

HOUSE BILL REPORT

HB 1248

As Reported by House Committee On: Ways & Means

Title: An act relating to authorizing emergency rule making when necessary to implement fiscal reductions.

Brief Description: Authorizing emergency rule making when necessary to implement fiscal reductions.

Sponsors: Representatives Hunter and Darneille; by request of Office of Financial Management.

Brief History:

Committee Activity:

Ways & Means: 1/18/11, 1/20/11 [DP].

Brief Summary of Bill

- Permits agencies to adopt emergency rules to address budget requirements or reductions in across-the-board allotment reductions and in appropriations for the 2011-13 fiscal biennium.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass. Signed by 25 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Cody, Dickerson, Haigh, Hinkle, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Ross, Schmick, Seaquist, Springer, Sullivan and Wilcox.

Minority Report: Do not pass. Signed by 2 members: Representatives Chandler and Haler.

Staff: Kristen Fraser (786-7148).

Background:

Rulemaking Procedures Under the Administrative Procedures Act.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A rule or regulation is a written policy or procedure by a state agency that is generally applicable to a group of people, industries, activities, or circumstances. Agencies adopt rules under the procedural requirements established by the Washington Administrative Procedures Act (APA).

The APA's procedural requirements for rulemaking include: solicitation of comments on possible rulemaking prior to filing a notice of proposed rulemaking; preparation of a semi-annual agenda for rules under development; maintenance of a rulemaking docket containing a listing of each pending rulemaking proceeding; having copies of notices available for public inspection; notifying persons who have requested notification of proposed rulemaking; holding a rulemaking hearing; and accepting oral and written public comment.

An agency may not adopt a rule that is substantially different from the rule proposed in the published notice of proposed rule adoption or a supplemental notice in the proceeding. An agency must file with the Code Reviser a certified copy of all rules it adopts.

Emergency Rules Under the APA.

Under certain circumstances, an agency may adopt, amend, or repeal administrative rules without following the specified APA procedures. These emergency rules take effect upon filing with the Code Reviser, unless a later date is specified in the order of adoption. An emergency rule may not remain in effect for longer than 120 days after it is filed.

To adopt emergency rules, an agency must find good cause that:

- immediate adoption of a rule is necessary for the preservation of the public health, safety, or general welfare, and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest;
- state or federal law, federal rule, or a federal deadline for state receipt of federal funds requires immediate adoption of a rule; or
- observing the time requirements of notice and opportunity to comment upon the adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency, if the rule is needed to implement budget requirements or reductions for fiscal years 2009-2011.

An agency must incorporate its finding and a concise statement of the reasons for its finding in its order adopting the emergency rule.

Across-the-Board Allotment Reductions.

The Budget and Accounting Act directs the Governor to make uniform allotment reductions if a cash deficit is projected for any account. On September 13, 2010, Governor Gregoire in Executive Order 10-04 ordered across-the-board reductions of 6.287 percent in allotments of fiscal year 2011 appropriations from the State General Fund.

Summary of Bill:

The authorization to adopt emergency rules to address agency fiscal needs and requirements is expanded. Agencies may adopt, amend, or repeal rules on an emergency basis to implement requirements or reductions in appropriations: (1) in allotment reductions ordered under the Budget and Accounting Act; or (2) enacted in any budget for fiscal years 2009-2013.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) None.

(Opposed) None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.