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HOUSE BILL 1622

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Senn, Springer, Tharinger, and Ormsby

1 AN ACT Relating to the state building code council; amending RCW  
2 19.27.015, 19.27.035, 19.27.070, 19.27.074, 19.27.085, 19.27.095, and  
3 19.27A.020; reenacting and amending RCW 34.05.328; adding a new  
4 section to chapter 19.27 RCW; creating a new section; and providing  
5 an expiration date.

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

7 **Sec. 1.** RCW 19.27.015 and 2009 c 362 s 2 are each amended to  
8 read as follows:

9 As used in this chapter:

10 (1) "Agricultural structure" means a structure designed and  
11 constructed to house farm implements, hay, grain, poultry, livestock,  
12 or other horticultural products. This structure may not be a place of  
13 human habitation or a place of employment where agricultural products  
14 are processed, treated, or packaged, nor may it be a place used by  
15 the public((+)).

16 (2) "City" means a city or town((+)).

17 (3) "Commercial building permit" means a building permit issued  
18 by a city or a county to construct, enlarge, alter, repair, move,  
19 demolish, or change the occupancy of any building not covered by a  
20 residential building permit.

1       (4) "Multifamily residential building" means common wall  
2 residential buildings that consist of four or fewer units, that do  
3 not exceed two stories in height, that are less than five thousand  
4 square feet in area, and that have a one-hour fire-resistive  
5 occupancy separation between units(~~(; and)~~).

6       (~~(4)~~) (5) "Residential building permit" means a building permit  
7 issued by a city or a county to construct, enlarge, alter, repair,  
8 move, demolish, or change the occupancy of any building containing  
9 only dwelling units used for independent living of one or more  
10 persons including permanent provisions for living, sleeping, eating,  
11 cooking, and sanitation.

12       (6) "Temporary growing structure" means a structure that has the  
13 sides and roof covered with polyethylene, polyvinyl, or similar  
14 flexible synthetic material and is used to provide plants with either  
15 frost protection or increased heat retention.

16       **Sec. 2.** RCW 19.27.035 and 1989 c 266 s 6 are each amended to  
17 read as follows:

18       The building code council shall(~~(, within one year of July 23,~~  
19 ~~1989,)~~) adopt a revised process for the review of proposed statewide  
20 amendments to the codes enumerated in RCW 19.27.031 by July 1, 2018,  
21 and proposed or enacted local amendments to the codes enumerated in  
22 RCW 19.27.031 as amended and adopted by the state building code  
23 council.

24       **Sec. 3.** RCW 19.27.070 and 2011 1st sp.s. c 43 s 244 are each  
25 amended to read as follows:

26       There is hereby established in the department of enterprise  
27 services a state building code council, to be appointed by the  
28 governor.

29       (1) The state building code council shall consist of fifteen  
30 members:

31       (a) Two members must be county elected legislative body members  
32 or elected executives;

33       (b) Two members must be city elected legislative body members or  
34 mayors;

35       (c) One member must be a local government building code  
36 enforcement official;

37       (d) One member must be a local government fire service official;

1       (e) One member must be a person with a physical disability and  
2 shall represent the disability community;

3       (f) One member must represent the general public; and

4       (g) Seven members must represent the private sector as follows:

5       (i) One member shall represent general construction, specializing  
6 in commercial and industrial building construction;

7       ~~((f))~~ (ii) One member shall represent general construction,  
8 specializing in residential and multifamily building construction;

9       ~~((g))~~ (iii) One member shall represent the architectural design  
10 profession;

11       ~~((h))~~ (iv) One member shall represent the structural  
12 engineering profession;

13       ~~((i))~~ (v) One member shall represent the mechanical engineering  
14 profession;

15       ~~((j))~~ (vi) One member shall represent the construction building  
16 trades;

17       ~~((k))~~ (vii) One member shall represent manufacturers,  
18 installers, or suppliers of building materials and components(~~(~~

19 ~~l) One member must be a person with a physical disability and~~  
20 ~~shall represent the disability community; and~~

21 ~~(m) One member shall represent the general public)).~~

22       (2) At least six of these fifteen members shall reside east of  
23 the crest of the Cascade mountains.

24       (3) The council shall include: Two members of the house of  
25 representatives appointed by the speaker of the house, one from each  
26 caucus; two members of the senate appointed by the president of the  
27 senate, one from each caucus; and an employee of the electrical  
28 division of the department of labor and industries, as ex officio,  
29 nonvoting members with all other privileges and rights of membership.

30       (4)(a) Terms of office shall be for three years, or for so long  
31 as the member remains qualified for the appointment.

32       (b) The council shall elect a member to serve as chair of the  
33 council for one-year terms of office.

34       (c) Any member who is appointed by virtue of being an elected  
35 official or holding public employment shall be removed from the  
36 council if he or she ceases being such an elected official or holding  
37 such public employment.

38       (d)(i) Any member who is appointed to represent a specific  
39 private sector industry must maintain sufficiently similar employment  
40 or circumstances throughout the term of office to remain qualified to

1 represent the specified industry. Retirement or unemployment is not  
2 cause for termination. However, if a councilmember enters into  
3 employment outside of the industry he or she has been appointed to  
4 represent, then he or she shall be removed from the council.

5 (ii) Any member who is appointed after the effective date of this  
6 section to represent a specific private sector industry must maintain  
7 sufficiently similar private sector employment or circumstances  
8 throughout the term of office to remain qualified to represent the  
9 specified industry. Retirement or unemployment is not cause for  
10 termination. However, if a councilmember appointed after the  
11 effective date of this section to represent a specific private sector  
12 industry enters into employment outside of the industry, or outside  
13 of the private sector, he or she has been appointed to represent,  
14 then he or she must be removed from the council.

15 (e) Any member who no longer qualifies for appointment under this  
16 section may not vote on council actions, but may participate as an ex  
17 officio, nonvoting member until a replacement member is appointed. A  
18 member must notify the council staff and the governor's office within  
19 thirty days of the date the member no longer qualifies for  
20 appointment under this section. The governor shall appoint a  
21 qualified replacement for the member within sixty days of notice.

22 (5) Before making any appointments to the building code council,  
23 the governor shall seek nominations from recognized organizations  
24 which represent the entities or interests identified in this section.

25 (6) Members shall not be compensated but shall receive  
26 reimbursement for travel expenses in accordance with RCW 43.03.050  
27 and 43.03.060.

28 ~~((7) The department of enterprise services shall provide~~  
29 ~~administrative and clerical assistance to the building code~~  
30 ~~council.))~~

31 **Sec. 4.** RCW 19.27.074 and 1989 c 266 s 3 are each amended to  
32 read as follows:

33 (1) The state building code council shall:

34 (a) Adopt and maintain the codes to which reference is made in  
35 RCW 19.27.031 in a status which is consistent with the state's  
36 interest as set forth in RCW 19.27.020. In maintaining these codes,  
37 the council shall regularly review updated versions of the codes  
38 referred to in RCW 19.27.031 and other pertinent information and  
39 shall amend the codes as deemed appropriate by the council;

1 (b) Approve or deny all county or city amendments to any code  
2 referred to in RCW 19.27.031 to the degree the amendments apply to  
3 single-family or multifamily residential buildings;

4 (c) As required by the legislature, develop and adopt any codes  
5 relating to buildings; and

6 (d) Propose a budget for the operation of the state building code  
7 council to be submitted to the office of financial management  
8 pursuant to RCW 43.88.090.

9 (2) The state building code council may:

10 (a) Appoint technical advisory committees which may include  
11 members of the council; and

12 ~~(b) ((Employ permanent and temporary staff and contract for  
13 services; and~~

14 ~~(c))~~ Conduct research into matters relating to any code or codes  
15 referred to in RCW 19.27.031 or any related matter.

16 (3)(a) All meetings of the state building code council shall be  
17 open to the public under the open public meetings act, chapter 42.30  
18 RCW. All actions of the state building code council which adopt or  
19 amend any code of statewide applicability shall be pursuant to the  
20 administrative procedure act, chapter 34.05 RCW.

21 (b) All council decisions relating to the codes enumerated in RCW  
22 19.27.031 shall require approval by at least a majority of the  
23 members of the council.

24 (c) All decisions to adopt or amend codes of statewide  
25 application shall be made prior to December 1 of any year and shall  
26 not take effect before the end of the regular legislative session in  
27 the next year.

28 (4) The department of enterprise services shall employ permanent  
29 and temporary staff and contract for services for the state building  
30 code council.

31 **Sec. 5.** RCW 19.27.085 and 1989 c 256 s 1 are each amended to  
32 read as follows:

33 (1) There is hereby created the building code council account in  
34 the state treasury. Moneys deposited into the account shall be used  
35 by the building code council, after appropriation, to perform the  
36 purposes of the council.

37 (2) All moneys collected under subsection (3) of this section  
38 shall be deposited into the building code council account. Every four  
39 years the state treasurer shall report to the legislature on the

1 balances in the account so that the legislature may adjust the  
2 charges imposed under subsection (3) of this section.

3 (3) There is imposed a fee of (~~four~~) five dollars and fifty  
4 cents on each residential building permit and a fee of ten dollars  
5 for each commercial building permit, issued by a county or a city,  
6 plus an additional surcharge of two dollars for each residential  
7 unit, but not including the first unit, on each building containing  
8 more than one residential unit. Quarterly each county and city shall  
9 remit moneys collected under this section to the state treasury;  
10 however, no remittance is required until a minimum of fifty dollars  
11 has accumulated pursuant to this subsection.

12 **Sec. 6.** RCW 19.27.095 and 1991 c 281 s 27 are each amended to  
13 read as follows:

14 (1) A valid and fully complete building permit application for a  
15 structure, that is permitted under the zoning or other land use  
16 control ordinances in effect on the date of the application shall be  
17 considered under the building permit ordinance in effect at the time  
18 of application, and the zoning or other land use control ordinances  
19 in effect on the date of application. Architectural and engineering  
20 designs in building permit applications and through construction are  
21 controlled by codes and ordinances in effect on the date of  
22 application.

23 (2) The requirements for a fully completed application shall be  
24 defined by local ordinance but for any construction project costing  
25 more than five thousand dollars the application shall include, at a  
26 minimum:

27 (a) The legal description, or the tax parcel number assigned  
28 pursuant to RCW 84.40.160, and the street address if available, and  
29 may include any other identification of the construction site by the  
30 prime contractor;

31 (b) The property owner's name, address, and phone number;

32 (c) The prime contractor's business name, address, phone number,  
33 current state contractor registration number; and

34 (d) Either:

35 (i) The name, address, and phone number of the office of the  
36 lender administering the interim construction financing, if any; or

37 (ii) The name and address of the firm that has issued a payment  
38 bond, if any, on behalf of the prime contractor for the protection of

1 the owner, if the bond is for an amount not less than fifty percent  
2 of the total amount of the construction project.

3 (3) The information required on the building permit application  
4 by subsection (2)(a) through (d) of this section shall be set forth  
5 on the building permit document which is issued to the owner, and on  
6 the inspection record card which shall be posted at the construction  
7 site.

8 (4) The information required by subsection (2) of this section  
9 and information supplied by the applicant after the permit is issued  
10 under subsection (5) of this section shall be kept on record in the  
11 office where building permits are issued and made available to any  
12 person on request. If a copy is requested, a reasonable charge may be  
13 made.

14 (5) If any of the information required by subsection (2)(d) of  
15 this section is not available at the time the application is  
16 submitted, the applicant shall so state and the application shall be  
17 processed forthwith and the permit issued as if the information had  
18 been supplied, and the lack of the information shall not cause the  
19 application to be deemed incomplete for the purposes of vesting under  
20 subsection (1) of this section. However, the applicant shall provide  
21 the remaining information as soon as the applicant can reasonably  
22 obtain such information.

23 (6) The limitations imposed by this section shall not restrict  
24 conditions imposed under chapter 43.21C RCW.

25 NEW SECTION. **Sec. 7.** A new section is added to chapter 19.27  
26 RCW to read as follows:

27 The building code council in consultation with the office of the  
28 chief information officer shall assess the costs and benefits of the  
29 potential acquisition and implementation of open public access  
30 information technologies to enhance the council's code adoption  
31 process and report back to the appropriate committees of the  
32 legislature by November 15, 2018.

33 NEW SECTION. **Sec. 8.** (1)(a) A legislative task force on the  
34 state building code council's administration and operations is  
35 established, with members as provided in this subsection.

36 (i) The president of the senate shall appoint one member from  
37 each of the two largest caucuses of the senate.

1 (ii) The speaker of the house of representatives shall appoint  
2 one member from each of the two largest caucuses of the house of  
3 representatives.

4 (iii) The president of the senate and the speaker of the house of  
5 representatives shall appoint the following eight members:

6 (A) Two current members of the building code council representing  
7 the private sector;

8 (B) One current member of the building code council representing  
9 local government;

10 (C) One current member of the building code council representing  
11 labor interests; and

12 (D) Four members who regularly work with the council, each  
13 representing one of the following: Local government, private sector  
14 interests, labor interests, and environmental interests.

15 (iv) The director of the department of enterprise services shall  
16 appoint one member from the department of enterprise services and one  
17 member from the department of commerce energy program.

18 (b) The task force shall choose its chair from among its  
19 legislative membership. The legislative members of the task force  
20 shall convene the initial meeting of the task force.

21 (2) The task force shall review and provide recommendations on  
22 the following issues:

23 (a) The current structure, operations, and resources of the  
24 council;

25 (b) The building code development process and length, including  
26 the policy and procedure, technical, and economic aspects including  
27 the public and private construction costs of review and adoption of  
28 the state building code;

29 (c) Total resources necessary for an effective state building  
30 code development process, including staffing and needs;

31 (d) Options for long-term, reliable funding of the council;

32 (e) The powers, duties, and support services of the department of  
33 enterprise services relevant to the council;

34 (f) Council membership, composition, and size; and

35 (g) The council's compliance with current statutes and  
36 requirements.

37 (3) Staff support for the task force must be provided by senate  
38 committee services and the office of program research.

39 (4) Legislative members of the task force are reimbursed for  
40 travel expenses in accordance with RCW 44.04.120. Nonlegislative



1 members are not entitled to be reimbursed for travel expenses if they  
2 are elected officials or are participating on behalf of an employer,  
3 governmental entity, or other organization. Any reimbursement for  
4 other nonlegislative members is subject to chapter 43.03 RCW.

5 (5) The expenses of the task force must be paid jointly by the  
6 senate and the house of representatives. Task force expenditures are  
7 subject to the approval of the senate facilities and operations  
8 committee and the house of representatives executive rules committee,  
9 or their successor committees.

10 (6) The task force shall report its findings and recommendations  
11 to the appropriate committees of the legislature by December 1, 2018.

12 (7) This section expires December 1, 2018.

13 **Sec. 9.** RCW 19.27A.020 and 2015 c 11 s 3 are each amended to  
14 read as follows:

15 (1) The state building code council in the department of  
16 enterprise services shall adopt rules to be known as the Washington  
17 state energy code as part of the state building code.

18 (2) The council shall follow the legislature's standards set  
19 forth in this section to adopt rules to be known as the Washington  
20 state energy code. The Washington state energy code shall be designed  
21 to:

22 (a) Construct increasingly energy efficient homes and buildings  
23 that help achieve the broader goal of building zero fossil-fuel  
24 greenhouse gas emission homes and buildings by the year 2031;

25 (b) Require new buildings to meet a certain level of energy  
26 efficiency, but allow flexibility in building design, construction,  
27 and heating equipment efficiencies within that framework; and

28 (c) Allow space heating equipment efficiency to offset or  
29 substitute for building envelope thermal performance.

30 (3) The Washington state energy code shall take into account  
31 regional climatic conditions. One climate zone includes: Adams,  
32 Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield,  
33 Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille,  
34 Skamania, Spokane, Stevens, Walla Walla, Whitman, and Yakima  
35 counties. The other climate zone includes all other counties not  
36 listed in this subsection (3). The assignment of a county to a  
37 climate zone may not be changed by adoption of a model code or rule.  
38 Nothing in this section prohibits the council from adopting the same  
39 rules or standards for each climate zone.

1 (4) The Washington state energy code for residential buildings  
2 shall be the 2006 edition of the Washington state energy code, or as  
3 amended by rule by the council.

4 (5) The minimum state energy code for new nonresidential  
5 buildings shall be the Washington state energy code, 2006 edition, or  
6 as amended by the council by rule.

7 (6)(a) Except as provided in (b) of this subsection, the  
8 Washington state energy code for residential structures shall preempt  
9 the residential energy code of each city, town, and county in the  
10 state of Washington.

11 (b) The state energy code for residential structures does not  
12 preempt a city, town, or county's energy code for residential  
13 structures which exceeds the requirements of the state energy code  
14 and which was adopted by the city, town, or county prior to March 1,  
15 1990. Such cities, towns, or counties may not subsequently amend  
16 their energy code for residential structures to exceed the  
17 requirements adopted prior to March 1, 1990.

18 (7) The state building code council shall consult with the  
19 department of enterprise services as provided in RCW 34.05.310 prior  
20 to publication of proposed rules. The director of the department of  
21 enterprise services shall recommend to the state building code  
22 council any changes necessary to conform the proposed rules to the  
23 requirements of this section.

24 (8) The state building code council shall evaluate and consider  
25 adoption of the international energy conservation code in Washington  
26 state in place of the existing state energy code.

27 (9) The definitions in RCW 19.27A.140 apply throughout this  
28 section.

29 **Sec. 10.** RCW 34.05.328 and 2011 c 298 s 21 and 2011 c 149 s 1  
30 are each reenacted and amended to read as follows:

31 (1) Before adopting a rule described in subsection (5) of this  
32 section, an agency must:

33 (a) Clearly state in detail the general goals and specific  
34 objectives of the statute that the rule implements;

35 (b) Determine that the rule is needed to achieve the general  
36 goals and specific objectives stated under (a) of this subsection,  
37 and analyze alternatives to rule making and the consequences of not  
38 adopting the rule;

1 (c) Provide notification in the notice of proposed rule making  
2 under RCW 34.05.320 that a preliminary cost-benefit analysis is  
3 available. The preliminary cost-benefit analysis must fulfill the  
4 requirements of the cost-benefit analysis under (d) of this  
5 subsection. If the agency files a supplemental notice under RCW  
6 34.05.340, the supplemental notice must include notification that a  
7 revised preliminary cost-benefit analysis is available. A final cost-  
8 benefit analysis must be available when the rule is adopted under RCW  
9 34.05.360;

10 (d) Determine that the probable benefits of the rule are greater  
11 than its probable costs, taking into account both the qualitative and  
12 quantitative benefits and costs and the specific directives of the  
13 statute being implemented;

14 (e) Determine, after considering alternative versions of the rule  
15 and the analysis required under (b), (c), and (d) of this subsection,  
16 that the rule being adopted is the least burdensome alternative for  
17 those required to comply with it that will achieve the general goals  
18 and specific objectives stated under (a) of this subsection;

19 (f) Determine that the rule does not require those to whom it  
20 applies to take an action that violates requirements of another  
21 federal or state law;

22 (g) Determine that the rule does not impose more stringent  
23 performance requirements on private entities than on public entities  
24 unless required to do so by federal or state law;

25 (h) Determine if the rule differs from any federal regulation or  
26 statute applicable to the same activity or subject matter and, if so,  
27 determine that the difference is justified by the following:

28 (i) A state statute that explicitly allows the agency to differ  
29 from federal standards; or

30 (ii) Substantial evidence that the difference is necessary to  
31 achieve the general goals and specific objectives stated under (a) of  
32 this subsection; and

33 (i) Coordinate the rule, to the maximum extent practicable, with  
34 other federal, state, and local laws applicable to the same activity  
35 or subject matter.

36 (2) In making its determinations pursuant to subsection (1)(b)  
37 through (h) of this section, the agency must place in the rule-making  
38 file documentation of sufficient quantity and quality so as to  
39 persuade a reasonable person that the determinations are justified.

1 (3) Before adopting rules described in subsection (5) of this  
2 section, an agency must place in the rule-making file a rule  
3 implementation plan for rules filed under each adopting order. The  
4 plan must describe how the agency intends to:

5 (a) Implement and enforce the rule, including a description of  
6 the resources the agency intends to use;

7 (b) Inform and educate affected persons about the rule;

8 (c) Promote and assist voluntary compliance; and

9 (d) Evaluate whether the rule achieves the purpose for which it  
10 was adopted, including, to the maximum extent practicable, the use of  
11 interim milestones to assess progress and the use of objectively  
12 measurable outcomes.

13 (4) After adopting a rule described in subsection (5) of this  
14 section regulating the same activity or subject matter as another  
15 provision of federal or state law, an agency must do all of the  
16 following:

17 (a) Coordinate implementation and enforcement of the rule with  
18 the other federal and state entities regulating the same activity or  
19 subject matter by making every effort to do one or more of the  
20 following:

21 (i) Deferring to the other entity;

22 (ii) Designating a lead agency; or

23 (iii) Entering into an agreement with the other entities  
24 specifying how the agency and entities will coordinate implementation  
25 and enforcement.

26 If the agency is unable to comply with this subsection (4)(a),  
27 the agency must report to the legislature pursuant to (b) of this  
28 subsection;

29 (b) Report to the joint administrative rules review committee:

30 (i) The existence of any overlap or duplication of other federal  
31 or state laws, any differences from federal law, and any known  
32 overlap, duplication, or conflict with local laws; and

33 (ii) Make recommendations for any legislation that may be  
34 necessary to eliminate or mitigate any adverse effects of such  
35 overlap, duplication, or difference.

36 (5)(a) Except as provided in (b) of this subsection, this section  
37 applies to:

38 (i) Significant legislative rules of the departments of ecology,  
39 labor and industries, health, revenue, social and health services,  
40 and natural resources, the employment security department, the forest

1 practices board, the office of the insurance commissioner, the state  
2 building code council, and to the legislative rules of the department  
3 of fish and wildlife implementing chapter 77.55 RCW; and

4 (ii) Any rule of any agency, if this section is voluntarily made  
5 applicable to the rule by the agency, or is made applicable to the  
6 rule by a majority vote of the joint administrative rules review  
7 committee within forty-five days of receiving the notice of proposed  
8 rule making under RCW 34.05.320.

9 (b) This section does not apply to:

10 (i) Emergency rules adopted under RCW 34.05.350;

11 (ii) Rules relating only to internal governmental operations that  
12 are not subject to violation by a nongovernment party;

13 (iii) Rules adopting or incorporating by reference without  
14 material change federal statutes or regulations, Washington state  
15 statutes, rules of other Washington state agencies, shoreline master  
16 programs other than those programs governing shorelines of statewide  
17 significance, or, as referenced by Washington state law, national  
18 consensus codes that generally establish industry standards, if the  
19 material adopted or incorporated regulates the same subject matter  
20 and conduct as the adopting or incorporating rule;

21 (iv) Rules that only correct typographical errors, make address  
22 or name changes, or clarify language of a rule without changing its  
23 effect;

24 (v) Rules the content of which is explicitly and specifically  
25 dictated by statute;

26 (vi) Rules that set or adjust fees under the authority of RCW  
27 19.02.075 or that set or adjust fees or rates pursuant to legislative  
28 standards, including fees set or adjusted under the authority of RCW  
29 19.80.045;

30 (vii) Rules of the department of social and health services  
31 relating only to client medical or financial eligibility and rules  
32 concerning liability for care of dependents; or

33 (viii) Rules of the department of revenue that adopt a uniform  
34 expiration date for reseller permits as authorized in RCW 82.32.780  
35 and 82.32.783.

36 (c) For purposes of this subsection:

37 (i) A "procedural rule" is a rule that adopts, amends, or repeals  
38 (A) any procedure, practice, or requirement relating to any agency  
39 hearings; (B) any filing or related process requirement for making  
40 application to an agency for a license or permit; or (C) any policy

1 statement pertaining to the consistent internal operations of an  
2 agency.

3 (ii) An "interpretive rule" is a rule, the violation of which  
4 does not subject a person to a penalty or sanction, that sets forth  
5 the agency's interpretation of statutory provisions it administers.

6 (iii) A "significant legislative rule" is a rule other than a  
7 procedural or interpretive rule that (A) adopts substantive  
8 provisions of law pursuant to delegated legislative authority, the  
9 violation of which subjects a violator of such rule to a penalty or  
10 sanction; (B) establishes, alters, or revokes any qualification or  
11 standard for the issuance, suspension, or revocation of a license or  
12 permit; or (C) adopts a new, or makes significant amendments to, a  
13 policy or regulatory program.

14 (d) In the notice of proposed rule making under RCW 34.05.320, an  
15 agency must state whether this section applies to the proposed rule  
16 pursuant to (a)(i) of this subsection, or if the agency will apply  
17 this section voluntarily.

18 (6) By January 31, 1996, and by January 31st of each even-  
19 numbered year thereafter, the office of regulatory assistance, after  
20 consulting with state agencies, counties, and cities, and business,  
21 labor, and environmental organizations, must report to the governor  
22 and the legislature regarding the effects of this section on the  
23 regulatory system in this state. The report must document:

24 (a) The rules proposed to which this section applied and to the  
25 extent possible, how compliance with this section affected the  
26 substance of the rule, if any, that the agency ultimately adopted;

27 (b) The costs incurred by state agencies in complying with this  
28 section;

29 (c) Any legal action maintained based upon the alleged failure of  
30 any agency to comply with this section, the costs to the state of  
31 such action, and the result;

32 (d) The extent to which this section has adversely affected the  
33 capacity of agencies to fulfill their legislatively prescribed  
34 mission;

35 (e) The extent to which this section has improved the  
36 acceptability of state rules to those regulated; and

37 (f) Any other information considered by the office of financial  
38 management to be useful in evaluating the effect of this section.

--- END ---