

2 SHB 1032 - S COMM AMD

3 By Committee on Government Operations

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 34.05.464 and 1989 c 175 s 20 are each amended to
8 read as follows:

9 (1) As authorized by law, an agency may by rule provide that
10 initial orders in specified classes of cases may become final without
11 further agency action unless, within a specified period, (a) the agency
12 head upon its own motion determines that the initial order should be
13 reviewed, or (b) a party to the proceedings files a petition for
14 administrative review of the initial order. Upon occurrence of either
15 event, notice shall be given to all parties to the proceeding.

16 (2) As authorized by law, an agency head may appoint a person to
17 review initial orders and to prepare and enter final agency orders.

18 (3) RCW 34.05.425 and 34.05.455 apply to any person reviewing an
19 initial order on behalf of an agency as part of the decision process,
20 and to persons communicating with them, to the same extent that it is
21 applicable to presiding officers.

22 (4) The officer reviewing the initial order (including the agency
23 head reviewing an initial order) is, for the purposes of this chapter,
24 termed the reviewing officer.

25 (a) In licensing by the department of social and health services
26 and civil fines related to the licensing proceedings and in custodial
27 parent address disclosure proceedings under RCW 26.23.120, the
28 reviewing officer shall exercise all the decision-making power that the
29 reviewing officer would have had to decide and enter the final order
30 had the reviewing officer presided over the hearing, except to the
31 extent that the issues subject to review are limited by a provision of
32 law or by the reviewing officer upon notice to all the parties. In
33 reviewing findings of fact by presiding officers, the reviewing
34 officers shall give due regard to the presiding officer's opportunity
35 to observe the witnesses.

1 (b) In all other adjudicative proceedings, the reviewing officer's
2 authority to modify the findings of fact, conclusions of law, and
3 decision is limited to the following grounds:

4 (i) Irregularity in the proceedings preventing the petitioning
5 party from having a fair hearing. This includes misconduct by the
6 prevailing party and misconduct or abuse of discretion by the presiding
7 officer;

8 (ii) The findings of fact are unsupported by substantial evidence
9 in view of the entire record or contain clerical or mathematical
10 errors;

11 (iii) Errors of law;

12 (iv) Need for clarification in order for the parties to implement
13 the decision; or

14 (v) Facts not found in the initial order but supported by
15 substantial evidence in the record.

16 (5) The reviewing officer shall personally consider the whole
17 record or such portions of it as may be cited by the parties.

18 (6) The reviewing officer shall afford each party an opportunity to
19 present written argument and may afford each party an opportunity to
20 present oral argument.

21 (7) The reviewing officer shall enter a final order disposing of
22 the proceeding or remand the matter for further proceedings, with
23 instructions to the presiding officer who entered the initial order.
24 Upon remanding a matter, the reviewing officer shall order such
25 temporary relief as is authorized and appropriate.

26 (8) A final order shall include, or incorporate by reference to the
27 initial order, all matters required by RCW 34.05.461(3).

28 (9) The reviewing officer shall cause copies of the final order or
29 order remanding the matter for further proceedings to be served upon
30 each party.

31 NEW SECTION. Sec. 2. If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected."

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4 On page 1, line 1 of the title, after "procedure;" strike the
5 remainder of the title and insert "and amending RCW 34.05.464."

6 EFFECT: Allows the reviewing officer to modify an initial order
7 when the initial order is silent on facts in the record which are
8 supported by substantial evidence.

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