

CHAPTER 374

[Substitute House Bill No. 2024]

REGULATORY FAIRNESS—SMALL BUSINESSES—ECONOMIC IMPACT

AN ACT Relating to regulatory fairness; amending RCW 19.85.020, 19.85.030, and 19.85.040; adding new sections to chapter 19.85 RCW; and adding new sections to chapter 34.05 RCW.

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

Sec. 1. Section 2, chapter 6, Laws of 1982 and RCW 19.85.020 are each amended to read as follows:

Unless the context clearly indicates otherwise, the definitions in this section apply through this chapter.

(1) "Small business" has the meaning given in RCW (~~(43.31.920)~~) 43.31.025(4).

(2) "Small business economic impact statement" means a statement meeting the requirements of RCW 19.85.040 prepared by a state agency pursuant to RCW 19.85.030.

(3) "Industry" means all of the businesses in this state in any one three-digit standard industrial classification as published by the United States department of commerce.

Sec. 2. Section 3, chapter 6, Laws of 1982 and RCW 19.85.030 are each amended to read as follows:

In the adoption of any rule pursuant to RCW (~~((34.04.025))~~) 34.05.320 which will have an economic impact on more than twenty percent of all industries, or more than ten percent of any one industry, the adopting agency:

(1) Shall reduce the economic impact of the rule on small business by doing one or more of the following when it is legal and feasible in meeting the stated objective of the statutes which are the basis of the proposed rule:

(a) Establish differing compliance or reporting requirements or timetables for small businesses;

(b) Clarify, consolidate, or simplify the compliance and reporting requirements under the rule for small businesses;

(c) Establish performance rather than design standards;

(d) Exempt small businesses from any or all requirements of the rule;

(2) Shall prepare a small business economic impact statement in accordance with RCW 19.85.040 and file such statement with the code reviser along with the notice required under RCW (~~((34.04.025))~~) 34.05.320;

(3) May request assistance from the (~~(office of small business available statistics which the agency can use))~~ business assistance center in the preparation of the small business economic impact statement.

Sec. 3. Section 4, chapter 6, Laws of 1982 and RCW 19.85.040 are each amended to read as follows:

A small business economic impact statement must include a brief description of the reporting, recordkeeping, and other compliance requirements of the rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements. A small business economic impact statement shall analyze, based on existing data, the costs of compliance for businesses required to comply with the provisions of a rule adopted pursuant to RCW ((34.04.025)) 34.05.320, including costs of equipment, supplies, labor, and increased administrative costs, and compare to the greatest extent possible the cost of compliance for small business with the cost of compliance for the ten percent of firms which are the largest businesses required to comply with the proposed new or amendatory rules. The small business economic impact statement shall use one or more of the following as a basis for comparing costs:

- (1) Cost per employee;
- (2) Cost per hour of labor;
- (3) Cost per one hundred dollars of sales;
- (4) Any combination of (1), (2), or (3).

****NEW SECTION. Sec. 4. A new section is added to chapter 19.85 RCW to read as follows:***

When any rule is proposed for which a small business economic impact statement is required, the agency shall assure that small businesses have been given notice of the proposed rule through any of the following that may apply:

- (1) Direct notification of known interested small businesses affected by the proposed rule;***
- (2) Notice to business or trade organizations;***
- (3) Publication of a general notice of the proposed rule making in publications likely to be obtained by small businesses of the types affected by the proposed rule; and***
- (4) The appointment of a committee, as provided in RCW 34.05.310, to comment on the subject of the possible rule making before the publication of notice of proposed rule adoption under RCW 34.05.320.***

****Sec. 4 was vetoed, see message at end of chapter.***

NEW SECTION. Sec. 5. A new section is added to chapter 19.85 RCW to read as follows:

An agency is not required to prepare a small business economic impact statement if the agency files a statement that:

- (1) The rule is being adopted solely for the purpose of conformity or compliance, or both, with federal law or regulations; or***
- (2) The rule will have a minor or negligible economic impact. The business assistance center shall develop guidelines for determining whether a proposed rule will have minor or negligible impacts. The business assistance center may review a proposed rule that indicates that there is only a minor or negligible economic impact to determine if the agency's finding is***

within the guidelines developed by the business assistance center. The business assistance center is authorized to advise the joint administrative rules review committee on disputes involving agency determinations under this section.

***NEW SECTION. Sec. 6.** *A new section is added to chapter 34.05 RCW to read as follows:*

The joint administrative rules review committee may review any rule to determine whether an agency complied with the regulatory business requirements of chapter 19.85 RCW.

*Sec. 6 was vetoed, see message at end of chapter.

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

The joint administrative rules review committee shall provide notice, conduct its hearings and reviews, and provide notice of committee objections to small business economic impact statements required under chapter 19.85 RCW in the same manner as is provided for notice, hearings, reviews, and objections to rules under this chapter.

*Sec. 7 was vetoed, see message at end of chapter.

Passed the House March 13, 1989.

Passed the Senate April 21, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to sections 4, 6, and 7, Substitute House Bill No. 2024 entitled:

"AN ACT Relating to regulatory fairness."

Section 4 of Substitute House Bill No. 2024 imposes new notification requirements on state agencies when they are developing rules that affect small businesses. There are four separate notification procedures specified in the section. Because of the way the section is drafted, agencies could be subject to legal challenge if they did not notify by all sections which apply to a given business. The language is subject to two interpretations due to the fact the word "and" is used at the end of subsection 3, rather than "or."

These new procedures would be in addition to the expanded notification and public access requirements mandated by the new Administrative Procedure Act (APA) under RCW 34.05. That act will go into effect in July of this year. The new APA mandates advance notice of rule making through the state register, authorizes agency solicitation of comments from the public on proposed rules, encourages the creation of committees to discuss rules in advance of official notice, requires the creation of a rule-making docket in each agency, and requires agencies to send notices of proposed rule adoptions to any citizen who requests them.

The Legislature, state agencies, the Bar Association, the Attorney General's Office, and interest groups, including representatives of small business, spent four years perfecting the new APA, including its uniform rule-notice requirements. To create an entirely new set of requirements applicable only to a single special interest group before the APA becomes effective is not necessary. It would also have an unanticipated fiscal impact on many state agencies.

Sections 6 and 7 authorize the Joint Administrative Rules Review Committee to review executive agency compliance with the Regulatory Fairness Act and the sufficiency of small business economic impact statements. Currently, this committee reviews rules for conformance with underlying legislative intent and procedural correctness. To give the committee expanded authority to review the substance of detailed economic impact statements prepared by agencies is beyond the scope of the committee.

Concerns regarding agency compliance with the Regulatory Fairness Act can already be brought before the agency, the Business Assistance Center, and ultimately the courts. To add one more forum to this field is both unnecessary and duplicative.

With the exception of sections 4, 6, and 7, Substitute House Bill No. 2024 is approved."

CHAPTER 375

[House Bill No. 2155]

PARENTING ACT—REVISED PROVISIONS

AN ACT Relating to technical corrections and clarifications to the parenting act of 1987 and related provisions; amending RCW 26.09.010, 26.09.015, 26.09.020, 26.09.070, 26.09.080, 26.09.090, 26.09.100, 26.09.181, 26.09.184, 26.09.187, 26.09.191, 26.09.220, 26.09.240, 26.09.260, 26.09.270, 26.09.285, 26.09.907, 26.09.909, 26.10.060, 26.10.070, 26.10.180, 26.12.080, 26.26.130, 26.10.190, 26.50.020, 26.09.050, 26.09.150, and 26.10.040; reenacting and amending RCW 26.09.120; adding a new section to chapter 26.26 RCW; adding a new section to chapter 26.50 RCW; adding a new section to chapter 26.10 RCW; and declaring an emergency.

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

Sec. 1. Section 1, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 460, Laws of 1987 and RCW 26.09.010 are each amended to read as follows:

(1) Except as otherwise specifically provided herein, the practice in civil action shall govern all proceedings under this chapter, except that trial by jury is dispensed with.

(2) A proceeding for dissolution of marriage, legal separation or a declaration concerning the validity of a marriage shall be entitled "In re the marriage of and" Such proceeding may be filed in the superior court of the county where the petitioner resides.

(3) In cases where there has been no prior proceeding in this state involving the marital status of the parties or support obligations for a minor child, a separate parenting and support proceeding between the parents shall be entitled "In re the parenting and support of"

(4) The initial pleading in all proceedings (~~for dissolution of marriage~~) under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter shall be denominated as provided in the civil rules for superior court.

(5) In this chapter, "decree" includes "judgment".

(6) A decree of dissolution, of legal separation, or a declaration concerning the validity of a marriage shall not be awarded to one of the parties,