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HOUSE BILL 1005

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State of Washington

65th Legislature

2017 Regular Session

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

Prefiled 12/05/16.

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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