
SUBSTITUTE HOUSE BILL 1032

State of Washington 54th Legislature 1995 Regular Session

By House Representative Law & Justice (originally sponsored by Representative Padden)

Read first time 01/18/95.

1 AN ACT Relating to administrative procedure; and amending RCW
2 34.05.464.

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

4 **Sec. 1.** RCW 34.05.464 and 1989 c 175 s 20 are each amended to read
5 as follows:

6 (1) As authorized by law, an agency may by rule provide that
7 initial orders in specified classes of cases may become final without
8 further agency action unless, within a specified period, (a) the agency
9 head upon its own motion determines that the initial order should be
10 reviewed, or (b) a party to the proceedings files a petition for
11 administrative review of the initial order. Upon occurrence of either
12 event, notice shall be given to all parties to the proceeding.

13 (2) As authorized by law, an agency head may appoint a person to
14 review initial orders and to prepare and enter final agency orders.

15 (3) RCW 34.05.425 and 34.05.455 apply to any person reviewing an
16 initial order on behalf of an agency as part of the decision process,
17 and to persons communicating with them, to the same extent that it is
18 applicable to presiding officers.

1 (4) The officer reviewing the initial order (including the agency
2 head reviewing an initial order) is, for the purposes of this chapter,
3 termed the reviewing officer. The reviewing (~~officer shall exercise~~
4 ~~all the decision-making power that the reviewing officer would have had~~
5 ~~to decide and enter the final order had the reviewing officer presided~~
6 ~~over the hearing, except to the extent that the issues subject to~~
7 ~~review are limited by a provision of law or by the reviewing officer~~
8 ~~upon notice to all the parties. In reviewing findings of fact by~~
9 ~~presiding officers, the reviewing officers shall give due regard to the~~
10 ~~presiding officer's opportunity to observe the witnesses)) officer's
11 authority to modify the findings of fact, conclusions of law, and
12 decision is limited to the following grounds:~~

13 (a) Irregularity in the proceedings preventing the petitioning
14 party from having a fair hearing. This includes misconduct by the
15 prevailing party and misconduct or abuse of discretion by the presiding
16 officer;

17 (b) The findings of fact are unsupported by substantial evidence in
18 view of the entire record;

19 (c) Errors of law; or

20 (d) Need for clarification in order for the parties to implement
21 the decision.

22 If none of these grounds exist, the reviewing officer shall enter
23 a final order affirming the initial order.

24 (5) The reviewing officer shall personally consider the whole
25 record or such portions of it as may be cited by the parties.

26 (6) The reviewing officer shall afford each party an opportunity to
27 present written argument and may afford each party an opportunity to
28 present oral argument.

29 (7) The reviewing officer shall enter a final order disposing of
30 the proceeding or remand the matter for further proceedings, with
31 instructions to the presiding officer who entered the initial order.
32 Upon remanding a matter, the reviewing officer shall order such
33 temporary relief as is authorized and appropriate.

34 (8) A final order shall include, or incorporate by reference to the
35 initial order, all matters required by RCW 34.05.461(3).

36 (9) The reviewing officer shall cause copies of the final order or
37 order remanding the matter for further proceedings to be served upon
38 each party.

1 NEW SECTION. **Sec. 2.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

--- END ---