CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1686

Chapter 277, Laws of 1993

53rd Legislature
1993 Regular Session

ADMINISTRATIVE RULES REVIEW COMMITTEE AUTHORITY EXPANDED

EFFECTIVE DATE: 7/25/93

Passed by the House March 15, 1993
Yea 98  Nay 0

BRIAN EBERSOLE
Speaker of the
House of Representatives

Passed by the Senate April 13, 1993
Yea 42  Nay 0

JOEL PRITCHARD
President of the Senate

ALAN THOMPSON
Chief Clerk

Approved May 10, 1993

FILED

MIKE LOWRY
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to administrative law; and amending RCW 34.05.630 and 34.05.640.

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

Sec. 1. RCW 34.05.630 and 1988 c 288 s 603 are each amended to read as follows:

(1) All rules required to be filed pursuant to RCW 34.05.380, and emergency rules adopted pursuant to RCW 34.05.350, are subject to selective review by the legislature.

(2) The rules review committee may review an agency’s use of policy statements, guidelines, and issuances that are of general applicability, or their equivalents to determine whether or not an agency has failed to adopt a rule or whether they are within the intent of the legislature as expressed by the governing statute.

(3) If the rules review committee finds by a majority vote of its members: (a) That an existing rule is not within the intent of the legislature as expressed by the statute which the rule implements, (b) that the rule has not been adopted in accordance with all applicable provisions of law, ((e±)) (c) that an agency is using a policy statement, guideline, or issuance in place of a rule, or (d) that the
policy statement, guideline, or issuance is outside of legislative intent, the agency affected shall be notified of such finding and the reasons therefor. Within thirty days of the receipt of the rules review committee’s notice, the agency shall file notice of a hearing on the rules review committee’s finding with the code reviser and mail notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings as provided in RCW 34.05.320. The agency’s notice shall include the rules review committee’s findings and reasons therefor, and shall be published in the Washington state register in accordance with the provisions of chapter 34.08 RCW.

(4) The agency shall consider fully all written and oral submissions regarding (a) whether the rule in question is within the intent of the legislature as expressed by the statute which the rule implements, (b) whether the rule was adopted in accordance with all applicable provisions of law, ((c) whether the agency is using a policy statement, guideline, or issuance in place of a rule, or (d) whether the policy statement, guideline, or issuance is within the legislative intent.

Sec. 2. RCW 34.05.640 and 1988 c 288 s 604 are each amended to read as follows:

(1) Within seven days of an agency hearing held after notification of the agency by the rules review committee pursuant to RCW 34.05.620 or 34.05.630, the affected agency shall notify the committee of its action on a proposed or existing rule to which the committee objected or on a committee finding of the agency’s failure to adopt rules. If the rules review committee determines, by a majority vote of its members, that the agency has failed to provide for the required hearings or notice of its action to the committee, the committee may file notice of its objections, together with a concise statement of the reasons therefor, with the code reviser within thirty days of such determination.

(2) If the rules review committee finds, by a majority vote of its members: (a) That the proposed or existing rule in question has not been modified, amended, withdrawn, or repealed by the agency so as to conform with the intent of the legislature, or (b) that the agency is using a policy statement, guideline, or issuance in place of a rule, or that the policy statement, guideline, or issuance is outside of the legislative intent.
legislative intent, the rules review committee may, within thirty days from notification by the agency of its action, file with the code reviser notice of its objections together with a concise statement of the reasons therefor. Such notice and statement shall also be provided to the agency by the rules review committee.

(3) If the rules review committee makes an adverse finding under subsection (2) of this section, the committee may, by a two-thirds vote of its members, recommend suspension of an existing rule. Within seven days of such vote the committee shall transmit to the governor, the code reviser, and the agency written notice of its objection and recommended suspension and the concise reasons therefor. Within thirty days of receipt of the notice, the governor shall transmit to the committee, the code reviser, and the agency written notice of its objection and disapproval of the recommended suspension. If the suspension is approved by the governor, it is effective from the date of that approval and continues until ninety days after the expiration of the next regular legislative session.

(4) The code reviser shall publish transmittals from the rules review committee or the governor issued pursuant to subsection (1), (2), or (3) of this section in the Washington state register and shall publish in the next supplement and compilation of the Washington Administrative Code a reference to the committee’s objection or recommended suspension and the governor’s action on it and to the issue of the Washington state register in which the full text thereof appears.

(5) The reference shall be removed from a rule published in the Washington Administrative Code if a subsequent adjudicatory proceeding determines that the rule is within the intent of the legislature or was adopted in accordance with all applicable laws, whichever was the objection of the rules review committee.

Passed the House March 15, 1993.
Passed the Senate April 13, 1993.
Approved by the Governor May 10, 1993.
Filed in Office of Secretary of State May 10, 1993.