
HOUSE BILL 1240

State of Washington

65th Legislature

2017 Regular Session

By Representatives Koster, Taylor, Shea, McDonald, Hayes, Rodne, Irwin, Manweller, Short, Young, Pike, and Kraft

Read first time 01/13/17. Referred to Committee on State Government.

1 AN ACT Relating to revising the responsibilities of the joint
2 administrative rules review committee to increase legislative
3 oversight of agency rule making; and amending RCW 34.05.630,
4 34.05.640, and 34.05.650.

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

6 **Sec. 1.** RCW 34.05.630 and 1998 c 21 s 1 are each amended to read
7 as follows:

8 (1) All rules required to be filed pursuant to RCW 34.05.380, and
9 emergency rules adopted pursuant to RCW 34.05.350, are subject to
10 selective review and approval by the committee.

11 (2) All agency policy and interpretive statements, guidelines,
12 and documents that are of general applicability, or their
13 equivalents, are subject to selective review by the committee to
14 determine whether or not a statement, guideline, or document that is
15 of general applicability, or its equivalent, is being used as a rule
16 that has not been adopted in accordance with all applicable
17 provisions of law.

18 (3) If the rules review committee finds by a majority vote of its
19 members: (a) That an existing rule is (~~not~~) within the intent of
20 the legislature as expressed by the statute which the rule
21 implements, and (b) that the rule has (~~not~~) been adopted in

1 accordance with all applicable provisions of law, ~~((or-(e)))~~ the
2 committee may approve the rule for adoption by the agency. If the
3 committee finds that the requirements in this subsection are not met,
4 the rule is immediately suspended until the adjournment of the next
5 regular session of the legislature and is subject to RCW 34.05.650.

6 (4) If the rules review committee finds by a majority vote of its
7 members that an agency is using a policy or interpretive statement in
8 place of a rule, the agency affected shall be notified of such
9 finding and the reasons therefor. Within thirty days of the receipt
10 of the rules review committee's notice, the agency shall file notice
11 of a hearing on the rules review committee's finding with the code
12 reviser and mail notice to all persons who have made timely request
13 of the agency for advance notice of its rule-making proceedings as
14 provided in RCW 34.05.320. The agency's notice ~~((shall))~~ must include
15 the rules review committee's findings and reasons therefor, and
16 ~~((shall))~~ must be published in the Washington state register in
17 accordance with the provisions of chapter 34.08 RCW.

18 ~~((4))~~ (5) The agency ~~((shall))~~ must consider fully all written
19 and oral submissions regarding ~~((a) whether the rule in question is~~
20 ~~within the intent of the legislature as expressed by the statute~~
21 ~~which the rule implements, (b) whether the rule was adopted in~~
22 ~~accordance with all applicable provisions of law, and (c))~~ whether
23 the agency is using a policy or interpretive statement, guideline, or
24 document that is of general applicability, or its equivalent, in
25 place of a rule.

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

28 (1) Within seven days of an agency hearing held after
29 notification of the agency by the rules review committee pursuant to
30 RCW 34.05.620 or 34.05.630, the affected agency shall notify the
31 committee of its intended action on a proposed ~~((or-existing))~~ rule
32 to which the committee objected or on a committee finding of the
33 agency's failure to adopt rules.

34 (2) If the rules review committee finds by a majority vote of its
35 members: (a) That the proposed ~~((or-existing))~~ rule in question will
36 not be modified, amended, or withdrawn~~((, or repealed))~~ by the agency
37 so as to conform with the intent of the legislature, ~~((b) that an~~
38 ~~existing rule was not adopted in accordance with all applicable~~
39 ~~provisions of law,))~~ or ~~((e))~~ (b) that the agency will not replace

1 the policy or interpretive statement, guideline, or document that is
2 of general applicability, or its equivalent, with a rule, the rules
3 review committee may, within thirty days from notification by the
4 agency of its intended action, file with the code reviser notice of
5 its objections together with a concise statement of the reasons
6 therefor. Such notice and statement shall also be provided to the
7 agency by the rules review committee.

8 ~~(3)((a) If the rules review committee makes an adverse finding~~
9 ~~regarding an existing rule under subsection (2)(a) or (b) of this~~
10 ~~section, the committee may, by a majority vote of its members,~~
11 ~~recommend suspension of the rule. Within seven days of such vote the~~
12 ~~committee shall transmit to the appropriate standing committees of~~
13 ~~the legislature, the governor, the code reviser, and the agency~~
14 ~~written notice of its objection and recommended suspension and the~~
15 ~~concise reasons therefor. Within thirty days of receipt of the~~
16 ~~notice, the governor shall transmit to the committee, the code~~
17 ~~reviser, and the agency written approval or disapproval of the~~
18 ~~recommended suspension. If the suspension is approved by the~~
19 ~~governor, it is effective from the date of that approval and~~
20 ~~continues until ninety days after the expiration of the next regular~~
21 ~~legislative session.~~

22 ~~(b))~~ If the rules review committee makes an adverse finding
23 regarding a policy or interpretive statement, guideline, or document
24 that is of general applicability, or its equivalent, under subsection
25 (2)((e)) (b) of this section, the committee may, by a majority vote
26 of its members, advise the governor of its finding.

27 (4) The code reviser shall publish transmittals from the rules
28 review committee or the governor issued pursuant to subsection ((2)
29 ~~or~~) (3) of this section in the Washington state register and shall
30 publish in the next supplement and compilation of the Washington
31 Administrative Code a reference to the committee's objection ((~~or~~
32 ~~recommended suspension~~)) and the governor's action on it and to the
33 issue of the Washington state register in which the full text thereof
34 appears.

35 ((5) ~~The reference shall be removed from a rule published in the~~
36 ~~Washington Administrative Code if a subsequent adjudicatory~~
37 ~~proceeding determines that the rule is within the intent of the~~
38 ~~legislature or was adopted in accordance with all applicable laws,~~
39 ~~whichever was the objection of the rules review committee.))~~

1 **Sec. 3.** RCW 34.05.650 and 1988 c 288 s 605 are each amended to
2 read as follows:

3 (1) Upon the suspension of a rule under RCW 34.05.630, the rules
4 review committee must introduce a bill during the next regular
5 legislative session to refer the suspended rule to the appropriate
6 standing committees of the legislature for review. A standing
7 committee of the legislature must review the rule at a public hearing
8 during the regular legislative session and must make a formal
9 recommendation to the legislature as to whether the rule should be
10 approved or disapproved. If the legislature does not disapprove of
11 the rule through the passage of a bill by the adjournment of the
12 regular session in which the rule was considered, the rule is
13 considered adopted and becomes effective.

14 (2) The speaker of the house of representatives and the president
15 of the senate must notify the office of the code reviser and the
16 rules review committee of the final dispensation of each rule
17 considered under this section. If a rule is disapproved by the
18 legislature through the passage of a bill, the rule immediately
19 expires.

20 (3) The rules review committee may recommend to the legislature
21 that the original enabling legislation serving as authority for the
22 adoption of any rule reviewed by the committee be amended or repealed
23 in such manner as the committee deems advisable.

24 NEW SECTION. **Sec. 4.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

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