

SENATE BILL REPORT

SB 5374

As of February 2, 2015

Title: An act relating to judicial interpretation of law and other writings without deference to agency interpretation.

Brief Description: Concerning judicial interpretation of law and other writings without deference to agency interpretation.

Sponsors: Senators Padden and Honeyford.

Brief History:

Committee Activity: Law & Justice: 1/27/15.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Aldo Melchiori (786-7439)

Background: The Administrative Procedure Act (APA) establishes the procedures for agency rulemaking, agency administrative hearings, and judicial review of agency actions. Generally a person challenging an agency rule or agency action may file a petition for judicial review under APA only after exhausting all administrative remedies available within the agency whose action is being challenged, or other agency authorized to exercise administrative review. The agency keeps an official record of the review including an order with findings of fact and conclusions of law.

The interpretation of a statute is a question of law that is reviewed *de novo*. A reviewing court accords substantial weight to an agency's construction of a statute if the subject area falls within the agency's area of expertise. An agency rule is invalid if it conflicts with the intent and purpose of the enabling legislation, exceeds the agency's authority, or is arbitrary and capricious.

The burden of demonstrating the invalidity of an agency action is on the party challenging it. The court will grant relief only if the person seeking judicial relief has been substantially prejudiced by the agency action.

Summary of Bill: The court must make its own determination when interpreting laws and other writings without deference to agency interpretation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: Court deference to agency interpretation of statutes is prejudicial, especially to property owners. These administrative bodies make decisions based upon interpretations of the law made by political appointees with minimal expertise in the subject area.

OTHER: There is a long history of court decisions giving deference to agency interpretations. The court already has the current power, however, to overturn an agency interpretation of a law.

Persons Testifying: PRO: Senator Padden, prime sponsor; Wes McCart, Stevens County Commissioner; Cindy Alie, Citizen's Alliance for Property Rights; Glen Morgan, citizen.

OTHER: Kristi Weeks, WA Dept. of Health.