative action. Individuals appealing agency actions must exhaust their administrative remedies with the agency prior to judicial review. Agencies offer administrative hearings that are quasi-judicial to hear appeals of agency actions. Administrative hearings adjudicate appeals by interpreting agency policy and regulations. Adjudication resembles what a court does but is less formal. Adjudicative proceedings determine legal rights, duties, or privileges when a hearing is required by law.

Agencies may use a two-step process to reach a final agency decision in adjudicative proceedings. First, a presiding officer hears evidence and makes an initial, or recommended decision. Then, the agency reviews the initial decision and makes a final decision to accept or reject the initial decision. A party may appeal the final agency decision to the superior court for judicial review. In a judicial review the superior court becomes an appellate court. The superior court decides if the final agency decision is correct.

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: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): An agency must make a final administrative decision within two years after a person commences an administrative challenge to an agency action. The agency's final decision must allow the person to appeal to a superior court. A person may file a petition for review with a superior court if the agency fails to issue a final administrative decision within two years. On appeal, a superior court may not remand the case for further administrative proceedings unless all parties consent. Review by a superior court is limited to the issues and facts identified in the petition for review.

The two-year limit may be waived where all parties consent.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): The two year limit may be waived where all parties consent. The two year limit is tolled where all parties consent to stay the proceeding.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on First Substitute: PRO: This bill represents a safety valve for participants in the administrative law process where the agency has egregiously delayed the resolution of matters. You can't file an action in superior court for declaratory relief without going through the administrative process against the employment security division over its assessment of unemployment insurance due. Many truckers are independent contractors and that's why the assessment is being challenged. The agency can drag its feet. Five years after the filing of a notice of assessment, we are finally getting into superior court. In many instances the agency lost the files, or reneged on agreements. Two years is sufficient time to develop a record and rule on the merits.

Persons Testifying on First Substitute: PRO: Phil Talmadge.

Persons Signed In To Testify But Not Testifying on First Substitute: No one.