
SENATE BILL 5748

State of Washington**53rd Legislature****1993 Regular Session****By** Senators Hochstatter, Haugen, Moyer, Oke, West and M. Rasmussen

Read first time 02/11/93. Referred to Committee on Government Operations.

1 AN ACT Relating to administrative rule making; amending RCW
2 34.05.335 and 34.05.355; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that notwithstanding
5 current law that requires administrative agencies to consider public
6 comments of proposed rules and to provide statements of reasons for the
7 adoption of rules that were adopted against the urging of public
8 comments, still the public in general perceives that its comments are
9 not receiving due accord by agencies. To restore public confidence in
10 the rule-making process, it is the purpose of this act to have a third
11 party ensure that the comments of the public are indeed being
12 considered before the adoption of rules.

13 **Sec. 2.** RCW 34.05.335 and 1989 c 175 s 8 are each amended to read
14 as follows:

15 (1) A proposed rule may be withdrawn by the proposing agency at any
16 time before adoption. A withdrawn rule may not be adopted unless it is
17 again proposed in accordance with RCW 34.05.320.

1 (2) Before adopting a rule, an agency shall consider the written
2 and oral submissions, or any memorandum summarizing oral submissions on
3 an individual basis, and shall accord substantial deference and weight
4 to the preponderant viewpoint reflected by the submissions as a whole.

5 (3) Rules not adopted and filed with the code reviser within one
6 hundred eighty days after publication of the text as last proposed in
7 the register shall be regarded as withdrawn. An agency may not
8 thereafter adopt the proposed rule without refiling it in accordance
9 with RCW 34.05.320. The code reviser shall give notice of the
10 withdrawal in the register.

11 (4) An agency may not adopt a rule before the time established in
12 the published notice, or such later time established on the record or
13 by publication in the state register.

14 **Sec. 3.** RCW 34.05.355 and 1988 c 288 s 310 are each amended to
15 read as follows:

16 (1) At the time it files an adopted rule with the code reviser or
17 within thirty days thereafter, an agency shall place into the rule-
18 making file maintained under RCW 34.05.370 a concise explanatory
19 statement about the rule, identifying (a) the agency's reasons for
20 adopting the rule, and (b) a description of any difference between the
21 text of the proposed rule as published in the register and the text of
22 the rule as adopted, other than editing changes, stating the reasons
23 for change.

24 (2) ((Upon the request of any interested person)) Within thirty
25 days after adoption of a rule, the agency shall issue a concise
26 statement of the principal reasons for overruling the considerations
27 urged against its adoption. The statement must state whether the
28 considerations against the rule's adoption taken as a whole reflect the
29 preponderant viewpoint. If the rule overrules the preponderant
30 viewpoint, the agency shall attach to the statement the certification
31 by an administrative law judge assigned to the agency that (a) there
32 exist clear legal reasons that require the overruling; (b) there exists
33 sufficient evidence to rebut a presumption that the preponderant
34 viewpoint is reflective of the will of the public majority; or (c) if
35 neither (a) nor (b) of this subsection apply, then that the rule was
36 adopted against the preponderant viewpoint.

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