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**SUBSTITUTE HOUSE BILL 1686**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on State Government (originally sponsored by Representatives Anderson, Ludwig, R. Meyers, Foreman, Dorn, Orr, Vance, Brough, Tate, Casada, Edmondson, Horn, Wood, Carlson, Ballard, Brumsickle, Ballasiotes, Van Luven, Mielke, Sheahan, Long, Thomas, Cooke, Forner, Morton and Lisk)

Read first time 03/03/93.

1 AN ACT Relating to administrative law; and amending RCW 34.05.630  
2 and 34.05.640.

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

4 **Sec. 1.** RCW 34.05.630 and 1988 c 288 s 603 are each amended to  
5 read as follows:

6 (1) All rules required to be filed pursuant to RCW 34.05.380, and  
7 emergency rules adopted pursuant to RCW 34.05.350, are subject to  
8 selective review by the legislature.

9 (2) The rules review committee may review an agency's use of policy  
10 statements, guidelines, and issuances that are of general  
11 applicability, or their equivalents to determine whether or not an  
12 agency has failed to adopt a rule or whether they are within the intent  
13 of the legislature as expressed by the governing statute.

14 (3) If the rules review committee finds by a majority vote of its  
15 members: (a) That an existing rule is not within the intent of the  
16 legislature as expressed by the statute which the rule implements, (b)  
17 that the rule has not been adopted in accordance with all applicable  
18 provisions of law, ~~((or))~~ (c) that an agency is using a policy  
19 statement, guideline, or issuance in place of a rule, or (d) that the

1 policy statement, guideline, or issuance is outside of legislative  
2 intent, the agency affected shall be notified of such finding and the  
3 reasons therefor. Within thirty days of the receipt of the rules  
4 review committee's notice, the agency shall file notice of a hearing on  
5 the rules review committee's finding with the code reviser and mail  
6 notice to all persons who have made timely request of the agency for  
7 advance notice of its rule-making proceedings as provided in RCW  
8 34.05.320. The agency's notice shall include the rules review  
9 committee's findings and reasons therefor, and shall be published in  
10 the Washington state register in accordance with the provisions of  
11 chapter 34.08 RCW.

12 (4) The agency shall consider fully all written and oral  
13 submissions regarding (a) whether the rule in question is within the  
14 intent of the legislature as expressed by the statute which the rule  
15 implements, (b) whether the rule was adopted in accordance with all  
16 applicable provisions of law, ~~((or))~~ (c) whether the agency is using a  
17 policy statement, guideline, or issuance in place of a rule, or (d)  
18 whether the policy statement, guideline, or issuance is within the  
19 legislative intent.

20 **Sec. 2.** RCW 34.05.640 and 1988 c 288 s 604 are each amended to  
21 read as follows:

22 (1) Within seven days of an agency hearing held after notification  
23 of the agency by the rules review committee pursuant to RCW 34.05.620  
24 or 34.05.630, the affected agency shall notify the committee of its  
25 action on a proposed or existing rule to which the committee objected  
26 or on a committee finding of the agency's failure to adopt rules. If  
27 the rules review committee determines, by a majority vote of its  
28 members, that the agency has failed to provide for the required  
29 hearings or notice of its action to the committee, the committee may  
30 file notice of its objections, together with a concise statement of the  
31 reasons therefor, with the code reviser within thirty days of such  
32 determination.

33 (2) If the rules review committee finds, by a majority vote of its  
34 members: (a) That the proposed or existing rule in question has not  
35 been modified, amended, withdrawn, or repealed by the agency so as to  
36 conform with the intent of the legislature, or (b) that the agency is  
37 using a policy statement, guideline, or issuance in place of a rule, or  
38 that the policy statement, guideline, or issuance is outside of the

1 legislative intent, the rules review committee may, within thirty days  
2 from notification by the agency of its action, file with the code  
3 reviser notice of its objections together with a concise statement of  
4 the reasons therefor. Such notice and statement shall also be provided  
5 to the agency by the rules review committee.

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

18 (4) The code reviser shall publish transmittals from the rules  
19 review committee or the governor issued pursuant to subsection (1),  
20 (2), or (3) of this section in the Washington state register and shall  
21 publish in the next supplement and compilation of the Washington  
22 Administrative Code a reference to the committee's objection or  
23 recommended suspension and the governor's action on it and to the issue  
24 of the Washington state register in which the full text thereof  
25 appears.

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

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