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**HOUSE BILL 1240**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Koster, Taylor, Shea, McDonald, Hayes, Rodne, Irwin, Manweller, Short, Young, Pike, and Kraft

AN ACT Relating to revising the responsibilities of the joint administrative rules review committee to increase legislative oversight of agency rule making; and amending RCW 34.05.630, 34.05.640, and 34.05.650.

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

**Sec.**  RCW 34.05.630 and 1998 c 21 s 1 are each amended to read as follows:

(1) All rules required to be filed pursuant to RCW 34.05.380, and emergency rules adopted pursuant to RCW 34.05.350, are subject to selective review and approval by the committee.

(2) All agency policy and interpretive statements, guidelines, and documents that are of general applicability, or their equivalents, are subject to selective review by the committee to determine whether or not a statement, guideline, or document that is of general applicability, or its equivalent, is being used as a rule that has not been adopted in accordance with all applicable provisions of law.

(3) If the rules review committee finds by a majority vote of its members: (a) That an existing rule is ((~~not~~)) within the intent of the legislature as expressed by the statute which the rule implements, and (b) that the rule has ((~~not~~)) been adopted in accordance with all applicable provisions of law, ((~~or (c)~~)) the committee may approve the rule for adoption by the agency. If the committee finds that the requirements in this subsection are not met, the rule is immediately suspended until the adjournment of the next regular session of the legislature and is subject to RCW 34.05.650.

(4) If the rules review committee finds by a majority vote of its members that an agency is using a policy or interpretive statement in place of a rule, the agency affected shall be notified of such finding and the reasons therefor. Within thirty days of the receipt of the rules review committee's notice, the agency shall file notice of a hearing on the rules review committee's finding with the code reviser and mail notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings as provided in RCW 34.05.320. The agency's notice ((~~shall~~)) must include the rules review committee's findings and reasons therefor, and ((~~shall~~)) must be published in the Washington state register in accordance with the provisions of chapter 34.08 RCW.

((~~(4)~~)) (5) The agency ((~~shall~~)) must consider fully all written and oral submissions regarding ((~~(a) whether the rule in question is within the intent of the legislature as expressed by the statute which the rule implements, (b) whether the rule was adopted in accordance with all applicable provisions of law, and (c)~~)) whether the agency is using a policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, in place of a rule.

**Sec.**  RCW 34.05.640 and 1998 c 21 s 2 are each amended to read as follows:

(1) Within seven days of an agency hearing held after notification of the agency by the rules review committee pursuant to RCW 34.05.620 or 34.05.630, the affected agency shall notify the committee of its intended action on a proposed ((~~or existing~~)) rule to which the committee objected or on a committee finding of the agency's failure to adopt rules.

(2) If the rules review committee finds by a majority vote of its members: (a) That the proposed ((~~or existing~~)) rule in question will not be modified, amended, or withdrawn((~~, or repealed~~)) by the agency so as to conform with the intent of the legislature, ((~~(b) that an existing rule was not adopted in accordance with all applicable provisions of law,~~)) or ((~~(c)~~)) (b) that the agency will not replace the policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, with a rule, the rules review committee may, within thirty days from notification by the agency of its intended action, file with the code reviser notice of its objections together with a concise statement of the reasons therefor. Such notice and statement shall also be provided to the agency by the rules review committee.

(3)((~~(a) If the rules review committee makes an adverse finding regarding an existing rule under subsection (2)(a) or (b) of this section, the committee may, by a majority vote of its members, recommend suspension of the rule. Within seven days of such vote the committee shall transmit to the appropriate standing committees of the legislature, the governor, the code reviser, and the agency written notice of its objection and recommended suspension and the concise reasons therefor. Within thirty days of receipt of the notice, the governor shall transmit to the committee, the code reviser, and the agency written approval or disapproval of the recommended suspension. If the suspension is approved by the governor, it is effective from the date of that approval and continues until ninety days after the expiration of the next regular legislative session.~~

~~(b)~~)) If the rules review committee makes an adverse finding regarding a policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, under subsection (2)((~~(c)~~)) (b) of this section, the committee may, by a majority vote of its members, advise the governor of its finding.

(4) The code reviser shall publish transmittals from the rules review committee or the governor issued pursuant to subsection ((~~(2) or~~)) (3) of this section in the Washington state register and shall publish in the next supplement and compilation of the Washington Administrative Code a reference to the committee's objection ((~~or recommended suspension~~)) and the governor's action on it and to the issue of the Washington state register in which the full text thereof appears.

(((~~5) The reference shall be removed from a rule published in the Washington Administrative Code if a subsequent adjudicatory proceeding determines that the rule is within the intent of the legislature or was adopted in accordance with all applicable laws, whichever was the objection of the rules review committee.~~))

**Sec.**  RCW 34.05.650 and 1988 c 288 s 605 are each amended to read as follows:

(1) Upon the suspension of a rule under RCW 34.05.630, the rules review committee must introduce a bill during the next regular legislative session to refer the suspended rule to the appropriate standing committees of the legislature for review. A standing committee of the legislature must review the rule at a public hearing during the regular legislative session and must make a formal recommendation to the legislature as to whether the rule should be approved or disapproved. If the legislature does not disapprove of the rule through the passage of a bill by the adjournment of the regular session in which the rule was considered, the rule is considered adopted and becomes effective.

(2) The speaker of the house of representatives and the president of the senate must notify the office of the code reviser and the rules review committee of the final dispensation of each rule considered under this section. If a rule is disapproved by the legislature through the passage of a bill, the rule immediately expires.

(3) The rules review committee may recommend to the legislature that the original enabling legislation serving as authority for the adoption of any rule reviewed by the committee be amended or repealed in such manner as the committee deems advisable.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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