

2 **ESSB 5671** - H AMD
3 By Representative Lambert

4 ADOPTED 4/14/97

5 On page 6, after line 23, insert the following:

6 "**Sec. 3.** RCW 34.05.310 and 1995 c 403 s 301 are each amended to
7 read as follows:

8 (1) To meet the intent of providing greater public access to
9 administrative rule making and to promote consensus among interested
10 parties, agencies shall solicit comments from the public on a subject
11 of possible rule making before filing with the code reviser a notice of
12 proposed rule making under RCW 34.05.320. The agency shall prepare a
13 statement of inquiry that:

14 (a) Identifies the specific statute or statutes authorizing the
15 agency to adopt rules on this subject;

16 (b) Discusses why rules on this subject may be needed and what they
17 might accomplish;

18 (c) Identifies other federal and state agencies that regulate this
19 subject, and describes the process whereby the agency would coordinate
20 the contemplated rule with these agencies;

21 (d) Discusses the process by which the rule might be developed,
22 including, but not limited to, negotiated rule making, pilot rule
23 making, or agency study;

24 (e) Specifies the process by which interested parties can
25 effectively participate in the decision to adopt a new rule and
26 formulation of a proposed rule before its publication.

27 (2)(a) The statement of inquiry shall be filed with the code
28 reviser for publication in the state register at least thirty days
29 before the date the agency files notice of proposed rule making under
30 RCW 34.05.320 and shall be sent to any party that has requested receipt
31 of the agency's statements of inquiry.

32 (b) The statement of inquiry shall also be sent to the chair of the
33 appropriate standing committees and the majority and minority leaders
34 of the house and senate for comment on the legislative intent of the
35 statute that the rule implements. Any comments submitted by the chairs

1 or leaders shall become part of the record of any subsequent rule
2 making hearing.

3 ~~((+2))~~ (3) Agencies are encouraged to develop and use new
4 procedures for reaching agreement among interested parties before
5 publication of notice and the adoption hearing on a proposed rule.
6 Examples of new procedures include, but are not limited to:

7 (a) Negotiated rule making by which representatives of an agency
8 and of the interests that are affected by a subject of rule making,
9 including, where appropriate, county and city representatives, seek to
10 reach consensus on the terms of the proposed rule and on the process by
11 which it is negotiated; and

12 (b) Pilot rule making which includes testing the feasibility of
13 complying with or administering draft new rules or draft amendments to
14 existing rules through the use of volunteer pilot groups in various
15 areas and circumstances, as provided in RCW 34.05.313 or as otherwise
16 provided by the agency.

17 ~~((+3))~~ (4)(a) An agency must make a determination whether
18 negotiated rule making, pilot rule making, or another process for
19 generating participation from interested parties prior to development
20 of the rule is appropriate.

21 (b) An agency must include a written justification in the rule-
22 making file if an opportunity for interested parties to participate in
23 the rule-making process prior to publication of the proposed rule has
24 not been provided.

25 ~~((+4))~~ (5) This section does not apply to:

26 (a) Emergency rules adopted under RCW 34.05.350;

27 (b) Rules relating only to internal governmental operations that
28 are not subject to violation by a nongovernment party;

29 (c) Rules adopting or incorporating by reference without material
30 change federal statutes or regulations, Washington state statutes,
31 rules of other Washington state agencies, shoreline master programs
32 other than those programs governing shorelines of state-wide
33 significance, or, as referenced by Washington state law, national
34 consensus codes that generally establish industry standards, if the
35 material adopted or incorporated regulates the same subject matter and
36 conduct as the adopting or incorporating rule;

37 (d) Rules that only correct typographical errors, make address or
38 name changes, or clarify language of a rule without changing its
39 effect;

1 (e) Rules the content of which is explicitly and specifically
2 dictated by statute;

3 (f) Rules that set or adjust fees or rates pursuant to legislative
4 standards; or

5 (g) Rules that adopt, amend, or repeal:

6 (i) A procedure, practice, or requirement relating to agency
7 hearings; or

8 (ii) A filing or related process requirement for applying to an
9 agency for a license or permit."

10 Renumber the remaining sections and correct the title.

11 EFFECT: When an agency solicits comments on a subject of possible
12 rule-making, it must sent notice to the chair of the appropriate
13 standing committees and to leadership for any comment on the
14 legislative intent of the underlying statute. Any comments submitted
15 must be made part of the record.

16 **5671-S.E AMH GRLU ELGE 6**

17 **ESSB 5671** - H COMM AMDS

18 By Committee on Government Reform & Land Use

19 ADOPTED 4/14/97

20 On page 3, line 30, after "order" insert "of adoption"

21 On page 3, line 32, after "rule." insert ""Issuance" does not
22 include final agency orders issued following an adjudicative proceeding
23 under Part IV of this chapter."

24 EFFECT: Provides that orders following an adjudicatory proceeding,
25 such as Commissioner Decisions issued by the Department of Employment
26 Security, do not constitute "issuances".

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