

HOUSE BILL REPORT

HB 2498

*As Reported By House Committee on:
Trade & Economic Development
Appropriations*

Title: An act relating to regulatory fairness.

Brief Description: Regarding regulatory fairness.

Sponsor(s): Representatives Ludwig, Forner, Cantwell, Sheldon, Dellwo, Bray, Roland, Rasmussen, Moyer, Rayburn, Grant, H. Myers, Paris, Riley, Edmondson, Kremen, Ferguson, Winsley, Wineberry, Jones, Dorn, Franklin, Ebersole, Bowman, May, Heavey, Ogden, Cooper, Pruitt, O'Brien, Hine, Nelson and P. Johnson.

Brief History:

Reported by House Committee on:
Trade & Economic Development, January 28, 1992, DP;
Appropriations, February 10, 1992, DPS.

**HOUSE COMMITTEE ON
TRADE & ECONOMIC DEVELOPMENT**

Majority Report: *Do pass.* Signed by 11 members:
Representatives Cantwell, Chair; Sheldon, Vice Chair;
Forner, Ranking Minority Member; Betrozoff, Assistant
Ranking Minority Member; Ferguson; Kremen; Ludwig; Moyer;
Rasmussen; Riley; and Roland.

Staff: Charlie Gavigan (786-7340).

Background: There are three primary statutory provisions that govern agency rule-making: (1) the Administrative Procedures Act; (2) the Regulatory Fairness Act; and (3) the Joint Administrative Rules Review Committee.

The Administrative Procedures Act (APA) describes procedures that state agencies must follow as they carry out their duties. Part three of the APA establishes rule-making procedures. State agencies are encouraged to seek input from the public, including businesses, on a subject under active consideration by the agency for possible rule-making activity. Each agency must designate a rules coordinator who has knowledge of proposed rules and can respond to public inquiries. The agency must conduct a public hearing on all proposed rules.

The Regulatory Fairness Act is intended to ensure that state agency rules affecting the business community do not place a proportionately higher burden on small businesses. When a proposed rule being considered for adoption by a state agency has an economic impact on more than 20 percent of all industries or more than 10 percent of any one industry, the adopting agency must reduce the economic impact of the rule on small businesses. The agency can accomplish this by simplifying compliance or reporting requirements for small businesses, establishing different timetables for small businesses, or exempting small businesses from some or all requirements of the rule.

The agency must also prepare a small business economic impact statement and review its rules affecting small businesses. The small business economic impact statement analyzes the costs to small businesses of compliance with the proposed rule. The Business Assistance Center, in the Department of Trade and Economic Development, can help agencies prepare small business economic impact statements.

The Joint Administrative Rules Review Committee (JARRC) provides for legislative review of agency rules. JARRC is comprised of four senators and four representatives. The committee may review agency rules for compliance with legislative intent. The committee, if it finds that the rule does not conform to legislative intent, and if the agency does not rectify the discrepancy, may recommend that the governor suspend the rule or that the Legislature repeal or amend authorizing legislation regarding the particular rule.

Summary of Bill: The rules coordinator of each agency must provide information, upon request, regarding all agency rules or permits that are applicable to a particular business. The Business Assistance Center, a division of the Department of Trade and Economic Development, consolidates the requests for information when a particular business is impacted by rules or permits from more than one agency.

When any proposed rule requires a small business economic impact statement, the agency must ensure that small businesses are given notice of the proposed rule. Notice can be given by any of the following methods that are applicable: (1) direct notification of known interested small businesses affected by the rule; (2) notice to trade/business organizations; (3) notice in a trade/business publication; or (4) appointment of a committee to comment on the proposed rule.

The Joint Administrative Rules Review Committee may review any rule for compliance with the Regulatory Fairness Act.

The committee may also review small business economic impact statements required under the Regulatory Fairness Act.

Fiscal Note: Requested January 28, 1992.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Businesses need better access to the regulatory process. This bill helps provide for better notice and review of proposed agency rules. State agencies should consider the economic impact of rules on business much more than they currently do. Businesses also need better information regarding rules and permits that impact individual businesses; this bill is a step in the right direction in addressing these regulatory fairness issues.

Testimony Against: None.

Witnesses: Gary Smith and Mark Wormath, Independent Business Association (Pro); Nancy Bratton, Seattle Chamber of Commerce (Pro); and Cliff Finch, Association of Washington Business (Pro).

**HOUSE COMMITTEE ON
APPROPRIATIONS**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 24 members: Representatives Locke, Chair; Spanel, Vice Chair; Appelwick; Bowman; Braddock; Brekke; Carlson; Dorn; Ebersole; Ferguson; Fuhrman; Hine; Lisk; May; Mielke; Nealey; Peery; Pruitt; Rust; D. Sommers; H. Sommers; Valle; Vance; and Wang.

Minority Report: *Do not pass.* Signed by 1 member: Representative Belcher.

Staff: Victor Moore (786-7143).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Trade & Economic Development: The requirement that agency rules coordinators must provide information applicable to a particular business upon request is deleted. Specific agency rules provided to the business assistance center are more narrowly defined as those rules applicable to a specific class or line of business. Rules provided to a business by the business assistance center are more narrowly defined in a similar

manner. A liability protection clause for the state is added.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Same as Committee on Trade & Economic Development.

Testimony Against: None.

Witnesses: Representative Curt Ludwig, prime sponsor (pro); Mark Wormath, Independent Business Association (pro); and Skip Houser, Department of Trade and Economic Development (pro, with concerns about funding).