
HOUSE BILL 1375

State of Washington

57th Legislature

2001 Regular Session

By Representatives Miloscia and Cox; by request of Governor Locke

Read first time 01/24/2001. Referred to Committee on State Government.

1 AN ACT Relating to reauthorizing the expedited rule adoption
2 process; amending RCW 34.05.230; adding a new section to chapter 34.05
3 RCW; and repealing RCW 34.05.354.

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

5 **Sec. 1.** RCW 34.05.230 and 1997 c 409 s 202 are each amended to
6 read as follows:

7 (1) ~~((An agency may file notice for the expedited adoption of rules~~
8 ~~in accordance with the procedures set forth in this section for rules~~
9 ~~meeting any one of the following criteria:~~

10 (a) ~~The proposed rules relate only to internal governmental~~
11 ~~operations that are not subject to violation by a person;~~

12 (b) ~~The proposed rules adopt or incorporate by reference without~~
13 ~~material change federal statutes or regulations, Washington state~~
14 ~~statutes, rules of other Washington state agencies, shoreline master~~
15 ~~programs other than those programs governing shorelines of state-wide~~
16 ~~significance, or, as referenced by Washington state law, national~~
17 ~~consensus codes that generally establish industry standards, if the~~
18 ~~material adopted or incorporated regulates the same subject matter and~~
19 ~~conduct as the adopting or incorporating rule;~~

1 rule making must be preceded by a statement substantially in the form
2 provided in subsection (2) of this section. The notice must also
3 include an explanation of the reasons the agency believes the expedited
4 adoption of the rule is appropriate.

5 (4) The code reviser shall publish the text of all rules proposed
6 for expedited adoption along with the notice required in this section
7 in a separate section of the Washington State Register. Once the text
8 of the proposed rules has been published in the Washington State
9 Register, the only changes that an agency may make in the text of these
10 proposed rules before their final adoption are to correct typographical
11 errors.

12 (5) Any person may file a written objection to the expedited
13 adoption of a rule. The objection must be filed with the agency rules
14 coordinator within forty five days after the notice of the proposed
15 expedited rule making has been published in the Washington State
16 Register. A person who has filed a written objection to the expedited
17 adoption of a rule may withdraw the objection.

18 (6) If no written objections to the expedited adoption of a rule
19 are filed with the agency within forty five days after the notice of
20 proposed expedited rule making is published, or if all objections that
21 have been filed are withdrawn by the persons filing the objections, the
22 agency may enter an order adopting the rule without further notice or
23 a public hearing. The order must be published in the manner required
24 by this chapter for any other agency order adopting, amending, or
25 repealing a rule.

26 (7) If a written notice of objection to the expedited adoption of
27 the rule is timely filed with the agency and is not withdrawn, the
28 notice of proposed expedited rule making published under this section
29 is considered a statement of inquiry for the purposes of RCW 34.05.310,
30 and the agency may initiate further rule adoption proceedings in
31 accordance with this chapter.

32 (8) Subsections (1) through (8) of this section expire on December
33 31, 2000.

34 an ~~[An]~~) An agency is encouraged to advise the public of its
35 current opinions, approaches, and likely courses of action by means of
36 interpretive or policy statements. Current interpretive and policy
37 statements are advisory only. To better inform and involve the public,
38 an agency is encouraged to convert long-standing interpretive and
39 policy statements into rules.

1 (2) A person may petition an agency requesting the conversion of
2 interpretive and policy statements into rules. Upon submission, the
3 agency shall notify the joint administrative rules review committee of
4 the petition. Within sixty days after submission of a petition, the
5 agency shall either deny the petition in writing, stating its reasons
6 for the denial, or initiate rule-making proceedings in accordance with
7 this chapter.

8 (~~(11)~~) (3) Each agency shall maintain a roster of interested
9 persons, consisting of persons who have requested in writing to be
10 notified of all interpretive and policy statements issued by that
11 agency. Each agency shall update the roster once each year and
12 eliminate persons who do not indicate a desire to continue on the
13 roster. Whenever an agency issues an interpretive or policy statement,
14 it shall send a copy of the statement to each person listed on the
15 roster. The agency may charge a nominal fee to the interested person
16 for this service.

17 (~~(12)~~) (4) Whenever an agency issues an interpretive or policy
18 statement, it shall submit to the code reviser for publication in the
19 Washington State Register a statement describing the subject matter of
20 the interpretive or policy statement, and listing the person at the
21 agency from whom a copy of the interpretive or policy statement may be
22 obtained.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 34.05 RCW
24 to read as follows:

25 (1) An agency may file notice for the expedited adoption of rules
26 in accordance with the procedures set forth in this section for rules
27 meeting any one of the following criteria:

28 (a) The proposed rules relate only to internal governmental
29 operations that are not subject to violation by a person;

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

1 (c) The proposed rules only correct typographical errors, make
2 address or name changes, or clarify language of a rule without changing
3 its effect;

4 (d) The content of the proposed rules is explicitly and
5 specifically dictated by statute;

6 (e) The proposed rules have been the subject of negotiated rule
7 making, pilot rule making, or some other process that involved
8 substantial participation by interested parties before the development
9 of the proposed rule; or

10 (f) The proposed rule is being amended after a review under RCW
11 34.05.328.

12 (2) An agency may file notice for the expedited repeal of rules
13 under the procedures set forth in this section for rules meeting any
14 one of the following criteria:

15 (a) The statute on which the rule is based has been repealed and
16 has not been replaced by another statute providing statutory authority
17 for the rule;

18 (b) The statute on which the rule is based has been declared
19 unconstitutional by a court with jurisdiction, there is a final
20 judgment, and no statute has been enacted to replace the
21 unconstitutional statute;

22 (c) The rule is no longer necessary because of changed
23 circumstances; or

24 (d) Other rules of the agency or of another agency govern the same
25 activity as the rule, making the rule redundant.

26 (3) The expedited rule-making process must follow the requirements
27 for rule making set forth in RCW 34.05.320, except that the agency is
28 not required to prepare a small business economic impact statement
29 under RCW 19.85.025, a statement indicating whether the rule
30 constitutes a significant legislative rule under RCW
31 34.05.328(5)(c)(iii), or a significant legislative rule analysis under
32 RCW 34.05.328. An agency is not required to prepare statements of
33 inquiry under RCW 34.05.310 or conduct a hearing for the expedited rule
34 making. The notice for the expedited rule making must contain a
35 statement in at least ten-point type, that is substantially in the
36 following form:

37

NOTICE

1 THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-
2 MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO
3 HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT
4 STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A
5 SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE
6 EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS
7 IN WRITING AND THEY MUST BE SENT TO (INSERT NAME AND ADDRESS)
8 AND RECEIVED BY (INSERT DATE).

9 (4) The agency shall send a copy of the notice of the proposed
10 expedited rule making to any person who has requested notification of
11 proposals for expedited rule making or of regular agency rule making,
12 as well as the joint administrative rules review committee, within
13 three days after its publication in the Washington State Register. An
14 agency may charge for the actual cost of providing a requesting party
15 mailed copies of these notices. The notice of the proposed expedited
16 rule making must be preceded by a statement substantially in the form
17 provided in subsection (3) of this section. The notice must also
18 include an explanation of the reasons the agency believes the expedited
19 rule-making process is appropriate.

20 (5) The code reviser shall publish the text of all rules proposed
21 for expedited adoption, and the citation and caption of all rules
22 proposed for expedited repeal, along with the notice required in this
23 section in a separate section of the Washington State Register. Once
24 the notice of expedited rule making has been published in the
25 Washington State Register, the only changes that an agency may make in
26 the noticed materials before their final adoption or repeal are to
27 correct typographical errors.

28 (6) Any person may file a written objection to the expedited rule
29 making. The objection must be filed with the agency rules coordinator
30 within forty-five days after the notice of the proposed expedited rule
31 making has been published in the Washington State Register. A person
32 who has filed a written objection to the expedited rule making may
33 withdraw the objection.

34 (7) If no written objections to the expedited rule making are filed
35 with the agency within forty-five days after the notice of proposed
36 expedited rule making is published, or if all objections that have been
37 filed are withdrawn by the persons filing the objections, the agency
38 may enter an order adopting or repealing the rule without further
39 notice or a public hearing. The order must be published in the manner

1 required by this chapter for any other agency order adopting, amending,
2 or repealing a rule.

3 (8) If a written notice of objection to the expedited rule making
4 is timely filed with the agency and is not withdrawn, the notice of
5 proposed expedited rule making published under this section is
6 considered a statement of inquiry for the purposes of RCW 34.05.310,
7 and the agency may initiate further rule-making proceedings in
8 accordance with this chapter.

9 NEW SECTION. **Sec. 3.** RCW 34.05.354 (Expedited repeal) and 1998 c
10 280 s 6, 1997 c 409 s 208, & 1995 c 403 s 701 are each repealed.

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