

2345-S2

Sponsor(s): House Committee on Appropriations (originally sponsored by Representative Reams)

Brief Title: Revising administrative law.

**HB 2345-S2.E - DIGEST**

(DIGEST AS ENACTED)

Revises provisions relating to administrative law rule-making and hearing procedures.

VETO MESSAGE ON HB 2345-S2

April 2, 1998

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1, 3, 4, 8, 10, 11, 12, and 13, Engrossed Second Substitute House Bill No. 2345 entitled:

"AN ACT Relating to administrative law;"

Engrossed Second Substitute House Bill No. 2345 makes numerous changes throughout the Administrative Procedures Act (APA) that proponents claim will improve the rule making process and provide better notification of regulatory actions.

I am deeply committed to meaningful regulatory improvement in state government and have demonstrated that commitment by undertaking a major reform effort under Executive Order 97-02. That program has already resulted in the elimination of nearly 2,000 rules and the rewriting of hundreds of regulations in plain English. Agencies are also eliminating regulatory inefficiencies, improving customer service, reducing conflicting regulations, using negotiated rule making, and expanding effective outreach and voluntary compliance among the regulated community. Those are examples of meaningful regulatory reform, and I welcome proposals that will further those goals.

Unfortunately, most of the provisions in E2SHB 2345 do not further those goals. Sections 1, 3, and 4 would mandate additional notification, meetings, and other requirements for agencies, and would add costs and complexity to the regulatory process. They would also result in additional bureaucratic red tape, and duplicate information and services that are already being provided under current law and practices. In some cases, the language in those sections is ambiguous regarding who should be notified about what actions. Those sections would only create more opportunities for litigation regarding the meaning of the requirements and the extent to which agencies may or may not have complied. Proponents of this bill did not provide hard evidence of system-wide problems that would justify these changes. Anecdotes and disagreements with individual agencies about a rule should not be used as a rationale to make costly changes in the APA that affect all agencies.

Section 8 of the bill would require a rule review process that

is similar to that already established in E.O. 97-02. Under that executive order, all agencies are conducting rule review in an efficient and orderly manner, and that review is yielding results. Statutory rule review is, therefore, unnecessary and could open up new opportunities for litigation on technical grounds relating to the adequacy of the reviews.

Sections 10 and 12 of the bill would require the Office of the Insurance Commissioner to use adjudicators from the Office of Administrative Hearings. I vetoed the same sections after the 1997 legislative session, and I am not aware of any evidence that would justify changing the current adjudication process and singling out the Insurance Commissioner for different treatment.

Section 11 of the bill would require agencies to prepare local government economic impact statements on rules that impose any costs on local governments. While funding was made available for this program, the Legislature chose to condition the availability of those funds on enactment of sections 1 and 4 of the bill, which I have vetoed.

Finally, section 13 of the bill is a "null and void" clause that would nullify the entire act if funding is not made available. The supplemental budget act conditions funding for portions of this bill on the approval of certain sections. Since I am vetoing those necessary sections, funding will disappear. Section 13 must, therefore, be vetoed in order to preserve sections in this bill that I have approved.

For these reasons, I have vetoed sections 1, 3, 4, 8, 10, 11, 12, and 13 of Engrossed Second Substitute House Bill No. 2345.

With the exception of sections 1, 3, 4, 8, 10, 11, 12, and 13, Engrossed Second Substitute House Bill No. 2345 is approved.

Respectfully submitted,  
Gary Locke  
Governor