
SENATE BILL 5371

State of Washington 64th Legislature 2015 Regular Session

By Senators Dansel, Padden, Honeyford, and Roach

Read first time 01/20/15. Referred to Committee on Government Operations & State Security.

1 AN ACT Relating to limitations on agency declaratory orders; 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
7 with respect to the applicability to specified circumstances of a
8 rule, order, or statute enforceable by the agency. The petition shall
9 set 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.

19 (2) Each agency may adopt rules that provide for: (a) The form,
20 contents, and filing of petitions for a declaratory order; (b) the
21 procedural rights of persons in relation thereto; and (c) the

1 disposition of those petitions. These rules may include a description
2 of the classes of circumstances in which the agency will not enter a
3 declaratory order and shall be consistent with the public interest
4 and with the general policy of this chapter to facilitate and
5 encourage agencies to provide reliable advice.

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

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

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

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

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

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

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

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

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

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

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