

2 **SSB 5115** - H COMM AMD
3 By Committee on Commerce & Labor

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 34.05.518 and 1995 c 382 s 5 are each amended to read
8 as follows:

9 (1) A final decision of the public employment relations commission
10 in an adjudicative proceeding under this chapter is directly reviewable
11 by the consent of the court of appeals. Review shall be initiated by
12 filing a notice of appeal with the court of appeals, at the appellant's
13 option, for the division containing (a) Thurston county, (b) the county
14 where the public employer is located, or (c) the county where the
15 appellant resides or has its principal place of business.

16 (2) The final decision of (~~an~~) any other administrative agency in
17 an adjudicative proceeding under this chapter may be directly reviewed
18 by the court of appeals either (a) upon certification by the superior
19 court pursuant to subsection (3) of this section or (b) if the final
20 decision is from an environmental board as defined in subsection
21 (~~(3)~~) (4) of this section, upon acceptance by the court of appeals
22 after a certificate of appealability has been filed by the
23 environmental board that rendered the final decision.

24 (~~(2)~~) (3) For direct review upon certification by the superior
25 court, an application for direct review must be filed with the superior
26 court within thirty days of the filing of the petition for review in
27 superior court. The superior court may certify a case for direct
28 review only if the judicial review is limited to the record of the
29 agency proceeding and the court finds that:

30 (a) Fundamental and urgent issues affecting the future
31 administrative process or the public interest are involved which
32 require a prompt determination;

33 (b) Delay in obtaining a final and prompt determination of such
34 issues would be detrimental to any party or the public interest;

35 (c) An appeal to the court of appeals would be likely regardless of
36 the determination in superior court; and

1 (d) The appellate court's determination in the proceeding would
2 have significant precedential value.

3 Procedures for certification shall be established by court rule.

4 ~~((+3))~~ (4)(a) For the purposes of direct review of final decisions
5 of environmental boards, environmental boards include those boards
6 identified in RCW 43.21B.005 and growth management hearings boards as
7 identified in RCW 36.70A.250.

8 (b) An environmental board may issue a certificate of appealability
9 if it finds that delay in obtaining a final and prompt determination of
10 the issues would be detrimental to any party or the public interest and
11 either:

12 (i) Fundamental and urgent state-wide or regional issues are
13 raised; or

14 (ii) The proceeding is likely to have significant precedential
15 value.

16 ~~((+4))~~ (5) The environmental board shall state in the certificate
17 of appealability which criteria it applied, explain how that criteria
18 was met, and file with the certificate a copy of the final decision.

19 ~~((+5))~~ (6) For an appellate court to accept direct review of a
20 final decision of an environmental board, it shall consider the same
21 criteria outlined in subsection ~~((+3))~~ (4) of this section.

22 ~~((+6))~~ (7) The procedures for direct review of final decisions of
23 environmental boards include:

24 (a) Within thirty days after filing the petition for review with
25 the superior court, a party may file an application for direct review
26 with the superior court and serve the appropriate environmental board
27 and all parties of record. The application shall request the
28 environmental board to file a certificate of appealability.

29 (b) If an issue on review is the jurisdiction of the environmental
30 board, the board may file an application for direct review on that
31 issue.

32 (c) The environmental board shall have thirty days to grant or deny
33 the request for a certificate of appealability and its decision shall
34 be filed with the superior court and served on all parties of record.

35 (d) If a certificate of appealability is issued, the parties shall
36 have fifteen days from the date of service to file a notice of
37 discretionary review in the superior court, and the notice shall
38 include a copy of the certificate of appealability and a copy of the
39 final decision.

1 (e) If the appellate court accepts review, the certificate of
2 appealability shall be transmitted to the court of appeals as part of
3 the certified record.

4 (f) If a certificate of appealability is denied, review shall be by
5 the superior court. The superior court's decision may be appealed to
6 the court of appeals.

7 **Sec. 2.** RCW 34.05.514 and 1995 c 347 s 113 and 1995 c 292 s 9 are
8 each reenacted and amended to read as follows:

9 (1) Except as provided in subsection (2) of this section and RCW
10 34.05.518(1) and 34.05.570(2), proceedings for review under this
11 chapter shall be instituted by paying the fee required under RCW
12 36.18.020 and filing a petition in the superior court, at the
13 petitioner's option, for (a) Thurston county, (b) the county of the
14 petitioner's residence or principal place of business, or (c) in any
15 county where the property owned by the petitioner and affected by the
16 contested decision is located.

17 (2) For proceedings involving institutions of higher education, the
18 petition shall be filed either in the county in which the principal
19 office of the institution involved is located or in the county of a
20 branch campus if the action involves such branch."

21 Correct the title.

EFFECT: Gives the Court of Appeals discretion over whether a PERC
case is "bumped" past Superior Court and is directly reviewed by the
Court of Appeals.

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