
Government Operations & Elections Committee

HB 2293

Brief Description: Adding responsibilities to the duties of the joint administrative rules review committee.

Sponsors: Representatives Pike, Harris, Vick, Blake and Rodne.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Requires the Joint Legislative Rules Review Committee to review certain agency rules and actions.

Hearing Date: 1/31/14

Staff: Marsha Reilly (786-7135).

Background:

There are three primary statutory provisions that govern agency rule-making: (1) the Administrative Procedures Act; (2) the Regulatory Fairness Act; and (3) the statute creating the Joint Administrative Rules Review Committee.

The Administrative Procedures Act (APA) describes procedures that state agencies must follow as they carry out their duties. Part three of the APA establishes rule-making procedures. State agencies are encouraged to seek input from the public, including businesses, on a subject under consideration by the agency for possible rule-making activity. Each agency must designate a rules coordinator who has knowledge of proposed rules and can respond to public inquiries. An agency must conduct a public hearing on all proposed rules.

The Regulatory Fairness Act provides that state-agency rules affecting the business community must not place a proportionately higher burden on small businesses. When a proposed rule being considered for adoption by a state agency has an economic impact on more than 20 percent of all

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

industries or more than 10 percent of any one industry, the adopting agency must reduce the economic impact of the rule on small businesses. The agency can accomplish this by simplifying compliance or reporting requirements for small businesses, establishing different timetables for small businesses, or exempting small businesses from some or all requirements of the rule. The state agency must also prepare a small business economic impact statement and review its rules affecting small businesses. The small business economic impact statement analyzes the costs to small businesses of compliance with the proposed rule.

The Joint Administrative Rules Review Committee (JARRC) conducts legislative review of agency rules. JARRC is comprised of four senators and four representatives. The committee may review agency rules for compliance with legislative intent. If an agency fails to rectify a JARRC identified departure from legislative intent, the committee may recommend that the governor suspend the rule or that the Legislature repeal or amend authorizing legislation regarding the particular rule. The JARRC may review any rule for compliance with the Regulatory Fairness Act and may review small business economic impact statements required under the Regulatory Fairness Act.

Summary of Bill:

The JARRC is required to conduct a review of any rule under the following conditions:

- Upon receipt of a petition for review signed by at least 15 members of the legislature;
- The rule has an economic impact of \$10 million or more; or
- Upon receipt of a petition for review signed by five or more local governments representing collectively 50,000 or more Washington residents.

The JARRC may selectively review certain agency actions to ensure consistency with the agency's adopted guidelines, administrative regulations for issuing a permit, or both. Agency actions subject to selective review include the following:

- A water quality general permit or individual wastewater discharge permit issued by the Department of Ecology (Ecology);
- Ecology's determination that a new source of air pollution meets regulatory requirements;
- Ecology's use of advisory materials or guidelines issued in a review of a local shoreline master program; and
- The Department of Commerce's use of advisory materials or guidelines issued for the local designation of a critical area.

The JARRC is required to review an agency action under the following conditions:

- Upon receipt of a petition for review signed by at least 15 members of the Legislature;
- The rule has an economic impact of \$10 million or more; or
- Upon receipt of a petition for review signed by five or more local governments representing collectively 50,000 or more Washington residents.

If the JARRC finds that the issuance of a permit or the use of guidelines or advisory materials is not consistent with the agency's adopted guidelines, administrative regulations for issuing a permit, or both, the agency affected must be notified of the findings and the reasons for the findings, and must be provided with all written and oral comments received during the review. The affected agency must fully consider comments received as a result of the JARRC review within 30 days.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.