
SENATE BILL 5136

State of Washington

54th Legislature

1995 Regular Session

By Senators McCaslin, Hochstatter, A. Anderson and Long

Read first time 01/12/95. Referred to Committee on Government Operations.

1 AN ACT Relating to legislative suspension of administrative rules;
2 and amending RCW 34.05.640 and 34.05.660.

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

4 **Sec. 1.** RCW 34.05.640 and 1994 c 249 s 19 are each amended to read
5 as follows:

6 (1) Within seven days of an agency hearing held after notification
7 of the agency by the rules review committee pursuant to RCW 34.05.620
8 or 34.05.630, the affected agency shall notify the committee of its
9 action on a proposed or existing rule to which the committee objected
10 or on a committee finding of the agency's failure to adopt rules. If
11 the rules review committee determines, by a majority vote of its
12 members, that the agency has failed to provide for the required
13 hearings or notice of its action to the committee, the committee may
14 file notice of its objections, together with a concise statement of the
15 reasons therefor, with the code reviser within thirty days of such
16 determination.

17 (2) If the rules review committee finds, by a majority vote of its
18 members: (a) That the proposed or existing rule in question has not
19 been modified, amended, withdrawn, or repealed by the agency so as to

1 conform with the intent of the legislature, or (b) that an existing
2 rule was not adopted in accordance with all applicable provisions of
3 law, including (~~section 4 of this act if the rule was adopted after~~
4 ~~the effective date of section 4 of this act and~~)) chapter 19.85 RCW, or
5 (c) that the agency is using a policy statement, guideline, or issuance
6 in place of a rule, or that the policy statement, guideline, or
7 issuance is outside of the legislative intent, the rules review
8 committee may, within thirty days from notification by the agency of
9 its action, file with the code reviser notice of its objections
10 together with a concise statement of the reasons therefor. Such notice
11 and statement shall also be provided to the agency by the rules review
12 committee.

13 (3) If the rules review committee makes an adverse finding under
14 subsection (2) of this section, the committee may, by a majority vote
15 of its members, recommend suspension of an existing rule. Within seven
16 days of such vote the committee shall transmit to the appropriate
17 standing committees of the legislature, the governor, the code reviser,
18 and the agency written notice of its objection and recommended
19 suspension and the concise reasons therefor. The notice must also
20 include a finding of legislative intent when the recommendation results
21 from the application of subsection (2) (a) or (c) of this section.
22 Within thirty days of receipt of the notice, the governor shall
23 transmit to the committee, the code reviser, and the agency written
24 approval or disapproval of the recommended suspension. If the
25 suspension is approved by the governor, it is effective from the date
26 of that approval and continues until ninety days after the expiration
27 of the next regular legislative session.

28 (4) If the governor disapproves the recommendation of the rules
29 review committee to suspend the rule, the transmittal of such decision,
30 along with the findings of the rules review committee, shall be treated
31 by the agency as a petition by the rules review committee to repeal the
32 rule under RCW 34.05.330.

33 (5) The code reviser shall publish transmittals from the rules
34 review committee or the governor issued pursuant to subsection (1),
35 (2), or (3) of this section in the Washington state register and shall
36 publish in the next supplement and compilation of the Washington
37 Administrative Code a reference to the committee's objection or
38 recommended suspension and the governor's action on it and to the issue

1 of the Washington state register in which the full text thereof
2 appears.

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

8 **Sec. 2.** RCW 34.05.660 and 1988 c 288 s 606 are each amended to
9 read as follows:

10 (1) Except as provided in subsection (2) of this section, it is the
11 express policy of the legislature that establishment of procedures for
12 review of administrative rules by the legislature and the notice of
13 objection required by RCW 34.05.630(2) and 34.05.640(2) in no way
14 serves to establish a presumption as to the legality or
15 constitutionality of a rule in any subsequent judicial proceedings
16 interpreting such rules.

17 (2) A finding of legislative intent by the rules review committee
18 under RCW 34.05.640(3) establishes a conclusive presumption as to the
19 intent of the legislature for purposes of any subsequent judicial
20 interpretation of the statute that is the subject of the finding.

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