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HOUSE BILL 1209

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State of Washington

64th Legislature

2015 Regular Session

By Representatives Scott, Shea, Short, Taylor, Manweller, Holy, Buys, Condotta, and Van De Wege

Read first time 01/15/15. Referred to Committee on State Government.

1 AN ACT Relating to proceedings of the joint administrative rules  
2 review committee; and amending RCW 34.05.655 and 34.05.640.

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

4 **Sec. 1.** RCW 34.05.655 and 1998 c 21 s 3 are each amended to read  
5 as follows:

6 (1) Any person may petition the rules review committee for a  
7 review of a proposed or existing rule or a proposed or existing  
8 policy or interpretive statement, guideline, or document that is of  
9 general applicability, or its equivalent. A petition to review a  
10 statement, guideline, or document that is of general applicability,  
11 or its equivalent, may only be filed for the purpose of requesting  
12 the committee to determine whether the statement, guideline, or  
13 document that is of general applicability, or its equivalent, is  
14 being used as a rule that has not been adopted in accordance with all  
15 provisions of law. Upon filing of the petition with the committee and  
16 service of the petition upon the agency, all promulgation,  
17 implementation, enforcement, and amendment of the proposed or  
18 existing rule, policy, interpretive statement, guideline, or document  
19 is stayed pending final conclusion of the rules review process.  
20 Within thirty days of the receipt of the petition, the rules review  
21 committee shall acknowledge receipt of the petition and describe any

1 initial action taken. If the rules review committee rejects the  
2 petition, a written statement of the reasons for rejection shall be  
3 included.

4 (2) A person may petition the rules review committee under  
5 subsection (1) of this section requesting review of an existing rule  
6 only if the person has petitioned the agency to amend or repeal the  
7 rule under RCW 34.05.330(1) and such petition was denied.

8 (3) A petition for review of a rule under subsection (1) of this  
9 section shall:

10 (a) Identify with specificity the proposed or existing rule to be  
11 reviewed;

12 (b) Identify the specific statute identified by the agency as  
13 authorizing the rule, the specific statute which the rule interprets  
14 or implements, and, if applicable, the specific statute the  
15 department is alleged not to have followed in adopting the rule;

16 (c) State the reasons why the petitioner believes that the rule  
17 is not within the intent of the legislature, or that its adoption was  
18 not or is not in accordance with law, and provide documentation to  
19 support these statements;

20 (d) Identify any known judicial action regarding the rule or  
21 statutes identified in the petition.

22 A petition to review an existing rule shall also include a copy  
23 of the agency's denial of a petition to amend or repeal the rule  
24 issued under RCW 34.05.330(1) and, if available, a copy of the  
25 governor's denial issued under RCW 34.05.330(3).

26 (4) A petition for review of a policy or interpretive statement,  
27 guideline, or document that is of general applicability, or its  
28 equivalent, under subsection (1) of this section shall:

29 (a) Identify the specific policy or interpretative statement,  
30 guideline, or document that is of general applicability, or its  
31 equivalent, to be reviewed;

32 (b) Identify the specific statute which the rule interprets or  
33 implements;

34 (c) State the reasons why the petitioner believes that the policy  
35 or interpretive statement, guideline, or document that is of general  
36 applicability, or its equivalent, meets the definition of a rule  
37 under RCW 34.05.010 and should have been adopted according to the  
38 procedures of this chapter;

39 (d) Identify any known judicial action regarding the policy or  
40 interpretive statement, guideline, or document that is of general

1 applicability, or its equivalent, or statutes identified in the  
2 petition.

3 (5) Within ninety days of receipt of the petition, the rules  
4 review committee shall make a final decision on the rule for which  
5 the petition for review was not previously rejected.

6 **Sec. 2.** RCW 34.05.640 and 1998 c 21 s 2 are each amended to read  
7 as follows:

8 (1) Within seven days of an agency hearing held after  
9 notification of the agency by the rules review committee pursuant to  
10 RCW 34.05.620 or 34.05.630, the affected agency shall notify the  
11 committee of its intended action on a proposed or existing rule to  
12 which the committee objected or on a committee finding of the  
13 agency's failure to adopt rules.

14 (2) If the rules review committee finds by a majority vote of its  
15 members: (a) That the proposed or existing rule in question will not  
16 be modified, amended, withdrawn, or repealed by the agency so as to  
17 conform with the intent of the legislature, (b) that an existing rule  
18 was not adopted in accordance with all applicable provisions of law,  
19 or (c) that the agency will not replace the policy or interpretive  
20 statement, guideline, or document that is of general applicability,  
21 or its equivalent, with a rule, the stay described in subsection (1)  
22 of this section remains in effect and the rules review committee  
23 ~~((may))~~ shall, within ~~((thirty))~~ ten days from ~~((notification by the~~  
24 ~~agency of its intended action))~~ the date of the committee vote, file  
25 with the code reviser notice of its objections together with a  
26 concise statement of the reasons therefor. Such notice and statement  
27 shall also be provided to the agency by the rules review committee.

28 ~~(3)(a) ((If the rules review committee makes an adverse finding~~  
29 ~~regarding an existing rule under subsection (2)(a) or (b) of this~~  
30 ~~section, the committee may, by a majority vote of its members,~~  
31 ~~recommend suspension of the rule. Within seven days of such vote the~~  
32 ~~committee shall transmit to the appropriate standing committees of~~  
33 ~~the legislature, the governor, the code reviser, and the agency~~  
34 ~~written notice of its objection and recommended suspension and the~~  
35 ~~concise reasons therefor. Within thirty days of receipt of the~~  
36 ~~notice, the governor shall transmit to the committee, the code~~  
37 ~~reviser, and the agency written approval or disapproval of the~~  
38 ~~recommended suspension. If the suspension is approved by the~~  
39 ~~governor, it is effective from the date of that approval and~~

1 continues until ninety days after the expiration of the next regular  
2 legislative session.

3 ~~(b) If the rules review committee makes an adverse finding~~  
4 ~~regarding a policy or interpretive statement, guideline, or document~~  
5 ~~that is of general applicability, or its equivalent, under subsection~~  
6 ~~(2)(c) of this section, the committee may, by a majority vote of its~~  
7 ~~members, advise the governor of its finding.~~

8 ~~(4))~~ The code reviser shall publish transmittals from the rules  
9 review committee ~~((or the governor))~~ issued pursuant to subsection  
10 (2) ~~((or (3)))~~ of this section in the Washington state register and  
11 shall publish in the next supplement and compilation of the  
12 Washington Administrative Code a reference to the committee's  
13 objection ~~((or recommended suspension and the governor's action on~~  
14 ~~it)), the stay described in subsection (1) of this section, and~~  
15 ~~((to))~~ the issue of the Washington state register in which the full  
16 text thereof appears.

17 ~~((5))~~ (b) The reference shall be removed from a rule published  
18 in the Washington Administrative Code only if: A subsequent  
19 ~~((adjudicatory))~~ judicial proceeding determines that the rule is  
20 within the intent of the legislature ~~((or))~~ and was adopted in  
21 accordance with all applicable laws ~~((, whichever was the objection of~~  
22 ~~the rules review committee)); or the stay described in subsection (1)~~  
23 ~~of this section is lifted by resolution of the senate adopted by~~  
24 majority vote.

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