

SENATE BILL REPORT

SB 5366

As of February 3, 2015

Title: An act relating to limiting the enforcement of policies of the department of ecology.

Brief Description: Limiting the enforcement of policies of the department of ecology.

Sponsors: Senators Padden, Becker, Warnick, Honeyford, Angel, Bailey and Roach.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/04/15.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: Jan Odano (786-7486)

Background: The Administrative Procedure Act (APA) details procedures that state agencies are required to follow when adopting rules. It includes requirements for public participation, and petition for adoption, amendment, and repeal of a rule. The APA specifies that an agency may not rely solely on its enabling legislation as authority for rulemaking. There are several types of rulemaking including negotiated and pilot; emergency; expedited; and significant legislative rules.

Under the APA, an agency is encouraged to advise the public of its current opinions, approaches, and likely courses of action by means of interpretive or policy statements. Interpretive and policy statements are advisory only. A person may petition an agency to convert interpretive and policy statements into rules.

Under the APA, policy statement is defined as a written description of the current approach of an agency, entitled a policy statement by the agency head or its designee, to implementation of a statute or other provision of law, of a court decision, or of an agency order, including where appropriate the agency's current practice, procedure, or method of action based upon that approach.

For all rulemaking, agencies are required to maintain a rulemaking docket, listing all pending rulemaking proceedings. Agencies must publish notice of a proposed rule in the state register. The notice requirements include the title and description of the proposed rule's purpose, statutory authority, a short explanation, and the date the agency intends to adopt the rule. An opportunity for public comment must be provided and all rulemaking hearings must

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be open to the public. Comments on a proposed rule received in writing and at the public hearing must be summarized, including how the comments were addressed by the agency, and the difference between the proposed rule and rule as adopted.

Summary of Bill: After July 1, 2015, the Department of Ecology may not enforce any policy unless the policy has been adopted under the APA and ratified by the Legislature.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2015.