

HOUSE BILL REPORT

SB 6289

*As Reported By House Committee on:
State Government*

Title: An act relating to electronic transmission of comments to administrative rule-making hearings.

Brief Description: Requiring agencies to accept fax and phone comments at rule-making hearings.

Sponsor(s): Senators Bauer, Sellar, Gaspard, Newhouse, Sutherland, Snyder, Owen, Madsen, McMullen, Vognild and Rasmussen.

Brief History:

Reported by House Committee on:
State Government, February 26, 1992, DPA.

**HOUSE COMMITTEE ON
STATE GOVERNMENT**

Majority Report: *Do pass as amended.* Signed by 10 members: Representatives Anderson, Chair; Pruitt, Vice Chair; McLean, Ranking Minority Member; Bowman, Assistant Ranking Minority Member; Chandler; R. Fisher; Grant; Moyer; O'Brien; and Sheldon.

Staff: Linda May (786-7135).

Background: The Administrative Procedure Act (APA) requires an agency to publish notice of a hearing where the agency will be receiving public comment regarding adoption of a rule. Statute directs agencies to accept written comment about a proposed rule and to provide an opportunity for oral comment. However, there is no specific provision in the law regarding the public's use of fax machines and voice messaging as ways to submit comments regarding a proposed rule.

Summary of Amended Bill: If an agency possesses equipment capable of receiving fax transmissions or recorded telephone communications, an agency may allow parties to comment on proposed rules by these means. If an agency chooses to receive comments by these means, the agency must provide any necessary instructions for sending such comments in the notice of hearing. Instructions are to include appropriate telephone numbers to use, dates and times by which comments

need to be received, methods to verify authenticity of the sender, and any limitations on the volume of transmissions.

Amended Bill Compared to Original Bill: In the original bill, it was somewhat unclear as to whether an agency was required to accept comments transmitted by fax or voice messaging. The amended bill clarifies that an agency may choose to accept comments by these means. The amended bill also allows an agency to provide a wider range of instructions in its notice of hearing.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is based on a recommendation of the Small Business Improvement Council. This will allow agencies to receive valuable testimony from more parties and will generally expand participation in rule-making. This will allow agencies and parties interested in rule-making to take advantage of new technologies.

Testimony Against: It is unclear whether the language in the bill is mandatory or permissive. It is important to be precise in the APA because rules can be invalidated due to technical errors in rule-making procedures. Agencies, particularly smaller ones, should not be forced to buy new equipment. If people wait until the last minute to send comments, they may not be able to get through, plus it could tie up the equipment so that it could not be used for any other purpose. There also needs to be some way to ensure that the comments sent really are from the person identified in the transmission.

Witnesses: Gabrielle Horner, Association of Washington Business; and Mark G. Wornath, Independent Business Association (both in favor). Dave Henry, Department of Social and Health Services; Fred Hellberg, Governor's Office; and Suzanne Mager, Department of Labor and Industries (in favor with amendments). Carol Monohon, Utilities and Transportation Commission (opposed).