

SENATE BILL REPORT

SHB 1722

As Reported By Senate Committee On:
Energy, Telecommunications & Utilities, March 30, 1995

Title: An act relating to hearings conducted by the utilities and transportation commission.

Brief Description: Exempting the UTC from administrative law judge requirements.

Sponsors: House Committee on Law & Justice (originally sponsored by Representatives Padden, Appelwick and Mastin; by request of Utilities & Transportation Commission).

Brief History:

Committee Activity: Energy, Telecommunications & Utilities: 3/21/95; 3/23/95, 3/30/95 [DPA-WM].

SENATE COMMITTEE ON ENERGY, TELECOMMUNICATIONS & UTILITIES

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Sutherland, Chair; Loveland, Vice Chair; Finkbeiner, Hochstatter and Owen.

Staff: Diane Smith (786-7410)

Background: The Administrative Procedure Act governs procedures to appeal agency action. A person or business adversely affected by an agency action may ask the agency for an adjudicative proceeding. The presiding officer in an adjudicatory hearing may be either: (1) the agency head or a member of the agency head; (2) if the agency has statutory authority to do so, a person other than the agency head or an administrative law judge designated by the agency head to make the final decision and enter the final order; or (3) an administrative law judge assigned by the Office of Administrative Hearings.

If the agency conducts an adjudicatory hearing that is not presided over by officials of the agency who are to render the final decision, the hearing shall be conducted by an administrative law judge assigned by the Office of Administrative Hearings. The Office of Administrative Hearings is independent of all state agencies.

Certain agencies are exempt from the requirement of using the Office of Administrative Hearings in adjudicatory proceedings, including: (1) the Growth Planning Hearings Board; (2) the Pollution Control Hearings Board; (3) the Shorelines Hearings Board; and (4) the Public Employment Relations Commission.

The Washington Utilities and Transportation Commission comprises three commissioners, appointed by the Governor with the consent of the Senate. The commission is required to regulate in the public interest the rates, services, facilities, and practices of persons engaging in the commercial transportation of persons or property, and persons engaging in the business of supplying any utility service or commodity to the public.

Summary of Amended Bill: The Washington Utilities and Transportation Commission is exempt from the requirement that adjudicative hearings conducted by the commission be presided over by an administrative law judge appointed by the Office of Administrative Hearings.

The commission is allowed to designate employees of the commission as hearing examiners, administrative law judges, and review judges who have the power to administer oaths, issue subpoenas, examine witnesses, receive testimony, preside over adjudicative proceedings, and enter initial orders. In general rate increase filings by utility companies, unless the company agrees otherwise, the designated employee may not enter an initial order. If the employee does not enter an initial order, then a majority of the WUTC must hear or review substantially all of the record.

A provision is repealed that excludes transportation tariff docket hearings held by the commission from the requirement of using an administrative law judge appointed by the Office of Administrative Hearings.

Amended Bill Compared to Substitute Bill: The amended bill does not permit designated employees to issue final orders in any category of case except emergency adjudications. The initial order is entered as are initial orders entered under the Washington Administrative Procedure Act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill will achieve cost savings and efficiencies while allowing the WUTC needed flexibility. Due to the deregulation of intrastate trucking, the ALJ caseload will decrease accordingly. The WUTC is more like the exempt entities from those subject to the Office of Administrative Hearings.

Testimony Against: None.

Testified: PRO with amendment: Bob Bratton, GTE; Ron Newbry, Pacificorp; Charlie Brown, WA Natural Gas.