

# SENATE BILL REPORT

## SB 6456

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As of January 28, 2016

**Title:** An act relating to the validity of administrative rules.

**Brief Description:** Concerning the validity of administrative rules.

**Sponsors:** Senators Benton, Honeyford, Padden and Hobbs.

**Brief History:**

**Committee Activity:** Law & Justice: 1/26/16.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Tim Ford (786-7423)

**Background:** The Administrative Procedure Act (APA) sets the process state agencies must use when the agency adopts rules. Agencies apply policies to individuals by adopting rules. Violations of rules adopted by agencies may result in sanctions imposed against individuals. With limited exceptions, the rulemaking process requires public notice and public participation. An agency must provide notice of a rule making hearing at least 20 days prior to allow for public comment and participation. Except for emergency rules, when an agency fails to provide at least 20 days notice of a hearing on a proposed rule, the code reviser shall not publish the rule and the rule shall not be effective for any purpose.

**Summary of Bill:** No policy of any agency may be enforced by an agency until and unless that policy has been adopted pursuant to the Administrative Procedure Act and filed with the office of the code reviser.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Agency policies are challenging for small businesses. Policies often determine how an agency will implement and enforce its rules.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

An employer can't understand an agency's implementation just by reading the rules. Agencies give the same weight to policies as rules. Agency policy may be used to harass citizens but policy does not have the force of law. An agency should follow the Administrative Procedure Act to implement policy through rule making.

**Persons Testifying:** PRO: Gary Smith, Independent Business Association; Cindy Alia, Citizens Alliance for Property Rights; Arthur West, citizen.

Persons Signed In To Testify But Not Testifying: No one.