

---

HOUSE BILL 2554

---

State of Washington                      64th Legislature                      2016 Regular Session

By Representatives Wilson, Van Werven, Vick, Griffey, Pike, Wylie, Hayes, Johnson, and Kochmar

Read first time 01/14/16. 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.

--- END ---