
HOUSE BILL 1005

State of Washington

65th Legislature

2017 Regular Session

By Representatives Taylor, Orcutt, Shea, J. Walsh, Haler, Condotta, Young, McCaslin, Griffey, Van Werven, Dent, Short, Manweller, Hargrove, Holy, Rodne, Buys, Pike, Koster, Barkis, and Schmick

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1 AN ACT Relating to creating accountability in agency rule-making
2 authority; amending RCW 34.05.030; adding new sections to chapter
3 34.05 RCW; and declaring an emergency.

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

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

7 The legislature finds that state government continues to increase
8 the burden on citizens and employers through perpetual alteration and
9 expansion of rules. The constant changing of rules provides
10 uncertainty to citizens and employers and adds additional costs to
11 taxpayers as agencies hold public meetings and telephone conferences,
12 and employees spend untold hours working on drafts for rules.
13 Furthermore, continual proposal of new rules distracts employers from
14 being productive in their respective businesses due to a need to
15 comment against these proposed rules. Most agencies do not track the
16 number of hours employees spend on rule making nor do they track the
17 cost to the agency to do this task. One way to reduce millions of
18 dollars in employee and administrative costs is to prohibit rule
19 making by state agencies except in certain specified instances.

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

3 (1) Beginning on the effective date of this section, no agency
4 may initiate rule making or adopt a rule that is subject to this
5 chapter, except to the limited extent such a rule is necessary for:

6 (a) The implementation of the terms of a governor-declared state
7 of emergency;

8 (b) The preservation of the public health, safety, or general
9 welfare in response to a public health emergency; or

10 (c) The setting of time, place, or manner for the taking of
11 wildlife, fish, or shellfish.

12 (2)(a) By December 31, 2017, all agencies must report to the
13 legislature all existing and pending rules identified by the agency
14 for an extension or enactment into law, including any new rule or
15 amendment adopted pursuant to an exception under subsection (1) of
16 this section.

17 (b) The legislature may review any rule during the 2018
18 legislative session to determine which rules should be enacted into
19 law, including which rules, if any, are necessary to meet any federal
20 requirement, or deadline for the receipt of federal funds.

21 (c) All agencies must set for expiration any rule not reported to
22 the legislature for an extension or enactment into law. All such
23 rules must expire no later than August 1, 2018.

24 (d) Beginning on the first day after the end of the 2018
25 legislative session, all agencies must set for expiration any rule
26 reported to the legislature for an extension or enactment into law,
27 unless the rule was expressly authorized for an extension by the
28 legislature. All such rules must expire no later than December 1,
29 2018.

30 (3) Any new rule or amendment adopted after December 31, 2017,
31 pursuant to an exception under subsection (1) of this section, must
32 be reported to the legislature by December 31st of the year in which
33 it was adopted. Any such rule must be set to expire by July 1st of
34 the following year, unless the legislature specifically authorizes an
35 extension of the rule. The legislature may review any such rule to
36 determine which rules should be enacted into law.

37 (4) By December 31, 2018, all agencies must submit proposed
38 legislation to the legislature that incorporates changes to the
39 agency's duties and authority regarding rule making consistent with
40 the terms of this section.

1 (5) This section does not prohibit an agency from repealing rules
2 in accordance with this chapter.

3 **Sec. 3.** RCW 34.05.030 and 2015 3rd sp.s. c 1 s 309 are each
4 amended to read as follows:

5 (1) Except as provided in section 2 of this act, this chapter
6 shall not apply to:

7 (a) The state militia, or

8 (b) The board of clemency and pardons, or

9 (c) The department of corrections or the indeterminate sentencing
10 review board with respect to persons who are in their custody or are
11 subject to the jurisdiction of those agencies.

12 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not
13 apply:

14 (a) To adjudicative proceedings of the board of industrial
15 insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

16 (b) Except for actions pursuant to chapter 46.29 RCW, to the
17 denial, suspension, or revocation of a driver's license by the
18 department of licensing;

19 (c) To the department of labor and industries where another
20 statute expressly provides for review of adjudicative proceedings of
21 a department action, order, decision, or award before the board of
22 industrial insurance appeals;

23 (d) To actions of the Washington personnel resources board, the
24 director of financial management, and the department of enterprise
25 services when carrying out their duties under chapter 41.06 RCW;

26 (e) To adjustments by the department of revenue of the amount of
27 the surcharge imposed under RCW 82.04.261; or

28 (f) To the extent they are inconsistent with any provisions of
29 chapter 43.43 RCW.

30 (3) Unless a party makes an election for a formal hearing
31 pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through
32 34.05.598 do not apply to a review hearing conducted by the board of
33 tax appeals.

34 (4) All rule-making authority provided to any agency by law is
35 subject to section 2 of this act. Except as provided in section 2 of
36 this act, the rule-making provisions of this chapter do not apply to:

37 (a) Reimbursement unit values, fee schedules, arithmetic
38 conversion factors, and similar arithmetic factors used to determine

1 payment rates that apply to goods and services purchased under
2 contract for clients eligible under chapter 74.09 RCW; and

3 (b) Adjustments by the department of revenue of the amount of the
4 surcharge imposed under RCW 82.04.261.

5 (5) All other agencies, whether or not formerly specifically
6 excluded from the provisions of all or any part of the administrative
7 procedure act, shall be subject to the entire act.

8 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of
10 the state government and its existing public institutions, and takes
11 effect immediately.

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