
HOUSE BILL 1494

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Wineberry, Sheldon, Springer, Morris, Schoesler, Chandler, Casada, Quall, Forner, Foreman, Hansen, Shin, Locke, Brough, Roland, Fuhrman, Miller, Ballasiotes, Edmondson, Van Luven, Silver, Cooke, Long, Dyer, Sheahan, Talcott, Lisk and Rayburn

Read first time 01/29/93. Referred to Committee on Trade, Economic Development & Housing.

1 AN ACT Relating to review of administrative rules; adding new
2 sections to chapter 19.85 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
5 ensure that administrative rules currently in effect impose the least
6 possible economic burden on small businesses and that all
7 administrative rules adopted by state agencies are periodically
8 reviewed so that rules that are no longer necessary are eliminated and
9 that rules can be modified to reduce their economic impacts on small
10 businesses. The legislature finds that existing and new administrative
11 rules do and can impose significant economic burdens on small
12 businesses and such economic burdens can restrict the ability of small
13 businesses to expand, create jobs, and strengthen the state's economy.
14 The legislature is very concerned about the failure of state agencies
15 to carry out the review of their administrative rules as required by
16 RCW 19.85.050 by June 10, 1992, and therefore the legislature renews
17 the demand that state agencies carry out a review as provided in this
18 act of all existing administrative rules that have an economic impact
19 on small businesses.

1 NEW SECTION. **Sec. 2.** By July 1, 1996, each state agency that
2 administers a rule adopted before January 1, 1989, and that imposes
3 requirements or imposes costs on small businesses shall either:

4 (1) Repeal the rule in accordance with chapter 34.05 RCW;

5 (2) Have completed amending and adopting the rule as amended in
6 accordance with chapter 34.05 RCW; or

7 (3) Have completed a rule review as provided in section 3 of this
8 act.

9 NEW SECTION. **Sec. 3.** An administrative rule review consists of
10 the following:

11 (1) The agency shall prepare an administrative rule review
12 statement and file the statement with the code reviser for publication
13 in the state register. For the purposes of this section, a rule may
14 include any number of sections of the Washington Administrative Code if
15 all of the sections deal with the same subject matter. For example, an
16 agency may review all of their rules dealing with the same subject
17 matter, i.e., first-aid equipment and requirements, hazardous waste
18 storage, rules governing the application of a tax on a particular type
19 of industry, and so forth. The statement must contain each of the
20 following elements:

21 (a) A statement indicating the reason the agency finds there is a
22 continued need for the rule;

23 (b) A small business economic impact statement for the rule,
24 prepared in accordance with this chapter. However, in the case of a
25 rule that has been adopted to conform with federal regulations and that
26 does not impose any requirements that are more stringent or different
27 than the federal regulation, the agency may cite the federal regulation
28 to which the rule is designed to conform, and the agency need not
29 prepare a small business economic impact statement nor meet the
30 requirements of subsections (1)(c), (2), or (3) of this section;

31 (c) For any rules that the agency proposes to maintain in effect,
32 an economic impact mitigation statement for the rule that indicates
33 what mitigation measures that are both legal and feasible that the
34 agency has considered to reduce the economic impact of the rule on
35 small businesses, and why the mitigation measures are not being
36 proposed as adopted and which are an amendment to the rule.

37 (2) The agency issuing the rule review statement shall solicit
38 public comments for not less than thirty days from the date the notice

1 appears in the state register and may hold a public hearing not less
2 than twenty days after the rule review statement has been published in
3 the state register on the contents of the rule review statement
4 prepared by the agency, and solicit proposals to mitigate the economic
5 impact of the rule on small businesses.

6 (3) Not less than thirty days after the public hearing and after
7 consideration of written comments received before and within five
8 calendar days after the public hearing, the agency shall file with the
9 code reviser a written statement to be published in the state register
10 of its:

11 (a) Finding that the rule shall continue in effect without change
12 and that no mitigation option exists that is legal and feasible to
13 reduce the economic impact of the rule; or

14 (b) Decision to repeal or amend the rule before July 1, 1996.

15 NEW SECTION. **Sec. 4.** (1) Any person may file a petition for a
16 declaratory judgment provided by chapter 34.05 RCW, objecting to the
17 finding by an agency that a rule has been adopted solely to conform to
18 a federal regulation and that the rule is not more stringent nor does
19 it impose different requirements than imposed by the federal
20 regulation. If the court finds that a rule is not adopted solely to
21 conform with a federal regulation but that it imposes more stringent or
22 different requirements on small businesses, the agency must meet the
23 requirements of sections 2 and 3 of this act or the rule becomes null
24 and void and unenforceable.

25 (2) Any person may file a petition for a declaratory judgment to
26 invalidate a rule as provided by chapter 34.05 RCW, objecting to the
27 decision of an agency that the agency cannot amend a rule to implement
28 a legal and feasible reduction in the economic impacts of a rule on
29 small businesses. The court shall find for the petitioner if the
30 agency's position is not substantially justified.

31 NEW SECTION. **Sec. 5.** Failure of an agency to meet the
32 requirements of sections 2 and 3 of this act for any rule it
33 administers that was adopted before January 1, 1989, and that imposes
34 economic costs on small businesses causes that rule to be null and void
35 and unenforceable after July 1, 1996.

1 NEW SECTION. **Sec. 6.** No rule adopted after July 1, 1993, is valid
2 unless the rule contains a termination date not more than sixty
3 calendar months after the date of adoption of the rule. On the
4 termination date the rule becomes invalid and of no force and effect.
5 An agency may readopt the rule at any time and may reestablish the
6 termination date, not to exceed sixty months from the date of
7 readoption. An agency that readopts a rule without change is not
8 required to prepare a small business impact statement as set forth in
9 this chapter.

10 NEW SECTION. **Sec. 7.** Sections 2 through 6 of this act are each
11 added to chapter 19.85 RCW.

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