
SUBSTITUTE HOUSE BILL 1120

State of Washington

65th Legislature

2017 Regular Session

By House Technology & Economic Development (originally sponsored by Representatives Smith, Morris, Short, Hayes, Stanford, Koster, Van Werven, McDonald, MacEwen, Muri, Haler, Ryu, Condotta, and Buys)

READ FIRST TIME 02/03/17.

1 AN ACT Relating to enhancing the economic development and
2 viability of small businesses; amending RCW 19.85.025, 19.85.030, and
3 43.42.010; and adding a new section to chapter 43.09 RCW.

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

5 **Sec. 1.** RCW 19.85.025 and 1997 c 409 s 212 are each amended to
6 read as follows:

7 (1) Unless an agency receives a written objection to the
8 expedited repeal of a rule, this chapter does not apply to a rule
9 proposed for expedited repeal pursuant to RCW ((34.05.354))
10 34.05.353. If an agency receives a written objection to expedited
11 repeal of the rule, this chapter applies to the rule-making
12 proceeding.

13 (2) This chapter does not apply to a rule proposed for expedited
14 adoption under RCW ((34.05.230 (1) through (8))) 34.05.353, unless a
15 written objection is timely filed with the agency and the objection
16 is not withdrawn.

17 (3) This chapter does not apply to the adoption of a rule
18 described in RCW 34.05.310(4).

19 (4) This chapter does not apply to the adoption of a rule if an
20 agency is able to demonstrate that the proposed rule does not affect
21 small businesses.

1 (5) An agency is not required to prepare a separate small
2 business economic impact statement under RCW 19.85.040 if it prepared
3 an analysis under RCW 34.05.328 that meets the requirements of a
4 small business economic impact statement, and if the agency reduced
5 the costs imposed by the rule on small business to the extent
6 required by RCW 19.85.030(~~(+3)~~) (2). The portion of the analysis
7 that meets the requirements of RCW 19.85.040 shall be filed with the
8 code reviser and provided to any person requesting it in lieu of a
9 separate small business economic impact statement.

10 **Sec. 2.** RCW 19.85.030 and 2011 c 249 s 2 are each amended to
11 read as follows:

12 (1)(a) In the adoption of a rule under chapter 34.05 RCW, an
13 agency shall prepare a small business economic impact statement: (i)
14 If the proposed rule will impose more than minor costs on businesses
15 in an industry; or (ii) if requested to do so by a majority vote of
16 the joint administrative rules review committee within forty-five
17 days of receiving the notice of proposed rule making under RCW
18 34.05.320. However, if the agency has completed the pilot rule
19 process as defined by RCW 34.05.313 before filing the notice of a
20 proposed rule, the agency is not required to prepare a small business
21 economic impact statement.

22 (b) An agency must prepare the small business economic impact
23 statement in accordance with RCW 19.85.040, and file it with the code
24 reviser along with the notice required under RCW 34.05.320. An agency
25 shall file a statement prepared at the request of the joint
26 administrative rules review committee with the code reviser upon its
27 completion before the adoption of the rule. An agency must provide a
28 copy of the small business economic impact statement to any person
29 requesting it.

30 (2) Based upon the extent of disproportionate impact on small
31 business identified in the statement prepared under RCW 19.85.040,
32 the agency shall, where legal and feasible in meeting the stated
33 objectives of the statutes upon which the rule is based, reduce the
34 costs imposed by the rule on small businesses. The agency must
35 consider, without limitation, each of the following methods of
36 reducing the impact of the proposed rule on small businesses:

37 (a) Reducing, modifying, or eliminating substantive regulatory
38 requirements;

1 (b) Simplifying, reducing, or eliminating recordkeeping and
2 reporting requirements;

3 (c) Reducing the frequency of inspections;

4 (d) Delaying compliance timetables;

5 (e) Reducing or modifying fine schedules for noncompliance; or

6 (f) Any other mitigation techniques including those suggested by
7 small businesses or small business advocates.

8 (3) If a proposed rule affects only small businesses, the
9 proposing agency must consider all mitigation options defined in this
10 chapter.

11 (4) In the absence of sufficient data to calculate
12 disproportionate impacts, an agency whose rule imposes more than
13 minor costs must mitigate the costs to small businesses, where legal
14 and feasible, as defined in this chapter.

15 (5) If the agency determines it cannot reduce the costs imposed
16 by the rule on small businesses, the agency must provide a clear
17 explanation of why it has made that determination and include that
18 statement with its filing of the proposed rule pursuant to RCW
19 34.05.320.

20 ((+4)) (6)(a) All small business economic impact statements are
21 subject to selective review by the joint administrative rules review
22 committee pursuant to RCW 34.05.630.

23 (b) Any person affected by a proposed rule where there is a small
24 business economic impact statement may petition the joint
25 administrative rules review committee for review pursuant to the
26 procedure in RCW 34.05.655.

27 **Sec. 3.** RCW 43.42.010 and 2012 c 196 s 1 are each amended to
28 read as follows:

29 (1) The office of regulatory assistance is created in the office
30 of financial management and must be administered by the office of the
31 governor to help improve the regulatory system and assist citizens,
32 businesses, and project proponents.

33 (2) The governor must appoint a director. The director may employ
34 a deputy director and a confidential secretary and such staff as are
35 necessary, or contract with another state agency pursuant to chapter
36 39.34 RCW for support in carrying out the purposes of this chapter.

37 (3) The office must offer to:

38 (a) Act as the central point of contact for the project proponent
39 in communicating about defined issues;

- 1 (b) Conduct project scoping as provided in RCW 43.42.050;
- 2 (c) Verify that the project proponent has all the information
3 needed to correctly apply for all necessary permits;
- 4 (d) Provide general coordination services;
- 5 (e) Coordinate the efficient completion among participating
6 agencies of administrative procedures, such as collecting fees or
7 providing public notice;
- 8 (f) Maintain contact with the project proponent and the permit
9 agencies to promote adherence to agreed schedules;
- 10 (g) Assist in resolving any conflict or inconsistency among
11 permit requirements and conditions;
- 12 (h) Coordinate, to the extent practicable, with relevant federal
13 permit agencies and tribal governments;
- 14 (i) Facilitate meetings;
- 15 (j) Manage a fully coordinated permit process, as provided in RCW
16 43.42.060; and
- 17 (k) Help local jurisdictions comply with the requirements of
18 chapter 36.70B RCW.
- 19 (4) The office must also:
- 20 (a) Provide information to local jurisdictions about best
21 permitting practices, methods to improve communication with, and
22 solicit early involvement of, state agencies when needed, and
23 effective means of assessing and communicating expected project
24 timelines and costs;
- 25 (b) Maintain and furnish information as provided in RCW
26 43.42.040; (~~and~~)
- 27 (c) Act as the central entity to collaborate with and provide
28 support to state agencies in meeting the requirements of the
29 regulatory fairness act, chapter 19.85 RCW. Support must include, but
30 is not limited to:
- 31 (i) Providing online guidance and tools. Online guidance and
32 tools may include templates and resources to assist agency employees
33 with consistent compliance with the regulatory fairness act, chapter
34 19.85 RCW. In providing online guidance and tools the office must
35 consult the office of the attorney general. The office will make the
36 online guidance and tools available by December 31, 2017;
- 37 (ii) Providing access to available data for agencies to complete
38 cost calculations pursuant to chapter 19.85 RCW; and
- 39 (iii) Facilitating sharing of information among agencies and
40 between agencies and business associations;

1 (d) Provide the following by September 1, 2009, and biennially
2 thereafter, to the governor and the appropriate committees of the
3 legislature:

4 (i) A performance report including:

5 (A) Information regarding use of the office's voluntary cost-
6 reimbursement services as provided in RCW 43.42.070;

7 (B) The number and type of projects or initiatives where the
8 office provided services including the key agencies with which the
9 office partnered;

10 (C) Specific information on any difficulty encountered in
11 providing services or implementing programs, processes, or assistance
12 tools; and

13 (D) Trend reporting that allows comparisons between statements of
14 goals and performance targets and the achievement of those goals and
15 targets; and

16 (ii) Recommendations on system improvements including, but not
17 limited to, recommendations on improving environmental permitting by
18 making it more time efficient and cost-effective for all participants
19 in the process.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.09
21 RCW to read as follows:

22 The state auditor shall conduct a performance review of agency
23 compliance with the regulatory fairness act, pursuant to chapter
24 19.85 RCW. The performance review must be completed no earlier than
25 June 30, 2020, and subsequent reviews must be completed periodically
26 thereafter. Factors used to determine the frequency of subsequent
27 reviews include the degree to which agencies are found to be in
28 compliance with the act. The auditor must report his or her findings
29 to the legislature, and any recommendations, by June 30, 2021, and
30 after every subsequent review.

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