

(4) The provisions of this section shall retroactively apply to any area proposed to be incorporated under this chapter if the proposition referred to in RCW 35.03.030 has not been submitted to the voters prior to the effective date of this act.

*Sec. 8. was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 8, 1982.

Passed the House March 5, 1982.

Approved by the Governor April 3, 1982, with the exception of subsection (3) of Section 8, which is vetoed.

Filed in Office of Secretary of State April 3, 1982.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to Section 8 subsection (3) Senate Bill No. 3446 entitled:

"AN ACT Relating to incorporation proceedings for cities and towns".

Subsection (3) of Section 8 would severely limit the authority of a newly incorporated city to establish its property tax rate at a level sufficient to provide basic services. The lower tax rate that would result from implementation of subsection (3)(b) is less than the \$3.375 per \$1,000 of assessed value authorized for other Washington cities. I have therefore vetoed Subsection (3) of Section 8.

With the exception of Subsection (3) of Section 8, which I have vetoed, the remainder of Senate Bill No. 3446 is approved."

CHAPTER 221

[Senate Bill No. 4660]

ADMINISTRATIVE RULE-MAKING—AGENCY RULES REVIEW

AN ACT Relating to administrative rule making; amending section 3, chapter 237, Laws of 1967 as last amended by section 3, chapter 324, Laws of 1981 and RCW 34.04.025; amending section 1, chapter 84, Laws of 1977 ex. sess. as last amended by section 7, chapter ___ (HB 385), Laws of 1982 and RCW 34.04.045; amending section 15, chapter 234, Laws of 1959 as last amended by section 2, chapter 64, Laws of 1981 and RCW 34.04.150; amending section 3, chapter 57, Laws of 1971 ex. sess. as last amended by section 12, chapter 324, Laws of 1981 and RCW 28B.19.030; amending section 23, chapter 186, Laws of 1980 and RCW 28B.19.033; and adding new sections to chapter 34.04 RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 3, chapter 237, Laws of 1967 as last amended by section 3, chapter 324, Laws of 1981 and RCW 34.04.025 are each amended to read as follows:

(1) Prior to the adoption, amendment, or repeal of any rule, each agency shall:

(a) File notice thereof with the code reviser in accordance with RCW 34.08.020(1) for publication in the state register, and with the ((secretary of

~~the senate, the chief clerk of the house of representatives, and the~~) rules review committee, and mail such notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings. Such notice shall also include (i) reference to the authority under which the rule is proposed, (ii) a statement of either the terms or substance of the proposed rule or a description of the subjects and issues involved, and (iii) the time when, the place where, and the manner in which interested persons may present their views thereon;

(b) (~~Furnish to the legislature, along with the notice required by subsection (1)(a) of this section, a statement of the reasons supporting the proposed action;~~

~~(c))~~) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In case of substantive rules, opportunity for oral hearing must be granted if requested by twenty-five persons, by a governmental subdivision or agency, by the rules review committee, or by an association having not less than twenty-five members.

(2) The agency shall make every effort to insure that the information on the proposed rule circulated pursuant to subsection (1)(a) of this section accurately reflects the rule to be presented and discussed at any oral hearing on such rule. Where substantial changes in the draft of the proposed rule are made after publication of notice in the register which would render it difficult for interested persons to properly comment on the rule without further notice, new notice of the agency's intended action as provided in subsection (1)(a) of this section shall be required.

(3) The agency shall consider fully all written and oral submissions respecting the proposed rule including those addressing the question of whether the proposed rule is within the intent of the legislature as expressed by the statute which the rule implements, and may amend the proposed rule at the oral hearing or adopt the proposed rule, if there are no substantial changes, without refileing the notice required by this section. Upon adoption of a rule, the agency, if requested to do so by an interested person either prior to adoption or within thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

(4) No proceeding may be held on any rule until twenty days have passed from the distribution date of the register in which notice thereof was contained. The code reviser shall make provisions for informing an agency giving notice under subsection (1) of this section of the distribution date of the register in which such notice will be published.

(5) No rule hereafter adopted is valid unless adopted in substantial compliance with this section, unless it is an emergency rule designated as such and is adopted in substantial compliance with RCW 34.04.030, as now or hereafter amended. In any proceeding a rule cannot be contested on the

ground of noncompliance with the procedural requirements of RCW 34.08.020(1), of this section, or of RCW 34.04.030, as now or hereafter amended, after two years have elapsed from the effective date of the rule.

Sec. 2. Section 1, chapter 84, Laws of 1977 ex. sess. as last amended by section 7, chapter ... (HB 385), Laws of 1982 and RCW 34.04.045 are each amended to read as follows:

(1) For the purpose of legislative review of agency rules filed pursuant to this chapter, any proposed new or amendatory rule shall be accompanied by a statement prepared by the adopting agency which generally describes the rule's purpose and how the rule is to be implemented. Such statement shall be on the agency's stationery or a form bearing the agency's name and shall contain, but is not limited to, the following:

(a) A title, containing a description of the rule's purpose(~~(the statutory authority for the rule;))~~) and any other information which may be of assistance in identifying the rule or its purpose;

(b) Citations of the statutory authority for adopting the rule and the specific statute the rule is intended to implement;

(c) A summary of the rule and a statement of the reasons supporting the proposed action;

~~((f))~~ (d) The agency personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

~~((d))~~ (e) The name of the person or organization, whether private, public, or governmental, proposing the rule;

~~((e))~~ (f) Agency comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

~~((f))~~ (g) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a copy of such law or court decision shall be attached to the purpose statement;

~~((g))~~ (h) A copy of the small business economic impact statement, where applicable.

(2) Upon filing notice of the proposed rule with the code reviser, the adopting agency shall have copies of the statement on file and available for public inspection and shall forward three copies (~~each~~) of the notice and the statement to the ((secretary of the senate and the chief clerk of the house of representatives, who will in turn forward the statement to the majority and minority caucuses and to the appropriate legislative committees)) rules review committee.

NEW SECTION. Sec. 3. There is added to chapter 34.04 RCW a new section to read as follows:

Each agency head shall be responsible for conducting a review of the agency's rules contained in the Washington Administrative Code in order to identify each rule which the agency head believes was designed, in whole or

in part, to conform to a federal law which, on or after January 1, 1981, has been eliminated or changed in a manner which reduces or deletes the requirements or standards with which the rule was designed to conform. For purposes of this section, "federal law" includes federal statutes and federal rules and regulations.

NEW SECTION. Sec. 4. There is added to chapter 34.04 RCW a new section to read as follows:

(1) By November 1, 1982, and each year thereafter, each agency shall provide the office of financial management with a document containing: (a) A list citing the rules identified pursuant to section 3 of this act and the actions, if any, taken by the agency head to change or eliminate the rules; and (b) a list of those rules which cannot be changed or eliminated without conflicting with the statutes authorizing, or dealing with, the rules and a list of such statutes.

(2) The office of financial management shall compile the documents submitted under subsection (1) of this section and by January 1, 1983, and each year thereafter, shall provide the compilation to the speaker of the house of representatives and the president of the senate.

NEW SECTION. Sec. 5. Sections 3 and 4 of this act apply to each "agency" as defined in RCW 34.04.010. It also applies to each agency exempted, in whole or in part, under RCW 34.04.150.

Sec. 6. Section 15, chapter 234, Laws of 1959 as last amended by section 2, chapter 64, Laws of 1981 and RCW 34.04.150 are each amended to read as follows:

Except as provided under section 5 of this 1982 act, this chapter shall not apply to the state militia, or the board of prison terms and paroles, or any institution of higher education as defined in RCW 28B.19.020. The provisions of RCW 34.04.090 through 34.04.130 shall not apply to the board of industrial insurance appeals or the board of tax appeals unless an election is made pursuant to RCW 82.03.140 or 82.03.190. The provisions of RCW 34.04.090 through 34.04.130 and the provisions of RCW 34.04-.170 shall not apply to the denial, suspension, or revocation of a driver's license by the department of licensing. To the extent they are inconsistent with RCW 80.50.140, the provisions of RCW 34.04.130, 34.04.133, and 34.04.140 shall not apply to review of decisions made under RCW 80.50-.100. All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act.

Sec. 7. Section 3, chapter 57, Laws of 1971 ex. sess. as last amended by section 12, chapter 324, Laws of 1981 and RCW 28B.19.030 are each amended to read as follows:

(1) Prior to the adoption, amendment, or repeal of any rule adopted under this chapter, each institution, college, division, department, or official

thereof exercising rule-making authority delegated by the governing board or the president, shall:

(a) File notice thereof with the code reviser in accordance with RCW 34.08.020(1) for publication in the state register, and with the ~~((secretary of the senate, the chief clerk of the house of representatives, and the))~~ rules review committee, and mail the notice to all persons who have made timely request of the institution or related board for advance notice of its rule-making proceedings. Such notice shall also include (i) reference to the authority under which the rule is proposed, (ii) a statement of either the terms or substance of the proposed rule or a description of the subjects and issues involved, and (iii) the time when, the place where, and the manner in which interested persons may present their views thereon;

~~(b) ((Furnish to the legislature, along with the notice required by subsection (1)(a) of this section, a statement of the reasons supporting the proposed action;~~

~~(c))~~ Provide notice to the campus or standard newspaper of the institution involved and to a newspaper of general circulation in the area at least seven days prior to the date of the rule-making proceeding. The notice shall state the time when, place where, and manner in which interested persons may present their views thereon and the general subject matter to be covered;

~~((d))~~ (c) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. An opportunity for oral hearing must be granted if requested by twenty-five persons or by the rules review committee.

(2) The institution shall make every effort to insure that the information on the proposed rule circulated pursuant to subsection (1)(a) of this section accurately reflects the rule to be presented and discussed at any oral hearing on such rule. Where substantial changes in the draft of the proposed rule are made after publication of notice in the register which would render it difficult for interested persons to properly comment on the rule without further notice, new notice of the institution's intended action as provided in subsection (1)(a) of this section shall be required.

(3) The institution shall consider fully all written and oral statements respecting the proposed rule including those addressing the question of whether the proposed rule is within the intent of the legislature as expressed by the statute which the rule implements, and may amend the proposed rule at the oral hearing or adopt the proposed rule, if there are no substantial changes, without refileing the notice required by this section.

(4) No proceeding may be held on any rule until twenty days have passed from the distribution date of the register in which notice thereof was contained. The code reviser shall make provisions for informing an institution of higher education giving notice under subsection (1) of this section of the distribution date of the register in which such notice will be published.

(5) No rule adopted under this chapter is valid unless adopted in substantial compliance with this section, unless it is an emergency rule designated as such and is adopted in substantial compliance with RCW 28B.19.040, as now or hereafter amended. In any proceeding a rule cannot be contested on the ground of noncompliance with the procedural requirements of RCW 34.08.020(1), of this section, or of RCW 28B.19.040, as now or hereafter amended, after two years have elapsed from the effective date of the rule.

(6) When twenty days notice of intended action to adopt, amend, or repeal a rule has not been filed with the code reviser, as required by subsection (4) of this section, the code reviser may not publish such rule, and such rule may not be effective for any purpose.

Sec. 8. Section 23, chapter 186, Laws of 1980 and RCW 28B.19.033 are each amended to read as follows:

(1) For the purpose of legislative review of institution rules filed pursuant to this chapter, any new or amendatory rule proposed after June 12, 1980, shall be accompanied by a statement prepared by the adopting institution which generally describes the rule's purpose and how the rule is to be implemented. Such statement shall be on the institution's stationery or a form bearing the institution's name and shall contain, but is not limited to, the following:

(a) A title, containing a description of the rule's purpose (~~(, the statutory authority for the rule,))~~ and any other information which may be of assistance in identifying the rule or its purpose;

(b) Citations of the statutory authority for adopting the rule and the specific statute the rule is intended to implement;

(c) A summary of the rule and a statement of the reasons supporting the proposed action;

~~((c))~~ (d) The institution personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

~~((d))~~ (e) The name of the person or organization, whether private, public, or governmental, proposing the rule, if any;

~~((e))~~ (f) Institution comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

~~((f))~~ (g) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a copy of such law or court decision shall be attached to the purpose statement.

(2) Upon filing notice of the proposed rule with the code reviser, the adopting institution shall have copies of the statement on file and available for public inspection and shall forward three copies ~~((each))~~ of the notice and the statement to the ~~((secretary of the senate and the chief clerk of the~~

~~house of representatives, who will in turn forward the statement to the majority and minority caucuses and to the appropriate legislative committees)) rules review committee.~~

Passed the Senate March 9, 1982.

Passed the House March 6, 1982.

Approved by the Governor April 3, 1982.

Filed in Office of Secretary of State April 3, 1982.

CHAPTER 222

[Engrossed Substitute Senate Bill No. 4663]

FOREST PRODUCTS INDUSTRY RECOVERY ACT

AN ACT Relating to timber sales; amending section 33, chapter 255, Laws of 1927 as last amended by section 1, chapter 52, Laws of 1975 1st ex. sess. and RCW 79.01.132; adding new sections to chapter 79.01 RCW; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. (1) The legislature finds as follows:

(a) A competitive, financially healthy forest products industry is important to the economic well-being of the state and the trust beneficiaries of the state forest lands administered by the department of natural resources. The forest products industry provides employment, tax revenues, and a long-term, continuous source of income for the state educational system and other trust beneficiaries. A reduction in the number of timber companies would increase unemployment, decrease tax revenues, and reduce competition and the levels of short-term and long-term income for the trust beneficiaries.

(b) The forest products industry is currently suffering an economic downturn. Current economic conditions will hinder certain purchasers from meeting timber contract obligations to the state and may lead to business failures.

(c) The United States forest service and the state of Oregon have provided certain relief to some timber sales purchasers. Action by this state is necessary to maintain a competitive timber sales program and to insure a regular and timely harvest of timber from state lands.

(d) The interests of the state and the trust beneficiaries will be best served by modifying current state law as it applies to the state's timber sales program.

(e) The measures provided for in this act balance the needs of the trust beneficiaries for short-term revenue and cash flow with the long-term need for a competitive forest products industry which will provide a sustained income to the trusts in the future.

(2) The legislature further finds that the department of natural resources should have authority to take certain steps to: