

SENATE BILL REPORT

SSB 5053

As Passed Senate, February 17, 2004

Title: An act relating to requiring legislative authority for agencies to adopt rules that exceed federal standards.

Brief Description: Prohibiting agencies from adopting rules that exceed federal standards without legislative authority.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hale, McCaslin, Schmidt, Honeyford, Parlette, T. Sheldon, Hewitt, Johnson and Oke).

Brief History:

Committee Activity: Government Operations & Elections: 1/21/03, 2/25/03 [DP, DNP].

Ways & Means: 3/10/03 [DPS, DNP].

Passed Senate: 3/18/03, 25-24; 2/17/04, 26-23.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: Do pass.

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

Minority Report: Do not pass.

Signed by Senators Fairley, Kastama and Reardon.

Staff: Diane Smith (786-7410)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5053 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rossi, Chair; Hewitt, Vice Chair; Zarelli, Vice Chair; Hale, Honeyford, Johnson, Parlette, Roach, Sheahan and Winsley.

Minority Report: Do not pass.

Signed by Senators Brown, Fraser, Regala and B. Sheldon.

Staff: Steve Jones (786-7440)

Background: All proposed agency rules must be reviewed by the adopting agency to determine whether significant legislative rule-making analysis is required. A proposed rule must receive the significant legislative rule-making analysis if it meets the requirements of a significant rule and is proposed by the departments of Ecology, Labor and Industries, Health, Revenue, Social and Health Services and Natural Resources; the Employment Security Department, the Forest Practices Board, the Office of Insurance Commissioner or, in some cases, the Department of Fish and Wildlife. Two issues analyzed for a significant legislative

rule are whether it requires that a federal law be violated and how any difference from a federal statute or rule can be justified.

Summary of Bill: After January 1, 2004, a state agency cannot adopt a rule that exceeds a federal standard without specific authority from the Legislature. The agency's request must include a reasoned justification and a cost-benefit analysis.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: When our standards are greater and higher than federal standards, that puts us at a competitive disadvantage with our neighboring states. Idaho is #1 in providing a good working environment for businesses with Alaska, Wyoming and Utah in the top ten. We are near the bottom. This bill encourages competitiveness. The bill is consistent with the 1995 regulatory reform legislation and promotes national consistency in standards.

Testimony Against: This would be a very expensive undertaking with little benefit. Much of what characterizes Washington as a desirable place to live and work is a result of our unique regulatory environment. Our real problems are transportation, education and taxation. The bill is vague and ambiguous and will prevent agencies from adopting important rules in the areas of environmental and consumer protection.

Testified: Dave Williams, AWC (pro); Paul Parker, WA State Assn. of Counties (pro); Ivy Sager-Rosenthal, WashPIRG (con); Rick Slunaker, Associated General Contractors (pro); Jeff Johnson, WA State Labor Council, AFL-CIO (con); Carol Jolly, Governor's Office (con); Amber Balch, AWB (pro); Joe Sternola, Permagas (pro); Carolyn Logue, Mark Johnson, NFIB (pro); Joe Ryan, WA Environmental Council (con); Gary Gardner, BECU (concerns); Willy O'Neil, Associated General Contractors of WA (pro).