

HOUSE BILL REPORT

SSB 6575

As Reported By House Committee On: Government Reform & Land Use

Title: An act relating to extending the powers of the joint administrative rules review committee.

Brief Description: Extending the powers of the joint administrative rules review committee.

Sponsors: Senate Committee on Government Operations (originally sponsored by Senators Hale, T. Sheldon, McCaslin, Snyder, Horn, McDonald, Sellar, Newhouse, Schow, Strannigan, Benton, Zarelli, Stevens, Roach, Heavey and Oke).

Brief History:

Committee Activity:

Government Reform & Land Use: 2/19/98 [DP].

HOUSE COMMITTEE ON GOVERNMENT REFORM & LAND USE

Majority Report: Do pass. Signed by 11 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Sherstad, Vice Chairman; Romero, Ranking Minority Member; Lantz, Assistant Ranking Minority Member; Bush; Fisher; Gardner; Mielke; Mulliken and Thompson.

Staff: Joan Elgee (786-7135).

Background: The Administrative Procedures Act details procedures agencies must follow when adopting rules. Generally, a "rule" is any agency order, directive, or regulation of generally applicability which:

- (a) Subjects a person to a sanction if violated; or
- (b) Establishes or changes any procedure or qualification relating to:
 - Agency hearings, benefits or privileges conferred by law;
 - Licenses to pursue any commercial activity, trade, or profession; or
 - Standards for the sale or distribution of products or materials.

The rule-making procedures include publishing notice of the proposed rule in the state register, sending a copy of the notice to a person requesting it, and holding a hearing. A rule is invalid if not adopted in accordance with statutory rule-making procedures.

In addition to rules, agencies issue other types of documents. A policy statement states an agency's current approach to the implementation of a statute and an interpretive statement states an agency's interpretation of the meaning of a statute. By definition, a policy statement must be titled "policy statement," and an interpretive statement must be titled "interpretive statement." Unlike rules, interpretive and policy statements are advisory only.

The Joint Administrative Rules Review Committee (JARRC) selectively reviews rules to determine whether a rule is within the intent of the Legislature and whether it has been adopted in accordance with all applicable provisions of law. JARRC may also review policy and interpretive statements to determine whether an agency is using a policy or interpretive statement in place of a rule.

If JARRC finds that an agency is using a policy or interpretive statement in place of a rule, the agency must hold a hearing on JARRC's finding and report back to JARRC on its intended action. If JARRC finds that the agency will not replace the policy or interpretive statement with a rule, JARRC may file notice with the code reviser.

A person may also petition JARRC to review a policy or interpretive statement.

Summary of Bill: The types of documents JARRC may review are expanded. JARRC may review policy and interpretive statements, guidelines, and documents of general applicability, or their equivalents, to determine whether the agency is using them as rules not adopted in accordance with all applicable provisions of law.

JARRC may advise the Governor if an agency refuses to replace a statement, guideline, or document with a rule, after finding that the agency is using the statement, guideline, or document as a rule.

A person may petition JARRC to review guidelines, documents of general applicability, or their equivalents, in addition to policy and interpretive statements. A petition may only be filed for the purpose of requesting JARRC to determine whether the statement, guideline, or document is being used as a rule not adopted in accordance with all applicable provisions of law.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This returns to JARRC the power it had prior to 1996, when a bill inadvertently reduced JARRC's power. This is another small step in regulatory reform. JARRC hasn't been able to review guidelines and other documents.

Testimony Against: None.

Testified: Senator Pat Hale, prime sponsor (pro); Fred Hellberg, Governor's Office (comments); Amber Balch, Association of Washington Business (pro); Tony Meinhardt, Independent Business Association (pro); and Bryan Wahl, Washington Association of Realtors (pro).