

HOUSE BILL REPORT

SHB 2498

As Passed Legislature

Title: An act relating to regulatory fairness.

Brief Description: Regarding regulatory fairness.

Sponsor(s): By House Committee on Appropriations (originally sponsored by Representatives Ludwig, Forner, Cantwell, Sheldon, Dellwo, Bray, Roland, Rasmussen, Moyer, Rayburn, Grant, H. Myers, Paris, Riley, Edmondson, Kremen, Ferguson, Winsley, Wineberry, Jones, Dorn, Franklin, Ebersole, Bowman, May, Heavey, Ogden, Cooper, Pruitt, O'Brien, Hine, Nelson and P. Johnson).

Brief History:

Reported by House Committee on:
Trade & Economic Development, January 28, 1992, DP;
Appropriations, February 10, 1992, DPS;
Passed House, February 17, 1992, 98-0;
Amended by Senate;
Passed Legislature.

**HOUSE COMMITTEE ON
TRADE & ECONOMIC DEVELOPMENT**

Majority Report: *Do pass.* Signed by 11 members:
Representatives Cantwell, Chair; Sheldon, Vice Chair;
Forner, Ranking Minority Member; Betrozoff, Assistant
Ranking Minority Member; Ferguson; Kremen; Ludwig; Moyer;
Rasmussen; Riley; and Roland.

Staff: Charlie Gavigan (786-7340).

**HOUSE COMMITTEE ON
APPROPRIATIONS**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 24 members: Representatives Locke, Chair; Spanel, Vice Chair; Appelwick; Bowman; Braddock; Brekke; Carlson; Dorn; Ebersole; Ferguson; Fuhrman; Hine; Lisk; May; Mielke; Nealey; Peery; Pruitt; Rust; D. Sommers; H. Sommers; Valle; Vance; and Wang.

Minority Report: Do not pass. Signed by 1 member:
Representative Belcher.

Staff: Victor Moore (786-7143).

Background: There are three primary statutory provisions that govern agency rule-making: (1) the Administrative Procedures Act; (2) the Regulatory Fairness Act; and (3) the Joint Administrative Rules Review Committee.

The Administrative Procedures Act (APA) describes procedures that state agencies must follow as they carry out their duties. Part three of the APA establishes rule-making procedures. State agencies are encouraged to seek input from the public, including businesses, on a subject under active consideration by the agency for possible rule-making activity. Each agency must designate a rules coordinator who has knowledge of proposed rules and can respond to public inquiries. The agency must conduct a public hearing on all proposed rules.

The Regulatory Fairness Act provides that state agency rules affecting the business community do not place a proportionately higher burden on small businesses. When a proposed rule being considered for adoption by a state agency has an economic impact on more than 20 percent of all industries or more than 10 percent of any one industry, the adopting agency must reduce the economic impact of the rule on small businesses. The agency can accomplish this by simplifying compliance or reporting requirements for small businesses, establishing different timetables for small businesses, or exempting small businesses from some or all requirements of the rule.

The agency must also prepare a small business economic impact statement and review its rules affecting small businesses. The small business economic impact statement analyzes the costs to small businesses of compliance with the proposed rule. The Business Assistance Center, in the Department of Trade and Economic Development, can help agencies prepare small business economic impact statements.

The Joint Administrative Rules Review Committee (JARRC) provides for legislative review of agency rules. JARRC is comprised of four senators and four representatives. The committee may review agency rules for compliance with legislative intent. The committee, if it finds that the rule does not conform to legislative intent, and if the agency does not rectify the discrepancy, may recommend that the governor suspend the rule or that the Legislature repeal or amend authorizing legislation regarding the particular rule.

Summary of Bill: The rules coordinator of each agency provides information on state rules that apply to specific types of businesses to the Business Assistance Center (BAC) upon request of the BAC.

State agencies must provide small businesses with notice of a proposed rule when a small business economic impact statement is required. Notice can be given by direct notification of known interested small businesses or trade organizations affected by the proposed rule or notice in a publication likely to be read by affected small businesses. The agency may appoint a committee to comment on the proposed rule.

If applicable, the official notice of a proposed rule must contain a statement of steps taken to comply with the Regulatory Fairness Act.

The Business Assistance Center, if funds are appropriated, must study how the BAC can best serve as a clearinghouse to coordinate with state agencies in compiling and providing, upon request, lists of state rules that apply to specific classes or lines of small businesses. The state is not liable for any errors or omissions regarding provision of the information on agency rules to businesses by the BAC.

The Joint Administrative Rules Review Committee may review any rule for compliance with the Regulatory Fairness Act. The committee may review small business economic impact statements required under the Regulatory Fairness Act.

Fiscal Note: Available.

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

Testimony For: (Trade & Economic Development): Businesses need better access to the regulatory process. This bill helps provide for better notice and review of proposed agency rules. State agencies should consider the economic impact of rules on business much more than they currently do. Businesses also need better information regarding rules and permits that impact individual businesses; this bill is a step in the right direction in addressing these regulatory fairness issues.

(Appropriations): Same as Committee on Trade & Economic Development.

Testimony Against: (Trade & Economic Development): None.

(Appropriations): None.

Witnesses: (Trade & Economic Development): Gary Smith and Mark Wormath, Independent Business Association (Pro); Nancy Bratton, Seattle Chamber of Commerce (Pro); and Cliff Finch, Association of Washington Business (Pro).

(Appropriations): Representative Curt Ludwig, prime sponsor (pro); Mark Wormath, Independent Business Association (pro); and Skip Houser, Department of Trade and Economic Development (pro, with concerns about funding).