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SENATE BILL 5274

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State of Washington

64th Legislature

2015 Regular Session

By Senators Schoesler, Sheldon, and Hewitt

Read first time 01/16/15. Referred to Committee on Accountability and Reform.

1 AN ACT Relating to the responsibilities of the joint  
2 administrative rules review committee; and amending RCW 34.05.620,  
3 34.05.640, and 34.05.655.

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

5 **Sec. 1.** RCW 34.05.620 and 1996 c 318 s 3 are each amended to  
6 read as follows:

7 If the rules review committee finds by a majority vote of its  
8 members that a proposed rule is not within the intent of the  
9 legislature as expressed in the statute which the rule implements, or  
10 that an agency may not be adopting a proposed rule in accordance with  
11 all applicable provisions of law, the committee shall give the  
12 affected agency written notice of its decision. For purposes of  
13 review by the committee, a proposed rule includes any draft storm  
14 water general permit issued by the department of ecology. The notice  
15 shall be given at least seven days prior to any hearing scheduled for  
16 consideration of or adoption of the proposed rule pursuant to RCW  
17 34.05.320. The notice shall include a statement of the review  
18 committee's findings and the reasons therefor. When the agency holds  
19 a hearing on the proposed rule, the agency shall consider the review  
20 committee's decision.

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

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

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11 be modified, amended, withdrawn, or repealed by the agency so as to  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

22       (3)(a) If the rules review committee makes an adverse finding  
23 regarding ~~((an))~~ a proposed or existing rule under subsection (2)(a)  
24 or (b) of this section, the committee may, by a majority vote of its  
25 members, recommend suspension of rule-making proceedings for a  
26 proposed rule or suspension of the existing rule. Within seven days  
27 of such vote the committee shall transmit to the appropriate standing  
28 committees of the legislature, the governor, the code reviser, and  
29 the agency written notice of its objection and recommended suspension  
30 and the concise reasons therefor. Within thirty days of receipt of  
31 the notice, the governor shall transmit to the committee, the code  
32 reviser, and the agency written approval or disapproval of the  
33 recommended suspension. If the suspension is approved by the  
34 governor, it is effective from the date of that approval and  
35 continues until ninety days after the expiration of the next regular  
36 legislative session.

37       (b) If the rules review committee makes an adverse finding  
38 regarding a policy or interpretive statement, guideline, or document  
39 that is of general applicability, or its equivalent, under subsection

1 (2)(c) of this section, the committee may, by a majority vote of its  
2 members, advise the governor of its finding.

3 (4) The code reviser shall publish transmittals from the rules  
4 review committee or the governor issued pursuant to subsection (2) or  
5 (3) of this section in the Washington state register and shall  
6 publish in the next supplement and compilation of the Washington  
7 Administrative Code a reference to the committee's objection or  
8 recommended suspension and the governor's action on it and to the  
9 issue of the Washington state register in which the full text thereof  
10 appears.

11 (5) The reference shall be removed from a rule published in the  
12 Washington Administrative Code if a subsequent adjudicatory  
13 proceeding determines that the rule is within the intent of the  
14 legislature or was adopted in accordance with all applicable laws,  
15 whichever was the objection of the rules review committee.

16 **Sec. 3.** RCW 34.05.655 and 1998 c 21 s 3 are each amended to read  
17 as follows:

18 (1) Any person may petition the rules review committee for a  
19 review of a proposed or existing rule or a proposed or existing  
20 policy or interpretive statement, guideline, or document that is of  
21 general applicability, or its equivalent. A petition to review a  
22 statement, guideline, or document that is of general applicability,  
23 or its equivalent, may only be filed for the purpose of requesting  
24 the committee to determine whether the statement, guideline, or  
25 document that is of general applicability, or its equivalent, is  
26 being used as a rule that has not been adopted in accordance with all  
27 provisions of law. Within thirty days of the receipt of the petition,  
28 the rules review committee shall acknowledge receipt of the petition  
29 and describe any initial action taken. If the rules review committee  
30 rejects the petition, a written statement of the reasons for  
31 rejection shall be included.

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

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

38 (a) Identify with specificity the proposed or existing rule to be  
39 reviewed;

1 (b) Identify the specific statute identified by the agency as  
2 authorizing the rule, the specific statute which the rule interprets  
3 or implements, and, if applicable, the specific statute the  
4 department is alleged not to have followed in adopting the rule;

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

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

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

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

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

21 (b) Identify the specific statute which the rule interprets or  
22 implements;

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

28 (d) Identify any known judicial action regarding the policy or  
29 interpretive statement, guideline, or document that is of general  
30 applicability, or its equivalent, or statutes identified in the  
31 petition.

32 (5) The rules review committee may not reject a petition that is  
33 signed by at least thirty members of the legislature and complies  
34 with all applicable requirements of this section, but in such cases  
35 the petitioners are not required to petition the agency to amend or  
36 repeal the rule under RCW 34.05.330(1) prior to petitioning the rules  
37 review committee.

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

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