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SENATE BILL 5055

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State of Washington

65th Legislature

2017 Regular Session

By Senator Dansel

Read first time 01/11/17. Referred to Committee on State Government.

1 AN ACT Relating to proceedings of the joint administrative rules  
2 review committee; and amending RCW 34.05.655 and 34.05.640.

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

4 **Sec. 1.** RCW 34.05.655 and 2015 2nd sp.s. c 11 s 2 are each  
5 amended to read as follows:

6 (1) Any person may petition the rules review committee for a  
7 review of a proposed or existing rule or a proposed or existing  
8 policy or interpretive statement, guideline, or document that is of  
9 general applicability, or its equivalent. A petition to review a  
10 statement, guideline, or document that is of general applicability,  
11 or its equivalent, may only be filed for the purpose of requesting  
12 the committee to determine whether the statement, guideline, or  
13 document that is of general applicability, or its equivalent, is  
14 being used as a rule that has not been adopted in accordance with all  
15 provisions of law. Upon filing of the petition with the committee and  
16 service of the petition upon the agency, all promulgation,  
17 implementation, enforcement, and amendment of the proposed or  
18 existing rule, policy, interpretive statement, guideline, or document  
19 is stayed pending final conclusion of the rules review process.  
20 Within thirty days of the receipt of the petition, the rules review  
21 committee shall acknowledge receipt of the petition and describe any

1 initial action taken. If the rules review committee rejects the  
2 petition, a written statement of the reasons for rejection shall be  
3 included.

4 (2) A person may petition the rules review committee under  
5 subsection (1) of this section requesting review of an existing rule  
6 only if the person has petitioned the agency to amend or repeal the  
7 rule under RCW 34.05.330(1) and such petition was denied.

8 (3) A petition for review of a rule under subsection (1) of this  
9 section shall:

10 (a) Identify with specificity the proposed or existing rule to be  
11 reviewed;

12 (b) Identify the specific statute identified by the agency as  
13 authorizing the rule, the specific statute which the rule interprets  
14 or implements, and, if applicable, the specific statute the  
15 department is alleged not to have followed in adopting the rule;

16 (c) State the reasons why the petitioner believes that the rule  
17 is not within the intent of the legislature, or that its adoption was  
18 not or is not in accordance with law, and provide documentation to  
19 support these statements;

20 (d) Identify any known judicial action regarding the rule or  
21 statutes identified in the petition.

22 A petition to review an existing rule shall also include a copy  
23 of the agency's denial of a petition to amend or repeal the rule  
24 issued under RCW 34.05.330(1) and, if available, a copy of the  
25 governor's denial issued under RCW 34.05.330(3).

26 (4) A petition for review of a policy or interpretive statement,  
27 guideline, or document that is of general applicability, or its  
28 equivalent, under subsection (1) of this section shall:

29 (a) Identify the specific policy or interpretative statement,  
30 guideline, or document that is of general applicability, or its  
31 equivalent, to be reviewed;

32 (b) Identify the specific statute which the rule interprets or  
33 implements;

34 (c) State the reasons why the petitioner believes that the policy  
35 or interpretive statement, guideline, or document that is of general  
36 applicability, or its equivalent, meets the definition of a rule  
37 under RCW 34.05.010 and should have been adopted according to the  
38 procedures of this chapter;

39 (d) Identify any known judicial action regarding the policy or  
40 interpretive statement, guideline, or document that is of general

1 applicability, or its equivalent, or statutes identified in the  
2 petition.

3 (5) Except for petitions that the rules review committee rejects,  
4 the rules review committee shall make a final decision within ninety  
5 days of receipt of a petition for review under subsection (1) of this  
6 section. If the legislature meets in regular or special session at  
7 any time before the rules review committee makes a final decision on  
8 a petition, the rules review committee may defer making a final  
9 decision until after the adjournment sine die of the regular or  
10 special session or sessions. The rules review committee shall make a  
11 final decision on a deferred petition within ninety days of  
12 adjournment. During a legislative session, petitioners may bring any  
13 concerns raised in a petition to any legislator, and those concerns  
14 may be addressed directly through legislation.

15 **Sec. 2.** RCW 34.05.640 and 1998 c 21 s 2 are each amended to read  
16 as follows:

17 (1) Within seven days of an agency hearing held after  
18 notification of the agency by the rules review committee pursuant to  
19 RCW 34.05.620 or 34.05.630, the affected agency shall notify the  
20 committee of its intended action on a proposed or existing rule to  
21 which the committee objected or on a committee finding of the  
22 agency's failure to adopt rules.

23 (2) If the rules review committee finds by a majority vote of its  
24 members: (a) That the proposed or existing rule in question will not  
25 be modified, amended, withdrawn, or repealed by the agency so as to  
26 conform with the intent of the legislature, (b) that an existing rule  
27 was not adopted in accordance with all applicable provisions of law,  
28 or (c) that the agency will not replace the policy or interpretive  
29 statement, guideline, or document that is of general applicability,  
30 or its equivalent, with a rule, the stay described in subsection (1)  
31 of this section remains in effect and the rules review committee  
32 ((may)) shall, within ((thirty)) ten days from ((notification by the  
33 agency of its intended action)) the date of the committee vote, file  
34 with the code reviser notice of its objections together with a  
35 concise statement of the reasons therefor. Such notice and statement  
36 shall also be provided to the agency by the rules review committee.

37 (3)(a) ((If the rules review committee makes an adverse finding  
38 regarding an existing rule under subsection (2)(a) or (b) of this  
39 section, the committee may, by a majority vote of its members,

1 ~~recommend suspension of the rule. Within seven days of such vote the~~  
2 ~~committee shall transmit to the appropriate standing committees of~~  
3 ~~the legislature, the governor, the code reviser, and the agency~~  
4 ~~written notice of its objection and recommended suspension and the~~  
5 ~~concise reasons therefor. Within thirty days of receipt of the~~  
6 ~~notice, the governor shall transmit to the committee, the code~~  
7 ~~reviser, and the agency written approval or disapproval of the~~  
8 ~~recommended suspension. If the suspension is approved by the~~  
9 ~~governor, it is effective from the date of that approval and~~  
10 ~~continues until ninety days after the expiration of the next regular~~  
11 ~~legislative session.~~

12 ~~(b) If the rules review committee makes an adverse finding~~  
13 ~~regarding a policy or interpretive statement, guideline, or document~~  
14 ~~that is of general applicability, or its equivalent, under subsection~~  
15 ~~(2)(c) of this section, the committee may, by a majority vote of its~~  
16 ~~members, advise the governor of its finding.~~

17 ~~(4))~~ The code reviser shall publish transmittals from the rules  
18 review committee ~~((or the governor))~~ issued pursuant to subsection  
19 (2) ~~((or (3)))~~ of this section in the Washington state register and  
20 shall publish in the next supplement and compilation of the  
21 Washington Administrative Code a reference to the committee's  
22 objection ~~((or recommended suspension and the governor's action on~~  
23 ~~it)), the stay described in subsection (1) of this section, and~~  
24 ~~((to))~~ the issue of the Washington state register in which the full  
25 text thereof appears.

26 ~~((+5))~~ (b) The reference shall be removed from a rule published  
27 in the Washington Administrative Code only if: A subsequent  
28 ~~((adjudicatory))~~ judicial proceeding determines that the rule is  
29 within the intent of the legislature ~~((or))~~ and was adopted in  
30 accordance with all applicable laws ~~((, whichever was the objection of~~  
31 ~~the rules review committee)); or the stay described in subsection (1)~~  
32 ~~of this section is lifted by resolution of the senate adopted by~~  
33 majority vote.

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