

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1120

Chapter 53, Laws of 2017

65th Legislature
2017 Regular Session

AGENCY RULE MAKING--SMALL BUSINESSES--REGULATORY FAIRNESS ACT

EFFECTIVE DATE: 7/23/2017

Passed by the House March 2, 2017
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 7, 2017
Yeas 49 Nays 0

CYRUS HABIB

President of the Senate

Approved April 19, 2017 11:14 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1120** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 19, 2017

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1120

Passed Legislature - 2017 Regular Session

State of Washington

65th Legislature

2017 Regular Session

By House Appropriations (originally sponsored by Representatives Smith, Morris, Short, Hayes, Stanford, Koster, Van Werven, McDonald, MacEwen, Muri, Haler, Ryu, Condotta, and Buys)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to enhancing the economic development and
2 viability of small businesses; amending RCW 19.85.025, 19.85.030, and
3 43.42.010; adding a new section to chapter 43.09 RCW; and creating a
4 new section.

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

6 **Sec. 1.** RCW 19.85.025 and 1997 c 409 s 212 are each amended to
7 read as follows:

8 (1) Unless an agency receives a written objection to the
9 expedited repeal of a rule, this chapter does not apply to a rule
10 proposed for expedited repeal pursuant to RCW ((~~34.05.354~~))
11 34.05.353. If an agency receives a written objection to expedited
12 repeal of the rule, this chapter applies to the rule-making
13 proceeding.

14 (2) This chapter does not apply to a rule proposed for expedited
15 adoption under RCW ((~~34.05.230 (1) through (8)~~)) 34.05.353, unless a
16 written objection is timely filed with the agency and the objection
17 is not withdrawn.

18 (3) This chapter does not apply to the adoption of a rule
19 described in RCW 34.05.310(4).

1 (4) This chapter does not apply to the adoption of a rule if an
2 agency is able to demonstrate that the proposed rule does not affect
3 small businesses.

4 (5) An agency is not required to prepare a separate small
5 business economic impact statement under RCW 19.85.040 if it prepared
6 an analysis under RCW 34.05.328 that meets the requirements of a
7 small business economic impact statement, and if the agency reduced
8 the costs imposed by the rule on small business to the extent
9 required by RCW 19.85.030(~~((3))~~) (2). The portion of the analysis
10 that meets the requirements of RCW 19.85.040 shall be filed with the
11 code reviser and provided to any person requesting it in lieu of a
12 separate small business economic impact statement.

13 **Sec. 2.** RCW 19.85.030 and 2011 c 249 s 2 are each amended to
14 read as follows:

15 (1)(a) In the adoption of a rule under chapter 34.05 RCW, an
16 agency shall prepare a small business economic impact statement: (i)
17 If the proposed rule will impose more than minor costs on businesses
18 in an industry; or (ii) if requested to do so by a majority vote of
19 the joint administrative rules review committee within forty-five
20 days of receiving the notice of proposed rule making under RCW
21 34.05.320. However, if the agency has completed the pilot rule
22 process as defined by RCW 34.05.313 before filing the notice of a
23 proposed rule, the agency is not required to prepare a small business
24 economic impact statement.

25 (b) An agency must prepare the small business economic impact
26 statement in accordance with RCW 19.85.040, and file it with the code
27 reviser along with the notice required under RCW 34.05.320. An agency
28 shall file a statement prepared at the request of the joint
29 administrative rules review committee with the code reviser upon its
30 completion before the adoption of the rule. An agency must provide a
31 copy of the small business economic impact statement to any person
32 requesting it.

33 (2) Based upon the extent of disproportionate impact on small
34 business identified in the statement prepared under RCW 19.85.040,
35 the agency shall, where legal and feasible in meeting the stated
36 objectives of the statutes upon which the rule is based, reduce the
37 costs imposed by the rule on small businesses. The agency must
38 consider, without limitation, each of the following methods of
39 reducing the impact of the proposed rule on small businesses:

1 (a) Reducing, modifying, or eliminating substantive regulatory
2 requirements;

3 (b) Simplifying, reducing, or eliminating recordkeeping and
4 reporting requirements;

5 (c) Reducing the frequency of inspections;

6 (d) Delaying compliance timetables;

7 (e) Reducing or modifying fine schedules for noncompliance; or

8 (f) Any other mitigation techniques including those suggested by
9 small businesses or small business advocates.

10 (3) If a proposed rule affects only small businesses, the
11 proposing agency must consider all mitigation options defined in this
12 chapter.

13 (4) In the absence of sufficient data to calculate
14 disproportionate impacts, an agency whose rule imposes more than
15 minor costs must mitigate the costs to small businesses, where legal
16 and feasible, as defined in this chapter.

17 (5) If the agency determines it cannot reduce the costs imposed
18 by the rule on small businesses, the agency must provide a clear
19 explanation of why it has made that determination and include that
20 statement with its filing of the proposed rule pursuant to RCW
21 34.05.320.

22 ((+4)) (6)(a) All small business economic impact statements are
23 subject to selective review by the joint administrative rules review
24 committee pursuant to RCW 34.05.630.

25 (b) Any person affected by a proposed rule where there is a small
26 business economic impact statement may petition the joint
27 administrative rules review committee for review pursuant to the
28 procedure in RCW 34.05.655.

29 **Sec. 3.** RCW 43.42.010 and 2012 c 196 s 1 are each amended to
30 read as follows:

31 (1) The office of regulatory assistance is created in the office
32 of financial management and must be administered by the office of the
33 governor to help improve the regulatory system and assist citizens,
34 businesses, and project proponents.

35 (2) The governor must appoint a director. The director may employ
36 a deputy director and a confidential secretary and such staff as are
37 necessary, or contract with another state agency pursuant to chapter
38 39.34 RCW for support in carrying out the purposes of this chapter.

39 (3) The office must offer to:

- 1 (a) Act as the central point of contact for the project proponent
2 in communicating about defined issues;
- 3 (b) Conduct project scoping as provided in RCW 43.42.050;
- 4 (c) Verify that the project proponent has all the information
5 needed to correctly apply for all necessary permits;
- 6 (d) Provide general coordination services;
- 7 (e) Coordinate the efficient completion among participating
8 agencies of administrative procedures, such as collecting fees or
9 providing public notice;
- 10 (f) Maintain contact with the project proponent and the permit
11 agencies to promote adherence to agreed schedules;
- 12 (g) Assist in resolving any conflict or inconsistency among
13 permit requirements and conditions;
- 14 (h) Coordinate, to the extent practicable, with relevant federal
15 permit agencies and tribal governments;
- 16 (i) Facilitate meetings;
- 17 (j) Manage a fully coordinated permit process, as provided in RCW
18 43.42.060; and
- 19 (k) Help local jurisdictions comply with the requirements of
20 chapter 36.70B RCW.
- 21 (4) The office must also:
- 22 (a) Provide information to local jurisdictions about best
23 permitting practices, methods to improve communication with, and
24 solicit early involvement of, state agencies when needed, and
25 effective means of assessing and communicating expected project
26 timelines and costs;
- 27 (b) Maintain and furnish information as provided in RCW
28 43.42.040; (~~and~~)
- 29 (c) Act as the central entity to collaborate with and provide
30 support to state agencies in meeting the requirements of the
31 regulatory fairness act, chapter 19.85 RCW. Support must include, but
32 is not limited to:
- 33 (i) Providing online guidance and tools. Online guidance and
34 tools may include templates and resources to assist agency employees
35 with consistent compliance with the regulatory fairness act, chapter
36 19.85 RCW. In providing online guidance and tools the office must
37 consult the office of the attorney general. The office will make the
38 online guidance and tools available by December 31, 2017;
- 39 (ii) Providing access to available data for agencies to complete
40 cost calculations pursuant to chapter 19.85 RCW; and

1 (iii) Facilitating sharing of information among agencies and
2 between agencies and business associations;

3 (d) Provide the following by September 1, 2009, and biennially
4 thereafter, to the governor and the appropriate committees of the
5 legislature:

6 (i) A performance report including:

7 (A) Information regarding use of the office's voluntary cost-
8 reimbursement services as provided in RCW 43.42.070;

9 (B) The number and type of projects or initiatives where the
10 office provided services including the key agencies with which the
11 office partnered;

12 (C) Specific information on any difficulty encountered in
13 providing services or implementing programs, processes, or assistance
14 tools; and

15 (D) Trend reporting that allows comparisons between statements of
16 goals and performance targets and the achievement of those goals and
17 targets; and

18 (ii) Recommendations on system improvements including, but not
19 limited to, recommendations on improving environmental permitting by
20 making it more time efficient and cost-effective for all participants
21 in the process.

22 NEW SECTION. Sec. 4. A new section is added to chapter 43.09
23 RCW to read as follows:

24 The state auditor shall conduct a performance review of agency
25 compliance with the regulatory fairness act, pursuant to chapter
26 19.85 RCW. The performance review must be completed no earlier than
27 June 30, 2020, and subsequent reviews must be completed periodically
28 thereafter. Factors used to determine the frequency of subsequent
29 reviews include the degree to which agencies are found to be in
30 compliance with the act. The auditor must report his or her findings
31 to the legislature, and any recommendations, by June 30, 2021, and
32 after every subsequent review.

33 NEW SECTION. Sec. 5. If specific funding for the purposes of
34 this act, referencing this act by bill or chapter number, is not
35 provided by June 30, 2017, in the omnibus appropriations act, this
36 act is null and void.

Passed by the House March 2, 2017.
Passed by the Senate April 7, 2017.

Approved by the Governor April 19, 2017.
Filed in Office of Secretary of State April 19, 2017.

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