

# SENATE BILL REPORT

## HB 2380

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As Reported By Senate Committee On:  
Government Operations & Elections, February 25, 2004

**Title:** An act relating to the governor's signature on significant legislative rules.

**Brief Description:** Requiring the governor's signature on significant legislative rules.

**Sponsors:** Representatives Grant, Armstrong, Upthegrove, Schoesler, Linville, Nixon, Ruderman, Hunter, Woods and Orcutt.

**Brief History:**

**Committee Activity:** Government Operations & Elections: 2/20/04, 2/25/04 [DPA-WM, DNP].

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Roach, Chair; Stevens, Vice Chair; Berkey, Horn, Kastama and McCaslin.

**Minority Report:** Do not pass.  
Signed by Senator Fairley.

**Staff:** Diane Smith (786-7410)

**Background:** The Administrative Procedure Act (APA) details certain requirements that must be satisfied in order for an agency to adopt a significant legislative rule. A significant legislative rule is one that:

- adopts substantive provisions of law, the violation of which subjects the violator to a penalty or sanction;
- establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or
- adopts a new policy or regulatory program, or makes significant amendments to a policy or regulatory program.

Significant legislative rules do not include emergency rules, procedural rules, interpretative rules, or rules adopted through expedited rulemaking. Some of the requirements for adoption of a significant legislative rule include a cost/benefit analysis, a determination of whether the rule imposes more stringent requirements on private entities than on public entities, and a determination of whether the rule differs from federal regulations and law. The following agencies must satisfy these APA requirements in order to adopt a significant legislative rule:

- The Department of Ecology;
- The Department of Labor and Industries;
- The Department of Health;

- The Department of Revenue;
- The Department of Social and Health Services;
- The Department of Natural Resources;
- The Employment Security Department;
- The Forest Practices Board;
- The Office of the Insurance Commissioner; and
- The Department of Fish and Wildlife (some).

All of these departments and boards are under the authority of the Governor, except the Office of the Insurance Commissioner and the Department of Natural Resources, which are under the separately elected officials, the Insurance Commissioner and the Commissioner of Public Lands, respectively. The Fish and Wildlife Commission is appointed by the Governor to set policy that is administered by the Director of the Department of Fish and Wildlife, who is appointed by the commission.

The final order by which any rule is adopted by an agency must contain the date the agency adopted the rule, a concise description of the purpose of the rule, a reference to all rules repealed, amended or suspended by the rule, a reference to the specific authority, statutory or otherwise, authorizing the agency to adopt the rule, any findings required for adoption of the rule, and the effective date.

**Summary of Amended Bill:** For significant legislative rules adopted by agencies under the authority of the Governor, the final order of adoption must also include the Governor's signature.

**Amended Bill Compared to Original Bill:** The striking amendment uses the language of the Senate companion bill.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** None.

**Testimony Against:** The Governor does not support this bill because it adds process to the end of rule-making without adding commensurate benefit. More process at the front end of rule-making would be of more value.

**Testified:** Claire Hesselholt, Governor's Office (concerns).