

FINAL BILL REPORT

SHB 2498

PARTIAL VETO

C 197 L 92

Brief Description: Regarding regulatory fairness.

By House Committee on Appropriations (originally sponsored by Representatives Ludwig, Forner, Cantwell, Sheldon, Dellwo, Bray, Roland, Rasmussen, Moyer, Rayburn, Grant, H. Myers, Paris, Riley, Edmondson, Kremen, Ferguson, Winsley, Wineberry, Jones, Dorn, Franklin, Ebersole, Bowman, May, Heavey, Ogden, Cooper, Pruitt, O'Brien, Hine, Nelson and P. Johnson).

House Committee on Appropriations
Senate Committee on Commerce & Labor
Senate Committee on Ways & Means

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 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 Business Assistance Center (BAC), in the Department of Trade and Economic Development, may help agencies prepare small business economic impact statements.

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.

Summary: Upon the request of the BAC, the rules coordinator of an agency is required to provide the BAC with information on state rules that apply to specific types of businesses identified in the request.

State agencies must provide small businesses with notice of a proposed rule when a small business economic impact statement is required. Notice can be given by direct notification of known interested small businesses or trade organizations, or by notification in a publication likely to be read by affected small businesses. An agency may appoint a committee to comment on the proposed rule.

If applicable, the official notice of a proposed rule must contain a statement of steps taken to comply with the Regulatory Fairness Act.

If funds are appropriated for that purpose, the BAC must study how it can best serve as a clearinghouse to compile and provide lists of state rules that apply to specific classes or lines of small businesses. The state is not liable for any errors or omissions regarding provision of the information on agency rules to businesses by the BAC.

The Joint Administrative Rules Review Committee may review any rule for compliance with the Regulatory Fairness Act. The committee may review small business economic impact statements required under the Regulatory Fairness Act.

Votes on Final Passage:

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| House | 98 | 0 | |
| Senate | 48 | 1 | (Senate amended) |
| House | | | (House refused to concur) |

Senate 45 1 (Senate amended)
House 96 0 (House concurred)

Effective: June 11, 1992

Partial Veto Summary: The provision precluding state liability for errors or omissions when the Business Assistance Center gives businesses information under this act on agency rules or regulations is removed.