

SHB 1601 - H AMD 288

By Representative Overstreet

NOT CONSIDERED 04/22/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** This act may be known and cited as the
4 regulatory fairness act of 2011.

5 NEW SECTION. **Sec. 2.** The legislature finds that many citizens,
6 employers, and local governments are struggling with nonemergency
7 regulatory burdens resulting in the loss of time, resources, employees,
8 and the ability to create job growth. At a time when state agencies
9 should be looking for ways to reduce the negative impacts of
10 nonemergency rules, they continue to produce a flow of new and
11 unnecessary changes to the Washington Administrative Code that are
12 stunting economic recovery in Washington state.

13 The citizens of Washington elect state lawmakers to represent them
14 and, in turn, hold them accountable for their actions and the outcomes
15 of state government. If state agencies are placing costly nonemergency
16 regulatory burdens on citizens, it is the duty of state lawmakers to
17 address these problems directly within the legislative process.

18 The governor has acknowledged, through Executive Order 10-06,
19 "Suspending Non-Critical Rule Development and Adoption," that "in a
20 time of severe budget constraints, small businesses and governments
21 find it more difficult to monitor and respond to proposed changes in
22 rules and policies" and "a stable and predictable regulatory and policy
23 environment will conserve resources for small businesses and local
24 governments and promote economic recovery."

25 State agencies currently must provide economic impact statements in
26 a select few instances under the regulatory fairness act. In 2010, an
27 estimated thirty statements were filed with the code reviser's office
28 despite the fact that there were thousands of changes to rules. The
29 system is set up so that even if there are economic and time burdens

1 placed on citizens, employers, or local governments, state agencies may
2 still go forward and enact the rules. This is detrimental to the
3 economic growth of Washington state.

4 The legislature intends to prevent regulatory bodies from having
5 the authority to place costly burdens on citizens, employers, and local
6 governments that will further damage Washington state's economy.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 34.05 RCW
8 to read as follows:

9 (1) Before adoption of a rule, an agency must determine whether
10 compliance with the rule will result in a specified economic impact.
11 If the agency determines that a rule will result in a specified
12 economic impact, the agency must provide notification and may not
13 enforce the rule until the rule is enacted into law by the legislature.

14 (2) Not later than one hundred eighty days after the effective date
15 of this section, and annually thereafter, each agency shall determine
16 whether any of its rules has resulted in a specified economic impact in
17 the preceding year. If such a determination is made, the agency must
18 provide notification, and may no longer enforce the rule until the rule
19 is enacted into law by the legislature.

20 (3)(a) For purposes of this section, "provide notification" means
21 transmit the proposed or existing rule determined to result in a
22 specified economic impact and the findings supporting such a
23 determination, including relevant public comments in the case of a
24 proposed rule, to the code reviser for publication in the state
25 register and to the appropriate committees of the senate and the house
26 of representatives.

27 (b) For purposes of this section, "specified economic impact" means
28 any of the following:

29 (i) Costs to any individual of one thousand dollars or more in a
30 year;

31 (ii) Costs to any business, partnership, corporation, association,
32 or public or private organization, but not including state government,
33 of five thousand dollars or more in a year; or

34 (iii) The loss of one or more existing jobs of a Washington
35 resident within one year as a direct result of the adoption of a rule.

36 (4) Any person may commence an action in the superior court either
37 for an injunction or writ of mandamus for compliance of this section."

Correct the title.

EFFECT: Strikes the underlying bill. Requires agencies to determine whether a proposed administrative rule will result in a specified economic impact, and if it will, to provide notification to the Legislature. Establishes that an administrative rule having a specified economic impact cannot be enforced until enacted into law by the Legislature. Requires an agency to conduct an annual review of its rules to determine whether any existing rules have resulted in a specified economic impact. Defines "specified economic impact" and "provide notification."

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