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SENATE BILL 5915

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State of Washington

61st Legislature

2009 Regular Session

By Senators Prentice and Fairley; by request of Office of Financial Management

Read first time 02/06/09. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to authorizing emergency rule making when the state  
2 employment growth forecast is estimated to be less than one percent;  
3 amending RCW 34.05.350; and declaring an emergency.

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

5 **Sec. 1.** RCW 34.05.350 and 1994 c 249 s 3 are each amended to read  
6 as follows:

7 (1) If an agency for good cause finds:

8 (a) That immediate adoption, amendment, or repeal of a rule is  
9 necessary for the preservation of the public health, safety, or general  
10 welfare, and that observing the time requirements of notice and  
11 opportunity to comment upon adoption of a permanent rule would be  
12 contrary to the public interest; ~~((or))~~

13 (b) That state or federal law or federal rule or a federal deadline  
14 for state receipt of federal funds requires immediate adoption of a  
15 rule; or

16 (c) The state employment growth forecast, as performed by the state  
17 economic and revenue forecast council, for any fiscal year is estimated  
18 to be less than one percent, which necessitates the need for the  
19 immediate adoption, amendment, or repeal of a rule, and that observing

1 the time requirements of notice and opportunity to comment upon  
2 adoption of a permanent rule would be contrary to the fiscal needs or  
3 requirements of the agency,

4 the agency may dispense with those requirements and adopt, amend, or  
5 repeal the rule on an emergency basis. The agency's finding and a  
6 concise statement of the reasons for its finding shall be incorporated  
7 in the order for adoption of the emergency rule or amendment filed with  
8 the office of the code reviser under RCW 34.05.380 and with the rules  
9 review committee.

10 (2) An emergency rule adopted under this section takes effect upon  
11 filing with the code reviser, unless a later date is specified in the  
12 order of adoption, and may not remain in effect for longer than one  
13 hundred twenty days after filing. Identical or substantially similar  
14 emergency rules may not be adopted in sequence unless conditions have  
15 changed or the agency has filed notice of its intent to adopt the rule  
16 as a permanent rule, and is actively undertaking the appropriate  
17 procedures to adopt the rule as a permanent rule. This section does  
18 not relieve any agency from compliance with any law requiring that its  
19 permanent rules be approved by designated persons or bodies before they  
20 become effective.

21 (3) Within seven days after the rule is adopted, any person may  
22 petition the governor requesting the immediate repeal of a rule adopted  
23 on an emergency basis by any department listed in RCW 43.17.010.  
24 Within seven days after submission of the petition, the governor shall  
25 either deny the petition in writing, stating his or her reasons for the  
26 denial, or order the immediate repeal of the rule. In ruling on the  
27 petition, the governor shall consider only whether the conditions in  
28 subsection (1) of this section were met such that adoption of the rule  
29 on an emergency basis was necessary. If the governor orders the repeal  
30 of the emergency rule, any sanction imposed based on that rule is void.  
31 This subsection shall not be construed to prohibit adoption of any rule  
32 as a permanent rule.

33 ~~((4) In adopting an emergency rule, the agency shall comply with~~  
34 ~~section 4 of this act or provide a written explanation for its failure~~  
35 ~~to do so.))~~

36 NEW SECTION. **Sec. 2.** This act is necessary for the immediate

1 preservation of the public peace, health, or safety, or support of the  
2 state government and its existing public institutions, and takes effect  
3 immediately.

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