
SENATE BILL 5214

State of Washington 65th Legislature 2017 Regular Session

By Senators Wilson, Zeiger, and Schoesler

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

1 AN ACT Relating to adding responsibilities to the duties of the
2 joint administrative rules review committee; amending RCW 34.05.630
3 and 34.05.655; and adding a new section to chapter 34.05 RCW.

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

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

7 (1) All rules required to be filed pursuant to RCW 34.05.380, and
8 emergency rules adopted pursuant to RCW 34.05.350, are subject to
9 selective review by the committee. The committee must review a rule:

10 (a) Upon receipt of a petition for review signed by at least
11 fifteen members of the legislature;

12 (b) If the rule has an economic impact of ten million dollars or
13 more; or

14 (c) Upon receipt of a petition for review signed by five or more
15 local governments representing collectively fifty thousand or more
16 Washington residents.

17 (2) All agency policy and interpretive statements, guidelines,
18 and documents that are of general applicability, or their
19 equivalents, are subject to selective review by the committee to
20 determine whether or not a statement, guideline, or document that is
21 of general applicability, or its equivalent, is being used as a rule

1 that has not been adopted in accordance with all applicable
2 provisions of law.

3 (3) If the rules review committee finds by a majority vote of its
4 members: (a) That an existing rule is not within the intent of the
5 legislature as expressed by the statute which the rule implements,
6 (b) that the rule has not been adopted in accordance with all
7 applicable provisions of law, or (c) that an agency is using a policy
8 or interpretive statement in place of a rule, the agency affected
9 shall be notified of such finding and the reasons therefor. Within
10 thirty days of the receipt of the rules review committee's notice,
11 the agency shall file notice of a hearing on the rules review
12 committee's finding with the code reviser and mail notice to all
13 persons who have made timely request of the agency for advance notice
14 of its rule-making proceedings as provided in RCW 34.05.320. The
15 agency's notice shall include the rules review committee's findings
16 and reasons therefor, and shall be published in the Washington state
17 register in accordance with the provisions of chapter 34.08 RCW.

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

25 **Sec. 2.** RCW 34.05.655 and 2015 2nd sp.s. c 11 s 2 are each
26 amended to read as follows:

27 (1) Any person may petition the rules review committee for a
28 review of a proposed or existing rule or a proposed or existing
29 policy or interpretive statement, guideline, or document that is of
30 general applicability, or its equivalent. A petition to review a
31 statement, guideline, or document that is of general applicability,
32 or its equivalent, may only be filed for the purpose of requesting
33 the committee to determine whether the statement, guideline, or
34 document that is of general applicability, or its equivalent, is
35 being used as a rule that has not been adopted in accordance with all
36 provisions of law.

37 (2) Within thirty days of the receipt of the petition, the rules
38 review committee shall acknowledge receipt of the petition (~~and~~
39 ~~describe any initial action taken~~). The rules review committee must

1 determine through a majority vote of its members whether the petition
2 will be rejected or accepted for review. If the rules review
3 committee rejects the petition, a written statement of the reasons
4 for rejection shall be included.

5 ~~((2))~~ (3) A person may petition the rules review committee
6 under subsection (1) of this section requesting review of an existing
7 rule only if the person has petitioned the agency to amend or repeal
8 the rule under RCW 34.05.330(1) and such petition was denied.

9 ~~((3))~~ (4) A petition for review of a rule under subsection (1)
10 of this section shall:

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

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

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

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

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

27 ~~((4))~~ (5) A petition for review of a policy or interpretive
28 statement, guideline, or document that is of general applicability,
29 or its equivalent, under subsection (1) of this section shall:

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

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

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

1 (d) Identify any known judicial action regarding the policy or
2 interpretive statement, guideline, or document that is of general
3 applicability, or its equivalent, or statutes identified in the
4 petition.

5 ~~((+5))~~ (6) Except for petitions that the rules review committee
6 rejects, the rules review committee shall make a final decision
7 within ninety days of receipt of a petition for review under
8 subsection (1) of this section. If the legislature meets in regular
9 or special session at any time before the rules review committee
10 makes a final decision on a petition, the rules review committee may
11 defer making a final decision until after the adjournment sine die of
12 the regular or special session or sessions. The rules review
13 committee shall make a final decision on a deferred petition within
14 ninety days of adjournment. During a legislative session, petitioners
15 may bring any concerns raised in a petition to any legislator, and
16 those concerns may be addressed directly through legislation.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 34.05
18 RCW to read as follows:

19 (1) The following agency actions are subject to selective review
20 by the committee to ensure consistency with the agency's adopted
21 guidelines, administrative regulations for issuing a permit, or both:

22 (a) General permits impacting local governments filed in
23 accordance with agency rules; and

24 (b) Guidance documents and advisory materials incorporated into
25 local government ordinances.

26 (2) The committee must review an agency action:

27 (a) Upon receipt of a petition for review signed by at least
28 fifteen members of the legislature;

29 (b) If the action has an economic impact of ten million dollars
30 or more; or

31 (c) Upon receipt of a petition for review signed by five or more
32 local governments representing collectively fifty thousand or more
33 Washington residents.

34 (3) If the committee finds by a majority vote of its members that
35 the issuance of a permit or the use of guidelines or advisory
36 materials under subsection (1) of this section is not consistent with
37 the agency's adopted guidelines, administrative regulations for
38 issuing a permit, or both, the agency affected must be notified of

1 the findings, the reasons for the findings, and all written and oral
2 comments received during the review.

3 (4) Within thirty days of the receipt of the committee's
4 findings, the agency must fully consider all written and oral
5 comments received as a result of the committee review and provide a
6 response to the committee addressing the comments and findings.

7 (5) Upon receipt of the agency response, the rules review
8 committee must transmit the committee findings, comments received,
9 and the agency response to the governor and the appropriate standing
10 committees of the legislature.

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