
**State Government & Tribal Affairs
Committee**

HB 2172

Brief Description: Changing agency regulatory practices.

Sponsors: Representatives Probst, Kenney, Sells, Jinkins, Stanford, Ryu, Ladenburg, Hasegawa, Tharinger, Maxwell, McCoy, Springer, Appleton, Roberts, Kirby, Green, Wylie and Ormsby.

Brief Summary of Bill

- Adds requirements to regulatory agencies regarding technical assistance visits and first-time small business violations.
- Requires the Office of Regulatory Assistance to develop customer service surveys for regulatory agencies.
- Requires the Office of Regulatory Assistance to appoint a small business advocate.

Hearing Date: 1/9/12

Staff: Marsha Reilly

Background:

The Office of Regulatory Assistance (ORA) provides environmental permitting assistance in navigating the permit process, and provides assistance to small businesses by helping identify licensing and permitting requirements and providing other business assistance. The ORA also works to improve the regulatory process.

In 1995 the Legislature enacted the Technical Assistance Act (TAA). The TAA requires regulatory agencies, as defined in the Administrative Procedures Act, to provide technical assistance to businesses that comply with state regulatory programs. These technical assistance programs must include technical assistance visits, printed information, information and assistance by telephone, and training meetings. Under the TAA, an agency cannot issue a civil penalty to a business for a first-time violation discovered during a technical assistance visit, so

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long as the violation is corrected within a reasonable time. Unless otherwise prohibited, agencies are allowed to issue civil penalties for first-time violations discovered outside of technical assistance visits.

Under legislation enacted in 2010, before an agency may impose a fine, civil penalty, or administrative sanction on a small business for a violation of a law or rule, the agency must provide the small business with a copy of the law or rule being violated. With some exceptions, the agency must also allow the small business at least seven calendar days to correct the violation. If no correction is possible or the agency is acting in response to a complaint made by a third party who would be disadvantaged by an opportunity to correct, the opportunity to correct does not apply.

Summary of Bill:

Regulatory agencies must provide to a small business a copy of the state law or agency rule that is being violated as well as a comprehensive statement of the violations discovered and the required correction action that must be taken. Once that information has been provided, the agency may not add more violations or corrective actions during that review period.

For purposes of technical assistance visits, if violations are not identified during the visit, the agency must let the owner or operator of the facility know when to expect the results of the visit. During the technical assistance visit, the person conducting the visit must provide the owner or operator with a website address where the owner or operator may complete an anonymous customer service survey. Regulatory agencies must also require its regulators to complete a self assessment for each technical assistance visit. The self assessment must be comparable to the customer service survey. Each individual regulator must receive the aggregate results of customer service surveys relating to his or her visits to compare with the regulator's self assessment.

The ORA must work with regulatory agencies to develop a customer service survey that regulated entities may complete after a technical assistance visit. The ORA also must appoint a small business advocate to perform the following duties:

- serve as an advocate for Washington small business owners providing services that include advisory participation in the consideration of legislation and administrative rules affecting small business;
- represent the views and interests of small businesses before other state agencies and departments;
- investigate grievances and facilitate resolution to small business issues, including working in consultation with legislative staff to respond to small business issues fielded by legislators;
- receive results of the customer service surveys resulting from technical assistance visits and work with agency directors to improve results as needed;
- assist agencies with customer service surveys and self-assessment surveys; and
- attend and observe appeals hearings, as needed.

Appropriation: None.

Fiscal Note: Requested on January 5, 2012.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.