
SUBSTITUTE SENATE BILL 5115

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Labor & Workforce Development (originally sponsored by Senators Heavey, Prentice, Kline and Fairley)

Read first time 02/17/1999.

1 AN ACT Relating to judicial review of public employment relations
2 commission proceedings; amending RCW 34.05.518; and reenacting and
3 amending RCW 34.05.514.

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

5 **Sec. 1.** RCW 34.05.518 and 1995 c 382 s 5 are each amended to read
6 as follows:

7 (1) A final decision of the public employment relations commission
8 in an adjudicative proceeding under this chapter is directly reviewable
9 by the court of appeals. Review shall be initiated by filing a notice
10 of appeal with the court of appeals, at the appellant's option, for the
11 division containing (a) Thurston county, (b) the county where the
12 public employer is located, or (c) the county where the appellant
13 resides or has its principal place of business.

14 (2) The final decision of (~~an~~) any other administrative agency in
15 an adjudicative proceeding under this chapter may be directly reviewed
16 by the court of appeals either (a) upon certification by the superior
17 court pursuant to subsection (3) of this section or (b) if the final
18 decision is from an environmental board as defined in subsection
19 (~~((3))~~) (4) of this section, upon acceptance by the court of appeals

1 after a certificate of appealability has been filed by the
2 environmental board that rendered the final decision.

3 ~~((+2+))~~ (3) For direct review upon certification by the superior
4 court, an application for direct review must be filed with the superior
5 court within thirty days of the filing of the petition for review in
6 superior court. The superior court may certify a case for direct
7 review only if the judicial review is limited to the record of the
8 agency proceeding and the court finds that:

9 (a) Fundamental and urgent issues affecting the future
10 administrative process or the public interest are involved which
11 require a prompt determination;

12 (b) Delay in obtaining a final and prompt determination of such
13 issues would be detrimental to any party or the public interest;

14 (c) An appeal to the court of appeals would be likely regardless of
15 the determination in superior court; and

16 (d) The appellate court's determination in the proceeding would
17 have significant precedential value.

18 Procedures for certification shall be established by court rule.

19 ~~((+3+))~~ (4)(a) For the purposes of direct review of final decisions
20 of environmental boards, environmental boards include those boards
21 identified in RCW 43.21B.005 and growth management hearings boards as
22 identified in RCW 36.70A.250.

23 (b) An environmental board may issue a certificate of appealability
24 if it finds that delay in obtaining a final and prompt determination of
25 the issues would be detrimental to any party or the public interest and
26 either:

27 (i) Fundamental and urgent state-wide or regional issues are
28 raised; or

29 (ii) The proceeding is likely to have significant precedential
30 value.

31 ~~((+4+))~~ (5) The environmental board shall state in the certificate
32 of appealability which criteria it applied, explain how that criteria
33 was met, and file with the certificate a copy of the final decision.

34 ~~((+5+))~~ (6) For an appellate court to accept direct review of a
35 final decision of an environmental board, it shall consider the same
36 criteria outlined in subsection ~~((+3+))~~ (4) of this section.

37 ~~((+6+))~~ (7) The procedures for direct review of final decisions of
38 environmental boards include:

1 (a) Within thirty days after filing the petition for review with
2 the superior court, a party may file an application for direct review
3 with the superior court and serve the appropriate environmental board
4 and all parties of record. The application shall request the
5 environmental board to file a certificate of appealability.

6 (b) If an issue on review is the jurisdiction of the environmental
7 board, the board may file an application for direct review on that
8 issue.

9 (c) The environmental board shall have thirty days to grant or deny
10 the request for a certificate of appealability and its decision shall
11 be filed with the superior court and served on all parties of record.

12 (d) If a certificate of appealability is issued, the parties shall
13 have fifteen days from the date of service to file a notice of
14 discretionary review in the superior court, and the notice shall
15 include a copy of the certificate of appealability and a copy of the
16 final decision.

17 (e) If the appellate court accepts review, the certificate of
18 appealability shall be transmitted to the court of appeals as part of
19 the certified record.

20 (f) If a certificate of appealability is denied, review shall be by
21 the superior court. The superior court's decision may be appealed to
22 the court of appeals.

23 **Sec. 2.** RCW 34.05.514 and 1995 c 347 s 113 and 1995 c 292 s 9 are
24 each reenacted and amended to read as follows:

25 (1) Except as provided in subsection (2) of this section and RCW
26 34.05.518(1) and 34.05.570(2), proceedings for review under this
27 chapter shall be instituted by paying the fee required under RCW
28 36.18.020 and filing a petition in the superior court, at the
29 petitioner's option, for (a) Thurston county, (b) the county of the
30 petitioner's residence or principal place of business, or (c) in any
31 county where the property owned by the petitioner and affected by the
32 contested decision is located.

33 (2) For proceedings involving institutions of higher education, the
34 petition shall be filed either in the county in which the principal
35 office of the institution involved is located or in the county of a
36 branch campus if the action involves such branch.

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