
HOUSE BILL 2616

State of Washington

58th Legislature

2004 Regular Session

By Representatives Hatfield, Orcutt, Talcott, Schindler, Buck, Grant, Campbell, Bush, McMorris and Condotta

Read first time 01/16/2004. Referred to Committee on State Government.

1 AN ACT Relating to a finding of necessity for administrative rules;
2 and adding new sections to chapter 34.05 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 34.05 RCW
5 to read as follows:

6 Before proposing a new rule or amending an existing rule that meets
7 the definition of a significant legislative rule under RCW 34.05.328,
8 a state agency shall adopt a finding of necessity demonstrating that
9 the new or amended rule is necessary to implement a new legislative or
10 federal directive, or is required to fully implement the intent of an
11 existing state or federal law. The process includes the following
12 steps:

13 (1) The state agency shall identify the legislation or federal law
14 that enables or directs the agency to adopt or to amend the applicable
15 rule.

16 (2) The state agency shall analyze and clearly define how and why
17 the proposed new or amended rule is required to achieve the intent of
18 the enabling legislation. The state agency shall propose conclusions

1 of law stating the authority of the agency to adopt or amend the
2 applicable rule.

3 (3) The state agency shall propose findings of fact based upon an
4 analysis of the best available science or best available information.
5 The findings must support a conclusion that the new or amended rule
6 requirements are supported by science or reputable information.

7 (4) The state agency shall propose findings of fact that
8 demonstrate that the proposed new or amended rule is the least
9 burdensome and most cost-effective alternative to effectuate the
10 enabling legislation or federal law. The agency shall provide a cost-
11 benefit analysis report.

12 (5) The state agency shall file a notice of intent to adopt a
13 finding of necessity with the code reviser for publication in the state
14 register, establish a public comment period of thirty to sixty days
15 after publication, and conduct at least four public hearings around the
16 state, equally divided as to east and west, to take public testimony
17 regarding the proposed conclusions of law, findings of fact, the agency
18 director's proposed agency action, and the adoption of the finding of
19 necessity.

20 (6) Adoption of a finding of necessity and supporting conclusions
21 of law and findings of fact are required before filing the notice of
22 intent to adopt or amend a rule with the office of the code reviser
23 under RCW 34.05.320.

24 (7) The action of adopting a finding of necessity may be appealed
25 to the superior court of Thurston county or of the county of residence
26 of the appellant.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 34.05 RCW
28 to read as follows:

29 Agencies shall file proposed findings of necessity under section 1
30 of this act by June 1st of each year. The final findings of necessity
31 must be filed by September 15th of each year.

32 NEW SECTION. **Sec. 3.** A new section is added to chapter 34.05 RCW
33 to read as follows:

34 A finding by a superior court that the state agency failed to
35 comply with the process for adoption of a finding of necessity under

1 section 1 of this act renders a finding of necessity and a significant
2 legislative rule adopted under it null and void.

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