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SENATE BILL 5056

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State of Washington

65th Legislature

2017 Regular Session

By Senator Dansel

Read first time 01/11/17. Referred to Committee on State Government.

1 AN ACT Relating to modifying limitations on new evidence taken on  
2 judicial review of administrative actions; and amending RCW  
3 34.05.562.

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

5 **Sec. 1.** RCW 34.05.562 and 1988 c 288 s 514 are each amended to  
6 read as follows:

7 (1) The court may receive evidence in addition to that contained  
8 in the agency record for judicial review, (~~only if~~) whenever it  
9 relates to the validity of the agency action at the time it was taken  
10 (~~and~~), is necessary to avoid injustice, or is needed to decide  
11 disputed issues regarding:

12 (a) Improper constitution as a decision-making body or grounds  
13 for disqualification of those taking the agency action;

14 (b) Unlawfulness of procedure or of decision-making process; or

15 (c) Material facts in rule making, brief adjudications, or other  
16 proceedings not required to be determined on the agency record.

17 (2) The court may remand a matter to the agency, before final  
18 disposition of a petition for review, with directions that the agency  
19 conduct fact-finding and other proceedings the court considers  
20 necessary and that the agency take such further action on the basis  
21 thereof as the court directs, if:

1           (a) The agency was required by this chapter or any other  
2 provision of law to base its action exclusively on a record of a type  
3 reasonably suitable for judicial review, but the agency failed to  
4 prepare or preserve an adequate record;

5           (b) The court finds that (i) new evidence has become available  
6 that relates to the validity of the agency action at the time it was  
7 taken, that one or more of the parties did not know and was under no  
8 duty to discover or could not have reasonably been discovered until  
9 after the agency action, and (ii) the interests of justice would be  
10 served by remand to the agency;

11          (c) The agency improperly excluded or omitted evidence from the  
12 record; or

13          (d) A relevant provision of law changed after the agency action  
14 and the court determines that the new provision may control the  
15 outcome.

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