

SENATE BILL REPORT

EHB 1276

As Reported By Senate Committee On:
Government Operations & Elections, March 31, 2005

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, Holmquist, Kessler, Upthegrove, Walsh, Linville, Nixon, Hinkle, Buri, Newhouse, Orcutt, Kristiansen, Campbell, Hankins, McDonald, Talcott, Bailey, Shabro, Skinner, Roach, Haigh, McCune, Kretz, Hunter, Moeller, Miloscia, Williams, O'Brien, Schindler, P. Sullivan, Blake, Anderson, Buck, Wallace, Chase, Condotta and Santos.

Brief History: Passed House: 2/07/05, 93-1.

Committee Activity: Government Operations & Elections: 3/17/05, 3/31/05 [DPA, DNP].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: Do pass as amended.

Signed by Senators Kastama, Chair; Berkey, Vice Chair; Roach, Ranking Minority Member; Benton, Haugen, McCaslin and Pridemore.

Minority Report: Do not pass.

Signed by Senator Mulliken.

Staff: Diane Smith (786-7410)

Background: A significant legislative rule is a rule that:

- adopts substantive provisions of law that subject a 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 or amends a new policy or regulatory program.

The following agencies must engage in a special rule making process when adopting 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. The significant legislative rule making process imposes requirements in addition to the "regular" rule making process such as requiring the agency to determine that the rule is really needed in order to achieve the rule's goals and requiring the agency to perform a cost-benefit analysis.

An agency that is not required to follow this process for its significant legislative rules may do so on its own initiative. The Joint Administrative Rule Review Committee may also order an agency to engage in the significant legislative rule making process.

Summary of Amended Bill: The Governor must sign a significant legislative rule if the adopting agency's head or governing body is appointed by the Governor. There must also have been at least 50 public comments, not counting form or form-letter-type letters, received during the official comment period that oppose the substance of the rule.

Sixty more days are added at the end of the 180 period during which a rule must become adopted.

Amended Bill Compared to Original Bill: The original bill as it came from the House did not have the requirements of at least 50 public comments and the extra 60 days for adoption.

Appropriation: None.

Fiscal Note: Requested on March 16, 2005.

Committee/Commission/Task Force Created: No.

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

Testimony For: In emergency rules, the governor's staff is trusted to be sure. The governor is for efficiencies of doing more with less but this is not necessary. The process for significant legislative rule making has a comment period. For the 20 such rules passed by DSHS, one or two had comments. This is the buck stops here bill. The purpose is to get rules reviewed before they are adopted, not after the fact, like JARRC does. We need to be sure the government is aware of what it is doing.

Testimony Against: None.

Concerns: The governor is for efficiencies of doing more with less but this is not necessary. The process for significant legislative rule making has a comment period. For the 20 such rules passed by DSHS, one or two had comments.

Who Testified: PRO: Rob Kavanaugh, Citizen 1st Class; Rick Slunaker, Associated General Contractors; Amber Carter, Association of Washington Business.

CONCERNS: Antonio Ginatta, Executive Policy Office, OFM.