
SUBSTITUTE SENATE BILL 6425

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Government Operations (originally sponsored by Senators McCaslin, Haugen and Fraser)

Read first time 02/03/98.

1 AN ACT Relating to legal authority of agency heads; and amending
2 RCW 34.05.325.

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

4 **Sec. 1.** RCW 34.05.325 and 1995 c 403 s 304 are each amended to
5 read as follows:

6 (1) The agency shall make a good faith effort to insure that the
7 information on the proposed rule published pursuant to RCW 34.05.320
8 accurately reflects the rule to be presented and considered at the oral
9 hearing on the rule. Written comment about a proposed rule, including
10 supporting data, shall be accepted by an agency if received no later
11 than the time and date specified in the notice, or such later time and
12 date established at the rule-making hearing.

13 (2) The agency shall provide an opportunity for oral comment to be
14 received by the agency in a rule-making hearing.

15 (3) If the agency possesses equipment capable of receiving
16 telefacsimile transmissions or recorded telephonic communications, the
17 agency may provide in its notice of hearing filed under RCW 34.05.320
18 that interested parties may comment on proposed rules by these means.
19 If the agency chooses to receive comments by these means, the notice of

1 hearing shall provide instructions for making such comments, including,
2 but not limited to, appropriate telephone numbers to be used; the date
3 and time by which comments must be received; required methods to verify
4 the receipt and authenticity of the comments; and any limitations on
5 the number of pages for telefacsimile transmission comments and on the
6 minutes of tape recorded comments. The agency shall accept comments
7 received by these means for inclusion in the official record if the
8 comments are made in accordance with the agency's instructions.

9 (4) The agency head, a member of the agency head, or a presiding
10 officer designated by the agency head shall preside at the rule-making
11 hearing. Rule-making hearings shall be open to the public. The agency
12 shall cause a record to be made of the hearing by stenographic,
13 mechanical, or electronic means. ~~((Unless the agency head presides or
14 is present at substantially all the hearings))~~ Regardless of whether
15 the agency head has delegated rule-making authority, the presiding
16 official shall prepare a memorandum for consideration by the agency
17 head, summarizing the contents of the presentations made at the rule-
18 making hearing, unless the agency head presided or was present at
19 substantially all of the hearings. The summarizing memorandum is a
20 public document and shall be made available to any person in accordance
21 with chapter 42.17 RCW.

22 (5) Rule-making hearings are legislative in character and shall be
23 reasonably conducted by the presiding official to afford interested
24 persons the opportunity to present comment. Rule-making hearings may
25 be continued to a later time and place established on the record
26 without publication of further notice under RCW 34.05.320.

27 (6)(a) Before it files an adopted rule with the code reviser, an
28 agency shall prepare a concise explanatory statement of the rule:

- 29 (i) Identifying the agency's reasons for adopting the rule;
30 (ii) Describing differences between the text of the proposed rule
31 as published in the register and the text of the rule as adopted, other
32 than editing changes, stating the reasons for differences; and
33 (iii) Summarizing all comments received regarding the proposed
34 rule, and responding to the comments by category or subject matter,
35 indicating how the final rule reflects agency consideration of the
36 comments, or why it fails to do so.

1 (b) The agency shall provide the concise explanatory statement to
2 any person upon request or from whom the agency received comment.

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