
SUBSTITUTE SENATE BILL 5274

State of Washington 64th Legislature 2015 Regular Session

By Senate Energy, Environment & Telecommunications (originally sponsored by Senators Schoesler, Sheldon, and Hewitt)

READ FIRST TIME 02/19/15.

1 AN ACT Relating to the responsibilities of the joint
2 administrative rules review committee; and amending RCW 34.05.620,
3 34.05.640, and 34.05.655.

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

5 **Sec. 1.** RCW 34.05.620 and 1996 c 318 s 3 are each amended to
6 read as follows:

7 If the rules review committee finds by a majority vote of its
8 members that a proposed rule is not within the intent of the
9 legislature as expressed in the statute which the rule implements, or
10 that an agency may not be adopting a proposed rule in accordance with
11 all applicable provisions of law, the committee shall give the
12 affected agency written notice of its decision. For purposes of
13 review by the committee, a proposed rule includes any draft municipal
14 storm water general permit issued by the department of ecology. The
15 notice shall be given at least seven days prior to any hearing
16 scheduled for consideration of or adoption of the proposed rule
17 pursuant to RCW 34.05.320. The notice shall include a statement of
18 the review committee's findings and the reasons therefor. When the
19 agency holds a hearing on the proposed rule, the agency shall
20 consider the review committee's decision.

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

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

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11 be modified, amended, withdrawn, or repealed by the agency so as to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

22 (3)(a) If the rules review committee makes an adverse finding
23 regarding ~~((an))~~ a proposed or existing rule under subsection (2)(a)
24 or (b) of this section, the committee may, by a majority vote of its
25 members, recommend suspension of rule-making proceedings for a
26 proposed rule or suspension of the existing rule. Within seven days
27 of such vote the committee shall transmit to the appropriate standing
28 committees of the legislature, the governor, the code reviser, and
29 the agency written notice of its objection and recommended suspension
30 and the concise reasons therefor. Within thirty days of receipt of
31 the notice, the governor shall transmit to the committee, the code
32 reviser, and the agency written approval or disapproval of the
33 recommended suspension. If the suspension is approved by the
34 governor, it is effective from the date of that approval and
35 continues until ninety days after the expiration of the next regular
36 legislative session.

37 (b) If the rules review committee makes an adverse finding
38 regarding a policy or interpretive statement, guideline, or document
39 that is of general applicability, or its equivalent, under subsection

1 (2)(c) of this section, the committee may, by a majority vote of its
2 members, advise the governor of its finding.

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

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

16 **Sec. 3.** RCW 34.05.655 and 1998 c 21 s 3 are each amended to read
17 as follows:

18 (1) Any person may petition the rules review committee for a
19 review of a proposed or existing rule or a proposed or existing
20 policy or interpretive statement, guideline, or document that is of
21 general applicability, or its equivalent. A petition to review a
22 statement, guideline, or document that is of general applicability,
23 or its equivalent, may only be filed for the purpose of requesting
24 the committee to determine whether the statement, guideline, or
25 document that is of general applicability, or its equivalent, is
26 being used as a rule that has not been adopted in accordance with all
27 provisions of law. Within thirty days of the receipt of the petition,
28 the rules review committee shall acknowledge receipt of the petition
29 and describe any initial action taken. If the rules review committee
30 rejects the petition, a written statement of the reasons for
31 rejection shall be included.

32 (2) A person may petition the rules review committee under
33 subsection (1) of this section requesting review of an existing rule
34 only if the person has petitioned the agency to amend or repeal the
35 rule under RCW 34.05.330(1) and such petition was denied.

36 (3) A petition for review of a rule under subsection (1) of this
37 section shall:

38 (a) Identify with specificity the proposed or existing rule to be
39 reviewed;

1 (b) Identify the specific statute identified by the agency as
2 authorizing the rule, the specific statute which the rule interprets
3 or implements, and, if applicable, the specific statute the
4 department is alleged not to have followed in adopting the rule;

5 (c) State the reasons why the petitioner believes that the rule
6 is not within the intent of the legislature, or that its adoption was
7 not or is not in accordance with law, and provide documentation to
8 support these statements;

9 (d) Identify any known judicial action regarding the rule or
10 statutes identified in the petition.

11 A petition to review an existing rule shall also include a copy
12 of the agency's denial of a petition to amend or repeal the rule
13 issued under RCW 34.05.330(1) and, if available, a copy of the
14 governor's denial issued under RCW 34.05.330(3).

15 (4) A petition for review of a policy or interpretive statement,
16 guideline, or document that is of general applicability, or its
17 equivalent, under subsection (1) of this section shall:

18 (a) Identify the specific policy or interpretative statement,
19 guideline, or document that is of general applicability, or its
20 equivalent, to be reviewed;

21 (b) Identify the specific statute which the rule interprets or
22 implements;

23 (c) State the reasons why the petitioner believes that the policy
24 or interpretive statement, guideline, or document that is of general
25 applicability, or its equivalent, meets the definition of a rule
26 under RCW 34.05.010 and should have been adopted according to the
27 procedures of this chapter;

28 (d) Identify any known judicial action regarding the policy or
29 interpretive statement, guideline, or document that is of general
30 applicability, or its equivalent, or statutes identified in the
31 petition.

32 (5) The rules review committee may not reject a petition that is
33 signed by at least thirty members of the legislature and complies
34 with all applicable requirements of this section, but in such cases
35 the petitioners are not required to petition the agency to amend or
36 repeal the rule under RCW 34.05.330(1) prior to petitioning the rules
37 review committee.

1 (6) Within ninety days of receipt of the petition, the rules
2 review committee shall make a final decision on the rule for which
3 the petition for review was not previously rejected.

--- END ---