
HOUSE BILL 1753

State of Washington

66th Legislature

2019 Regular Session

By Representatives Riccelli, Macri, and Harris

1 AN ACT Relating to requiring a statement of inquiry for rules
2 affecting fees related to health professions; and amending RCW
3 34.05.310.

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

5 **Sec. 1.** RCW 34.05.310 and 2011 c 298 s 20 are each amended to
6 read as follows:

7 (1)(a) To meet the intent of providing greater public access to
8 administrative rule making and to promote consensus among interested
9 parties, agencies must solicit comments from the public on a subject
10 of possible rule making before filing with the code reviser a notice
11 of proposed rule making under RCW 34.05.320. The agency must prepare
12 a statement of inquiry that:

13 (i) Identifies the specific statute or statutes authorizing the
14 agency to adopt rules on this subject;

15 (ii) Discusses why rules on this subject may be needed and what
16 they might accomplish;

17 (iii) Identifies other federal and state agencies that regulate
18 this subject, and describes the process whereby the agency would
19 coordinate the contemplated rule with these agencies;

1 (iv) Discusses the process by which the rule might be developed,
2 including, but not limited to, negotiated rule making, pilot rule
3 making, or agency study;

4 (v) Specifies the process by which interested parties can
5 effectively participate in the decision to adopt a new rule and
6 formulation of a proposed rule before its publication.

7 (b) The statement of inquiry must be filed with the code reviser
8 for publication in the state register at least thirty days before the
9 date the agency files notice of proposed rule making under RCW
10 34.05.320 and the statement, or a summary of the information
11 contained in that statement, must be sent to any party that has
12 requested receipt of the agency's statements of inquiry.

13 (2) Agencies are encouraged to develop and use new procedures for
14 reaching agreement among interested parties before publication of
15 notice and the adoption hearing on a proposed rule. Examples of new
16 procedures include, but are not limited to:

17 (a) Negotiated rule making by which representatives of an agency
18 and of the interests that are affected by a subject of rule making,
19 including, where appropriate, county and city representatives, seek
20 to reach consensus on the terms of the proposed rule and on the
21 process by which it is negotiated; and

22 (b) Pilot rule making which includes testing the feasibility of
23 complying with or administering draft new rules or draft amendments
24 to existing rules through the use of volunteer pilot groups in
25 various areas and circumstances, as provided in RCW 34.05.313 or as
26 otherwise provided by the agency.

27 (3)(a) An agency must make a determination whether negotiated
28 rule making, pilot rule making, or another process for generating
29 participation from interested parties prior to development of the
30 rule is appropriate.

31 (b) An agency must include a written justification in the rule-
32 making file if an opportunity for interested parties to participate
33 in the rule-making process prior to publication of the proposed rule
34 has not been provided.

35 (4) Except as provided in subsection (5) of this section, this
36 section does not apply to:

37 (a) Emergency rules adopted under RCW 34.05.350;

38 (b) Rules relating only to internal governmental operations that
39 are not subject to violation by a nongovernment party;

1 (c) Rules adopting or incorporating by reference without material
2 change federal statutes or regulations, Washington state statutes,
3 rules of other Washington state agencies, shoreline master programs
4 other than those programs governing shorelines of statewide
5 significance, or, as referenced by Washington state law, national
6 consensus codes that generally establish industry standards, if the
7 material adopted or incorporated regulates the same subject matter
8 and conduct as the adopting or incorporating rule;

9 (d) Rules that only correct typographical errors, make address or
10 name changes, or clarify language of a rule without changing its
11 effect;

12 (e) Rules the content of which is explicitly and specifically
13 dictated by statute;

14 (f) Rules that set or adjust fees under the authority of RCW
15 19.02.075 or that set or adjust fees or rates pursuant to legislative
16 standards, including fees set or adjusted under the authority of RCW
17 19.80.045; or

18 (g) Rules that adopt, amend, or repeal:

19 (i) A procedure, practice, or requirement relating to agency
20 hearings; or

21 (ii) A filing or related process requirement for applying to an
22 agency for a license or permit.

23 (5) Notwithstanding subsection (4) of this section, this section
24 applies to all rules adopted by the department of health or a
25 disciplining authority specified in RCW 18.130.040 that set or adjust
26 fees affecting professions regulated under chapter 18.130 RCW.

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