

# HOUSE BILL REPORT

## HB 2051

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### As Reported by House Committee On:

State Government

**Title:** An act relating to rule-making procedures.

**Brief Description:** Revising rule-making procedures.

**Sponsors:** Representatives Roach, Quall, Bush, G. Chandler, Hatfield, McMorris, Grant, Kessler and Woods.

### Brief History:

#### Committee Activity:

State Government: 2/19/01, 2/26/01 [DPS].

#### Brief Summary of Substitute Bill

- Requires agencies to list in the notice of rule-making the methodology by which the probable benefits and costs of a significant legislative rule will be evaluated, or that a preliminary analysis is available upon request.

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### HOUSE COMMITTEE ON STATE GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives McMorris, Republican Co-Chair; Romero, Democratic Co-Chair; Miloscia, Democratic Vice Chair; Schindler, Republican Vice Chair; Haigh, Lambert, McDermott and D. Schmidt.

**Staff:** Jim Morishima (786-7191).

### Background:

Significant legislative rules are rules that:

- Adopt substantive provisions of law the violation of which results in penalties or sanctions;
- Affect the issuance, suspension, or revocation of a license or permit; or
- Make significant changes to regulatory programs.

The significant legislative rules of certain agencies are subject to additional procedural

requirements in their adoption. Other agencies may also voluntarily subject their rules to these requirements, or may have the requirements imposed on them by the Joint Administrative Rules Review Committee. The additional requirements include making certain determinations before adopting the rule, including:

- A determination that the rule is needed to achieve the goals of the statute the rule purports to implement;
- A determination that the rule would not force persons to violate other state or federal laws;
- A determination that the rule does not require more stringent requirements on private entities than are imposed on public entities;
- A determination that the rule is the least burdensome alternative available;
- A determination of whether the rule differs from any federal requirements on the subject; and
- A determination of whether the benefits of the rule are greater than the costs.

Before adopting significant legislative rules, the agency must file an implementation plan. The plan must detail how the agency plans to implement and enforce the rule, inform the public about the rule, promote and assist voluntary compliance, and evaluate the effectiveness of the rule.

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**Summary of Substitute Bill:**

For rules subject to the significant legislative rules process, the notice of rule-making for the rule must contain a statement describing the methodology to be used in the analysis of the probable costs and benefits of the rule, or that a preliminary analysis is available upon request.

**Substitute Bill Compared to Original Bill:**

For rules subject to the significant legislative rules process, the notice of rule-making for the rule must contain a statement describing the methodology to be used in the analysis of the probable costs and benefits of the rule, or that a preliminary analysis is available upon request. The requirement in the original bill that an agency's statement of inquiry expires if the agency has not officially proposed a rule within 180 days is eliminated. The requirement in the original bill that the determinations required by the significant legislative rule-making process be completed before the rule is proposed is eliminated.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill

is passed.

**Testimony For:** (Original bill) Placing time limits on agency statements of inquiry will provide greater certainty of when rule-making may proceed. The pre-rule making process is important to stakeholders. Often times, the cost-benefit analysis required by the significant legislative rule-making process is not done in time to allow people to comment on the analysis.

**Testimony Against:** (Original bill) Outreach and stakeholder work often takes time. Expiring the statements of inquiry would limit an agency's ability to do such work. The bill may cause the cost-benefit analysis for significant legislative rules to be inaccurate because it would be based on a preliminary version of the rule. This may lead to possible litigation.

**Testified:** (In favor, original bill) Representative Roach, prime sponsor.

(Opposed, original bill) Jeff Johnson, Washington State Labor Council, AFL-CIO; and Fred Hellberg, Governor's Office.