
HOUSE BILL 2396

State of Washington

69th Legislature

2026 Regular Session

By Representatives Peterson and Santos

Read first time 01/13/26. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to allowing for direct review of administrative
2 agency decisions in certain circumstances; amending RCW 34.05.518;
3 and providing an effective date.

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

5 **Sec. 1.** RCW 34.05.518 and 2024 c 347 s 2 are each amended to
6 read as follows:

7 (1) The final decision of an administrative agency (~~in an~~
8 ~~adjudicative proceeding~~) under this chapter may be directly reviewed
9 by the court of appeals either (a) upon certification by the superior
10 court pursuant to subsection (2) of this section; (b) if the final
11 decision is from an environmental board as identified in RCW
12 43.21B.005 and the final decision relates to a clean energy project
13 as defined in RCW 43.158.010, pursuant to subsection (3) of this
14 section; or (c) if the final decision is from an environmental board
15 identified in RCW 43.21B.005 and the final decision does not relate
16 to a clean energy project as defined in RCW 43.158.010, pursuant to
17 subsection (4) of this section. Transfer of a case pursuant to
18 subsection(~~s~~) (3) or (4) of this section does not require the
19 filing of a motion for discretionary review with the court of
20 appeals.

1 (2) (a) For direct review upon certification by the superior
2 court, an application for direct review must be filed with the
3 superior court within thirty days of the filing of the petition for
4 review in superior court. The superior court may certify a case for
5 direct review only if the judicial review is limited to the record of
6 the agency proceeding and the court finds that:

7 (i) (A) The final decision was rendered by an administrative
8 agency in an adjudicative proceeding; or

9 (B) The administrative agency does not provide an adjudicative
10 process to evaluate the decision;

11 (ii) Fundamental and urgent issues affecting the future
12 administrative process or the public interest are involved which
13 require a prompt determination;

14 ~~((iii))~~ (iii) Delay in obtaining a final and prompt
15 determination of such issues would be detrimental to any party or the
16 public interest;

17 ~~((iii))~~ (iv) An appeal to the court of appeals would be likely
18 regardless of the determination in superior court; and

19 ~~((iv))~~ (v) The appellate court's determination in the
20 proceeding would have significant precedential value.

21 (b) Procedures for certification shall be established by court
22 rule.

23 (3) (a) For the appeal of a permit related to a clean energy
24 project, as defined in RCW 43.158.010, that is the subject of a final
25 adjudicative decision of an environmental board, as identified in RCW
26 43.21B.005, upon a motion filed by any party to the appeal, the
27 superior court shall certify a case for transfer to the court of
28 appeals upon a finding that:

29 (i) The judicial review can occur based upon the agency record
30 developed before the administrative body without supplementing the
31 record pursuant to RCW 34.05.562; or

32 (ii) The superior court has completed any necessary
33 supplementation of the record pursuant to RCW 34.05.562.

34 (b) If the superior court certifies a final decision of an
35 administrative agency in an adjudicative proceeding, the superior
36 court shall transfer the matter to the court of appeals as a direct
37 appeal.

38 (c) A party contesting a superior court decision granting or
39 denying certification for direct review may file a motion for
40 discretionary review with the court of appeals. Where a contesting

1 party demonstrates that substantial prejudice would result from
2 direct review by the court of appeals, the court of appeals may
3 remand to (~~the~~) the superior court.

4 (4) (a) The final adjudicative decision of an environmental board,
5 as identified in RCW 43.21B.005, that does not relate to a clean
6 energy project as defined in RCW 43.158.010, may be directly reviewed
7 by the court of appeals upon certification by the superior court
8 pursuant to this subsection. The superior court shall certify cases
9 for transfer to the court of appeals upon finding that:

10 (i) All parties have consented to the transfer to the court of
11 appeals and agreed that the judicial review can occur based upon the
12 agency record developed before the administrative body without
13 supplementing the record pursuant to RCW 34.05.562; or

14 (ii) One or more of the parties have not consented to the
15 transfer, but the superior court finds that transfer would serve the
16 interest of justice, would not cause substantial prejudice to any
17 party, including any unrepresented party, and further finds that:

18 (A) The judicial review can occur based upon the agency record
19 developed before the administrative body without supplementing the
20 record pursuant to RCW 34.05.562; or

21 (B) The superior court has completed any necessary
22 supplementation of the record pursuant to RCW 34.05.562, such that
23 only issues of law remain for determination.

24 (b) If the superior court certifies a final decision of an
25 administrative agency in an adjudicative proceeding, the superior
26 court shall transfer the matter to the court of appeals as a direct
27 appeal.

28 (c) A party contesting a superior court decision granting or
29 denying certification for direct review may file a motion for
30 discretionary review with the court of appeals. Where a contesting
31 party demonstrates that substantial prejudice would result from
32 direct review by the court of appeals, the court of appeals may
33 remand to the superior court.

34 NEW SECTION. **Sec. 2.** Section 1 of this act takes effect July 1,
35 2026.

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