

As a result of combining several legislative measures into one bill, RCW 84.36.381 has been amended by both sections 1 and 4 of this act and RCW 84.36.387 has been amended by both sections 2 and 6 of this act. Since the amendments by sections 1 and 2 of the act are duplicative of the amendments by sections 4 and 6 and since leaving them all in this act will cloud the status of RCW 84.36.381 and 84.36.387, I have vetoed sections 1 and 2.

With the exception of sections 1 and 2, which I have vetoed, the remainder of Substitute Senate Bill No. 3509 is approved."

## CHAPTER 186

[Senate Bill No. 3240]

### WASHINGTON ADMINISTRATIVE CODE—RULES ADOPTION, COMPILATION, CODIFICATION, PUBLICATION

AN ACT Relating to state government; amending section 1, chapter 234, Laws of 1959 as amended by section 1, chapter 237, Laws of 1967 and RCW 34.04.010; amending section 3, chapter 237, Laws of 1967 as last amended by section 7, chapter 240, Laws of 1977 ex. sess. and RCW 34.04.025; amending section 3, chapter 234, Laws of 1959 as amended by section 8, chapter 240, Laws of 1977 ex. sess. and RCW 34.04.030; amending section 1, chapter 84, Laws of 1977 ex. sess. and RCW 34.04.045; amending section 5, chapter 234, Laws of 1959 as amended by section 9, chapter 240, Laws of 1977 ex. sess. and RCW 34.04.050; amending section 1, chapter 19, Laws of 1977 and RCW 34.04.058; amending section 3, chapter 240, Laws of 1977 ex. sess. and RCW 34.08.020; amending section 2, chapter 57, Laws of 1971 ex. sess. as amended by section 42, chapter 169, Laws of 1977 ex. sess. and RCW 28B.19.020; amending section 3, chapter 57, Laws of 1971 ex. sess. as amended by section 10, chapter 240, Laws of 1977 ex. sess. and RCW 28B.19.030; amending section 4, chapter 57, Laws of 1971 ex. sess. as last amended by section 11, chapter 240, Laws of 1977 ex. sess. and RCW 28B.19.040; amending section 7, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19.070; adding new sections to chapter 28B.19 RCW; adding new sections to chapter 34.04 RCW; creating new sections; and repealing section 1, chapter 186, Laws of 1963 and RCW 34.04.160.

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

**\*Section 1. Section 1, chapter 234, Laws of 1959 as amended by section 1, chapter 237, Laws of 1967 and RCW 34.04.010 are each amended to read as follows:**

**((For the purpose of this chapter:)) The definitions set forth in this section shall apply throughout this chapter, unless the context clearly requires otherwise.**

**(1) "Agency" means any state board, commission, department, or officer, authorized by law to make rules or to adjudicate contested cases, except those in the legislative or judicial branches.**

**(2) "Rule" means any agency order, directive, or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters, or revokes any procedure, practice, or requirement relating to agency hearings; (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters, or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession; or (e) which establishes, alters, or revokes any mandatory standards for any**

**product or material which must be met before distribution or sale. The term includes the amendment or repeal of a prior rule, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, (ii) declaratory rulings issued pursuant to RCW 34.04.080, as now or hereafter amended, or (iii) speed restrictions for motor vehicles established by the state highway commission.**

**(3) "Contested case" means a proceeding before an agency in which an opportunity for a hearing before such agency is required by law or constitutional right prior or subsequent to the determination by the agency of the legal rights, duties, or privileges of specific parties. Contested cases shall also include all cases of licensing and rate making in which an application for a license or rate change is denied except as limited by RCW 66.08.150, or a license is revoked, suspended, or modified, or in which the granting of an application is contested by a person having standing to contest under the law or agency rules.**

**(4) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or any form of permission required by law, including agency rule, to engage in any activity, but does not include a license required solely for revenue purposes.**

**(5) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or modification of a license.**

**(6) "Rules review committee" or "committee" means either of the administrative rules review committees created pursuant to section 4 of this 1980 act for the purpose of selectively reviewing existing and proposed rules of state agencies.**

**\*Section 1 was vetoed, see message at end of chapter.**

**\*Sec. 2. Section 3, chapter 237, Laws of 1967 as last amended by section 7, chapter 240, Laws of 1977 ex. sess. 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 committees, 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 committees, 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 refiling 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.**

**((2)) (4) No proceeding ((shall)) 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.**

**((3)) (5) No rule hereafter adopted is valid unless adopted in substantial compliance with this section, ((or, if)) 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 was vetoed, see message at end of chapter.

\*Sec. 3. Section 3, chapter 234, Laws of 1959 as amended by section 8, chapter 240, Laws of 1977 ex. sess. and RCW 34.04.030 are each amended to read as follows:

~~((†))~~ **If the agency finds that immediate adoption or amendment of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest, the agency may dispense with such requirements and adopt the rule or amendment as an emergency rule or amendment. The agency's finding and a ((brief)) concise statement of the reasons for its finding shall be incorporated in the emergency rule or amendment as filed with the office of the code reviser under RCW 34.04.040 and with the rules review committees. An emergency rule or amendment ((shall)) may not remain in effect for longer than ninety days after filing. This section does not relieve any agency from compliance with any law requiring that its permanent rules be approved by designated persons or bodies before they become effective.**

~~((2)) The emergency rule published in the register is solely to inform the public of its adoption, and nothing in this section shall be construed to prevent the implementation of the rule upon its filing with the code reviser in accordance with RCW 34.04.040(2).)~~

\*Sec. 3 was vetoed, see message at end of chapter.

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

**(1) In each house of the legislature there shall be a rules review committee. Each committee shall be bipartisan and shall consist of four members. The members of the senate committee shall be appointed by the majority leader of the senate, and the members of the house committee shall be appointed by the speaker of the house. Not more than two members from each house shall be from the same political party. Each appointment to a committee shall be subject to approval by the caucus to which the appointed member belongs.**

**(2) The initial members of each committee shall be appointed as soon as possible after the effective date of this 1980 act, and shall serve until the next regular session of the legislature convenes. Thereafter members shall be appointed as soon as possible after the legislature convenes in a one hundred five day regular session, and their terms shall extend until the legislature next convenes in a one hundred five day regular session or until such members no longer serve in the legislature, whichever occurs first. Members may be reappointed to a committee.**

**(3) The president of the senate shall appoint the chairperson of the senate committee from among committee membership. The speaker of the house shall appoint the chairperson of the house committee from among committee membership. Such appointments shall be made in January of each year as soon as possible after a legislative session convenes.**

**(4) Vacancies on the committee shall be filled as soon as possible from the same political party as original appointments.**

*(5) Whenever the committees meet jointly pursuant to sections 5 through 7 of this 1980 act, the chairperson of the senate rules review committee shall preside over such joint meetings in odd-numbered years, and the chairperson of the house rules review committee shall preside over such joint meetings in even-numbered years.*

*(6) The committees shall adopt rules governing the conduct of their business, not in conflict with joint rules of the legislature or rules of the house and senate.*

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

***\*NEW SECTION. Sec. 5. There is added to chapter 34.04 RCW a new section to read as follows:***

*Whenever a majority of the members of each review committee, meeting jointly, determine that a proposed rule is not within the intent of the legislature as expressed in the statute which the rule implements, the review committees shall give the affected agency written notice of their decision. The notice shall be given at least seven days prior to any hearing scheduled for consideration of or adoption of the proposed rule pursuant to RCW 34.04.025(1)(a)(iii) as now or hereafter amended. The notice shall include a statement of the review committees' joint findings and the reasons therefor.*

*\*Sec. 5 was vetoed, see message at end of chapter.*

***\*NEW SECTION. Sec. 6. There is added to chapter 34.04 RCW a new section to read as follows:***

*(1) All rules required to be filed pursuant to RCW 34.04.040, and emergency rules adopted pursuant to RCW 34.04.030 as now or hereafter amended, are subject to selective review by the legislature.*

*(2) If each rules review committee finds by a majority vote of its members in a joint meeting: (a) That an existing rule is not within the intent of the legislature as expressed by the statute which the rule implements, or (b) that the rule has not been adopted in accordance with all applicable provisions of law, the agency affected shall be notified of such finding and the reasons therefor. Within thirty days of the receipt of the rules review committees' notice the agency shall file notice of a hearing on the rule in question with the code reviser and mail notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings as provided in RCW 34.04.025, as now or hereafter amended. The agency's notice shall include the rules review committees' findings and reasons therefor, and shall be published in the Washington state register in accordance with the provisions of chapter 34.08 RCW.*

*(3) The agency shall consider fully all written and oral submissions respecting whether the rule in question is within the intent of the legislature as expressed by the statute which the rule implements and whether the rule was adopted in accordance with all applicable provisions of law.*

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

**\*NEW SECTION.** Sec. 7. *There is added to chapter 34.04 RCW a new section to read as follows:*

(1) *Within seven days of an agency hearing held after notification of the agency by the rules review committees pursuant to section 5 or 6 of this 1980 act, the affected agency shall notify the committees of its action regarding a proposed or existing rule to which the committees objected. If the rules review committees determine, by a majority vote of their members in a joint meeting, that the agency has failed to provide for the required hearings or notice of its action to the committees, the committees may file notice of their objections, together with a concise statement of the reasons therefor, with the code reviser within thirty days of such determination.*

(2) *If the rules review committees find, by a majority vote of their members in a joint meeting, that the proposed or existing rule in question has not been modified, amended, withdrawn, or repealed by the agency so as to conform with the intent of the legislature, the rules review committees may, within thirty days from notification by the agency of its action, file with the code reviser notice of their objections together with a concise statement of the reasons therefor. Such notice and statement shall also be provided to the agency by the rules review committees.*

(3) *The code reviser shall publish the rules review committees' notice of objection and statement of the reasons therefor issued pursuant to subsection (1) or (2) of this section in the Washington state register and shall publish in the next supplement and compilation of the Washington Administrative Code a reference to the committees' objection and to the issue of the Washington state register in which the full text thereof appears.*

(4) *Such notice shall be removed from a rule published in the Washington Administrative Code if a subsequent adjudicatory proceeding determines that the rule is within the intent of the legislature or was adopted in accordance with all applicable laws, whichever was the objection of the rules review committees.*

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

**\*NEW SECTION.** Sec. 8. *There is added to chapter 34.04 RCW a new section to read as follows:*

(1) *The committees may recommend to the legislature that the original enabling legislation serving as authority for the promulgation of any rule reviewed by the committees be amended or repealed in such manner as the committees deem advisable.*

(2) *The creation of the rules review committees does not preclude any standing committee of the legislature from conducting studies of agency rules, holding hearings on rules, providing staff assistance to the rules review committees, referring questionable rules to the rules review committees, or making recommendations to the legislature that the original enabling legislation for an agency be amended or repealed.*

*(3) The rules review committees shall report on their activities, including findings and recommendations with respect to rule-making procedures of state agencies and institutions of higher education, thirty days prior to the convening of the regular session of the legislature in 1983.*

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

**\*NEW SECTION. Sec. 9. There is added to chapter 34.04 RCW a new section to read as follows:**

***It is the express policy of the legislature that establishment of procedures for review of administrative rules by the legislature and the notice of non-conformance required by sections 6(2) and 7(2) of this 1980 act in no way serves to establish a presumption as to the legality or constitutionality of a rule in any subsequent judicial proceedings interpreting such rules.***

\*Sec. 9 was vetoed, see message at end of chapter.

Sec. 10. Section 1, chapter 84, Laws of 1977 ex. sess. 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 new or amendatory rule (~~(promulgated)~~) proposed after (~~(September 21, 1977)~~) the effective date of this 1980 act, 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 name of the agency,)~~) the statutory authority for the rule, and any other information which may be of assistance in identifying the rule or its purpose;

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

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

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

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

(f) 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 agency shall have copies of the statement on file and available for public inspection and shall forward three copies each of 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.

NEW SECTION. Sec. 11. There is added to chapter 34.04 RCW a new section to read as follows:

(1) A proposed rule may be withdrawn by the proposing agency at any time before adoption. A withdrawn rule may not be adopted unless it is again proposed in accordance with RCW 34.04.025 as now or hereafter amended.

(2) Rules not adopted within one year after publication of the text as last proposed in the register shall be regarded as withdrawn. An agency may not thereafter adopt the text of the rules without filing the text in accordance with RCW 34.04.025 as now or hereafter amended. The code reviser shall give notice of the withdrawal in the register.

Sec. 12. Section 5, chapter 234, Laws of 1959 as amended by section 9, chapter 240, Laws of 1977 ex. sess. and RCW 34.04.050 are each amended to read as follows:

(1) The code reviser shall, as soon as practicable after the effective date of this chapter, compile and index all rules adopted by each agency and remaining in effect. Compilations shall be supplemented or revised as often as necessary and at least once every two years.

(2) The code reviser shall publish a (~~monthly~~) register in which he shall set forth the text of all rules filed during the (~~preceding month~~) appropriate register publication period, excluding rules in effect upon the adoption of this chapter.

(3) The code reviser may, in his discretion, omit from the register or the compilation, rules, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if such rules are made available in printed or processed form on application to the adopting agency, and if such register or compilation contains a notice stating the general subject matter of the rules so omitted and stating how copies thereof may be obtained.

(4) The code reviser may edit and revise rules for publication, codification, and compilation, without changing the meaning of any such rule, in accordance with the provisions of section 13 of this 1980 act.

(5) When a rule, in whole or in part, is declared invalid and unconstitutional by a court of final appeal, the adopting agency shall give notice to that effect in the register. With the consent of the attorney general, the code reviser may remove obsolete rules or parts of rules from the Washington Administrative Code when:

(a) The rules are declared unconstitutional by a court of final appeal; or  
(b) The adopting agency ceases to exist and the rules are not transferred by statute to a successor agency.

(6) Registers and compilations shall be made available, in written form to state elected officials whose offices are created by Article II or III of the state Constitution or by RCW 48.02.010, upon request, to county boards of



law library trustees, and to the Olympia representatives of the Associated Press and the United Press International without request, free of charge, and to other persons at a price fixed by the code reviser.

~~((5))~~ (7) The board of law library trustees of each county shall keep and maintain a complete and current set of registers and compilations for use and inspection as provided in RCW 27.24.060.

~~((6))~~ (8) Judicial notice shall be taken of rules filed and published as provided in RCW 34.04.040 and this section.

NEW SECTION. Sec. 13. There is added to chapter 34.04 RCW a new section to read as follows:

Subject to such general policies as may be promulgated by the statute law committee and to the general supervision of the committee, the code reviser shall edit and revise agency rules for consolidation into the Washington Administrative Code, to the extent deemed necessary and desirable by the reviser and without changing the meaning of any such rule, in the following respects only:

(1) Make capitalization uniform with that followed generally in the Washington Administrative Code;

(2) Make chapter or section division and subdivision designations uniform with that followed in the Washington Administrative Code;

(3) Rearrange any misplaced material, incorporate any omitted material as well as correct manifest errors in spelling, manifest clerical or typographical errors, or errors by way of additions or omissions;

(4) Correct manifest errors in references, by chapter or section number, to other laws or rules;

(5) Correct manifest errors or omissions in numbering or renumbering sections of the Washington Administrative Code;

(6) Strike provisions manifestly obsolete.

Sec. 14. Section 1, chapter 19, Laws of 1977 and RCW 34.04.058 are each amended to read as follows:

(1) Rules promulgated by an agency pursuant to RCW 34.04.025 or 34.04.030, as now or hereafter amended, which amend existing sections of the administrative code shall have the words which are amendatory to such existing sections underlined. Any matter to be deleted from an existing section shall be indicated by setting such matter forth in full, enclosed by double parentheses, and such deleted matter shall be lined out with hyphens. In the case of a new section, such shall be designated "NEW SECTION" in upper case type and such designation shall be underlined, but the complete text of the section shall not be underlined. No rule ~~((shall))~~ may be forwarded by any agency to the code reviser, nor ~~((shall))~~ may the code reviser accept for filing any rule unless the format of such rule is in compliance with the provisions of this section.

(2) Once the rule has been formally adopted by the agency the code reviser need not, except with regard to the ((~~bulletin~~)) register published pursuant to RCW 34.04.050(2), include the items enumerated in subsection (1) of this section in the official code.

(3) Any addition to or deletion from an existing code section not filed by the agency in the style prescribed by subsection (1) of this section shall in all respects be ineffectual, and shall not be shown in subsequent publications or codifications of that section unless the ineffectual portion of the rule is clearly distinguished and an explanatory note is appended thereto by the code reviser in accordance with RCW 34.04.050, as now or hereafter amended, and section 13 of this 1980 act.

Sec. 15. Section 3, chapter 240, Laws of 1977 ex. sess. and RCW 34.08.020 are each amended to read as follows:

There is hereby created a state publication to be called the Washington State Register, which shall be published on no less than a monthly basis. The register shall contain, but is not limited to, the following materials received by the code reviser's office during the pertinent publication period:

(1) The full text of any proposed new or amendatory rule, as defined in RCW 34.04.010, and the citation of any existing rules the repeal of which is proposed, prior to the public hearing on such proposal. Such material shall be considered, when published, to be the official notification of the intended action, and no state agency or official thereof ((~~shall~~)) may take action on any such rule except on emergency rules adopted in accordance with RCW 34.04.030, until twenty days have passed since the distribution date of the register in which the rule and hearing notice have been published or a notice regarding the omission of the rule has been published pursuant to RCW 34.04.050(3) as now or hereafter amended;

(2) The full text of any new or amendatory rule adopted, and the citation of any existing rule repealed, on a permanent or emergency basis;

(3) Executive orders and emergency declarations of the governor;

(4) Public meeting notices of any and all agencies of state government, including state elected officials whose offices are created by Article III of the state Constitution or RCW 48.02.010; ((~~and~~))

(5) Rules of the state supreme court which have been adopted but not yet published in an official permanent codification; and

(6) Summaries of attorney general opinions and letter opinions, noting the number, date, subject, and other information, and prepared by the attorney general for inclusion in the register.

*\*Sec. 16. Section 2, chapter 57, Laws of 1971 ex. sess. as amended by section 42, chapter 169, Laws of 1977 ex. sess. and RCW 28B.19.020 are each amended to read as follows:*

*The words used in this chapter shall have the meaning given in this section, unless the context clearly indicates otherwise(=).*

**(1) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, the various community colleges, and the governing boards of each of the above, and the various colleges, divisions, departments, or offices authorized by the governing board of the institution involved to act for the institution, all of which are sometimes referred to in this chapter as "institutions." The various state community colleges are sometimes referred to in this chapter as "community colleges."**

**(2) "Rule" means any order, directive, or regulation of any institution of higher education which affects the relationship of the general public with the institution, or the relationship of particular segments of the particular educational community such as students, faculty, or other employees, with the institution or with each other, (a) the violation of which subjects a person to a penalty or administrative sanction, or (b) which establishes, alters, or revokes any procedures, practice, or requirement relating to institutional hearings, or (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law. The term includes the amendment or repeal of a prior rule but does not include rules, regulations, orders, statements, or policies relating primarily to the following: Standards for admission, academic advancement, academic credits, graduation and the granting of degrees, tuition and fees, scholarships, financial aids, and similar academic matters, employment relationships, fiscal processes, or matters concerning only the internal management of an institution and not affecting private rights or procedures available to the general public, and such matters need not be established by rule adopted under this chapter unless otherwise required by law.**

**(3) "Contested case" means a formal or informal proceeding before an institution of higher education, division, department, office, or designated official or representative thereof in which an opportunity for hearing is required by law, constitutional rights, or institutional policy, prior or subsequent to the determination by the institution of the legal rights, duties, or privileges of specific parties.**

**(4) "Rules review committee" or "committee" means either of the administrative rules review committees created pursuant to section 4 of this 1980 act for the purpose of selectively reviewing existing and proposed rules of institutions of higher education.**

\*Sec. 16 was vetoed, see message at end of chapter.

\*Sec. 17. Section 3, chapter 57, Laws of 1971 ex. sess. as amended by section 10, chapter 240, Laws of 1977 ex. sess. 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 committees, 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;

((c)) (d) 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 committees.

(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 refiling the notice required by this section.

((2)) (4) No proceeding ((shall)) 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.

~~((3))~~ (5) No rule adopted under this chapter is valid unless adopted in substantial compliance with this section, ~~((or, if))~~ 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.

~~((4))~~ (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 ~~((2))~~ (4) of this section, the code reviser ~~((shall))~~ may not publish such rule, and such rule ~~((shall))~~ may not be effective for any purpose.

\*Sec. 17 was vetoed, see message at end of chapter.

\*Sec. 18. Section 4, chapter 57, Laws of 1971 ex. sess. as last amended by section 11, chapter 240, Laws of 1977 ex. sess. and RCW 28B.19.040 are each amended to read as follows:

If the institution of higher education finds that immediate adoption or amendment of a rule is necessary for the preservation of the public health, safety, or general welfare, and the observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest, the institution may dispense with such requirements and adopt the rule or amendment as an emergency rule or amendment. The institution's finding and a ~~((brief))~~ concise statement of the reasons for its finding shall accompany the emergency rule or amendment as filed with the code reviser and with the rules review committees. An emergency rule or amendment ~~((shall))~~ may not remain in effect for longer than ninety days after filing.

Emergency rules ~~((shall))~~ become effective upon filing with the code reviser unless an effective date is specified in the rule. ~~((The emergency rule published in the state register is solely to inform the public of its adoption, and nothing in this section shall be construed to prevent the implementation of the rule upon such filing:))~~

\*Sec. 18 was vetoed, see message at end of chapter.

\*NEW SECTION. Sec. 19. There is added to chapter 28B.19 RCW a new section to read as follows:

Whenever a majority of the members of each review committee, meeting jointly, determine that a proposed rule is not within the intent of the legislature as expressed in the statute which the rule implements, the review committees shall give the affected institution written notice of their decision. Such notice shall be given at least seven days prior to any hearing scheduled for consideration of or adoption of the proposed rule pursuant to RCW 28B.19.030(1)(a)(iii) as now or hereafter amended. The notice shall include a statement of the review committees' findings and the reasons therefor.

\*Sec. 19 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 20.** *There is added to chapter 28B.19 RCW a new section to read as follows:*

*(1) All rules required to be filed pursuant to RCW 28B.19.050, and emergency rules adopted pursuant to RCW 28B.19.040 as now or hereafter amended, are subject to selective review by the legislature.*

*(2) If each rules review committee finds by a majority vote of its members in a joint meeting: (a) That an existing rule is not within the intent of the legislature as expressed by the statute which the rule implements, or (b) that the rule has not been adopted in accordance with all applicable provisions of law, the institution affected shall be notified of such finding and the reasons therefor. Within thirty days of the receipt of the rules review committees' notice the institution shall file notice of a hearing on the rule in question with the code reviser and mail notice to all persons who have made timely request of the institution for advance notice of its rule-making proceedings as provided in RCW 28B.19.030 as now or hereafter amended. The institution's notice shall include the rules review committees' findings and reasons therefor, and shall be published in the Washington state register in accordance with the provisions of chapter 34.08 RCW.*

*(3) The institution shall consider fully all written and oral submissions respecting whether the rule in question is within the intent of the legislature as expressed by the statute which the rule implements and whether the rule was adopted in accordance with all applicable provisions of law.*

*\*Sec. 20 was vetoed, see message at end of chapter.*

**\*NEW SECTION. Sec. 21.** *There is added to chapter 28B.19 RCW a new section to read as follows:*

*(1) Within seven days of an institution hearing held after notification of the institution by the rules review committees pursuant to section 19 or 20 of this 1980 act, the affected institution shall notify the committees of its action regarding a proposed or existing rule to which the committees objected. If the rules review committees determine, by a majority vote of their members in a joint meeting, that the institution has failed to provide for the required hearings or notice of its action to the committees, the committees may file notice of their objections, together with a concise statement of the reasons therefor, with the code reviser within thirty days of such determination.*

*(2) If the rules review committees find, by a majority vote of their members in a joint meeting, that the proposed or existing rule in question has not been modified, amended, withdrawn, or repealed by the institution so as to conform with the intent of the legislature, the rules review committees may, within thirty days from notification by the institution of its action, file with the code reviser notice of their objections together with a concise statement of the reasons therefor. Such notice and statement shall also be provided to the institution by the rules review committees.*

*(3) The code reviser shall publish the rules review committees' notice of objection and statement of the reasons therefor issued pursuant to subsection*

*(1) or (2) of this section in the Washington state register and shall publish in the next supplement and compilation of the Washington Administrative Code a reference to the committees' objection and to the issue of the Washington state register in which the full text thereof appears.*

*(4) Such notice shall be removed from a rule published in the Washington Administrative Code if a subsequent adjudicatory proceeding determines that the rule is within the intent of the legislature or was adopted in accordance with all applicable laws, whichever was the objection of the rules review committees.*

\*Sec. 21 was vetoed, see message at end of chapter.

**\*NEW SECTION.** Sec. 22. There is added to chapter 28B.19 RCW a new section to read as follows:

*It is the express policy of the legislature that establishment of procedures for review of administrative rules by the legislature and the notice of non-conformance required by sections 20(2) and 21(2) of this 1980 act in no way serves to establish a presumption as to the legality or constitutionality of a rule in any subsequent judicial proceedings interpreting such rules.*

\*Sec. 22 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 23. There is added to chapter 28B.19 RCW a new section 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 the effective date of this 1980 act, 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) A summary of the rule and a statement of the reasons supporting the proposed action;

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

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

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

(f) 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 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.

NEW SECTION. Sec. 24. There is added to chapter 28B.19 RCW a new section to read as follows:

(1) A proposed rule may be withdrawn by the proposing institution at any time before adoption. A withdrawn rule may not be adopted unless it is again proposed in accordance with RCW 28B.19.030.

(2) Rules not adopted within one year after publication of the text as last proposed in the register shall be regarded as withdrawn. An institution may not thereafter adopt the text of the rules without filing the text in accordance with RCW 28B.19.030 as now or hereafter amended. The code reviser shall give notice of the withdrawal in the register.

Sec. 25. Section 7, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19.070 are each amended to read as follows:

(1) The code reviser shall as soon as practicable compile, index, and publish in the Washington administrative code all rules adopted pursuant to this chapter by each institution of higher education and remaining in effect.

(2) The code reviser shall publish a register in which he shall set forth the text of all rules filed during the appropriate register publication period.

(3) The code reviser, in his discretion, may omit from publication in the Washington administrative code or the state register those rules the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if such rules are made available in printed or processed form on application to the adopting institution of higher education and if the Washington administrative code states the general subject matter of the rules so omitted and states how copies thereof may be obtained.

(4) The code reviser may edit and revise rules for publication, codification, and compilation, without changing the meaning of any such rule, in accordance with the provisions of section 26 of this 1980 act.

(5) When a rule, in whole or in part, is declared invalid and unconstitutional by a court of final appeal, the adopting institution shall give notice to that effect in the register. With the consent of the attorney general, the code reviser may remove obsolete rules or parts of rules from the Washington Administrative Code when:

- (a) The rules are declared unconstitutional by a court of final appeal; or
- (b) The adopting institution ceases to exist and the rules are not transferred by statute to a successor institution.

(6) Judicial notice shall be taken of rules published pursuant to this section.



**NEW SECTION.** Sec. 26. There is added to chapter 28B.19 RCW a new section to read as follows:

Subject to such general policies as may be promulgated by the statute law committee and to the general supervision of the committee, the code reviser shall edit and revise institution rules for consolidation into the Washington Administrative Code, to the extent deemed necessary and desirable by the reviser and without changing the meaning of any such rule, in the following respects only:

(1) Make capitalization uniform with that followed generally in the Washington Administrative Code;

(2) Make chapter or section division and subdivision designations uniform with that followed in the Washington Administrative Code;

(3) Rearrange any misplaced material, incorporate any omitted material as well as correct manifest errors in spelling, manifest clerical or typographical errors, or errors by way of additions or omissions;

(4) Correct manifest errors in references, by chapter or section number, to other laws or rules;

(5) Correct manifest errors or omissions in numbering or renumbering sections of the Washington Administrative Code;

(6) Strike provisions manifestly obsolete.

**NEW SECTION.** Sec. 27. There is added to chapter 28B.19 RCW a new section to read as follows:

(1) Rules promulgated by an institution pursuant to RCW 28B.19.030 or 28B.19.040, as now or hereafter amended, which amend existing sections of the administrative code shall have the words which are amendatory to such existing sections underlined. Any matter to be deleted from an existing section shall be indicated by setting such matter forth in full, enclosed by double parentheses, and such deleted matter shall be lined out with hyphens. In the case of a new section, such shall be designated "NEW SECTION" in upper case type and such designation shall be underlined, but the complete text of the section shall not be underlined. No rule may be forwarded by any institution to the code reviser, nor may the code reviser accept for filing any rule unless the format of such rule is in compliance with the provisions of this section.

(2) Once the rule has been formally adopted by the institution the code reviser need not, except with regard to the register published pursuant to RCW 28B.19.070(2), as now or hereafter amended, include the items enumerated in subsection (1) of this section in the official code.

(3) Any addition to or deletion from an existing code section not filed by the institution in the style prescribed by subsection (1) of this section shall in all respects be ineffectual, and shall not be shown in subsequent publications or codifications of that section unless the ineffectual portion of the rule is clearly distinguished and an explanatory note is appended thereto by the

code reviser in accordance with RCW 28B.19.070, as now or hereafter amended, and section 26 of this 1980 act.

NEW SECTION. Sec. 28. Section 1, chapter 186, Laws of 1963 and RCW 34.04.160 are each hereby repealed.

NEW SECTION. Sec. 29. If any provision of this 1980 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 11, 1980.

Passed the House February 18, 1980.

Approved by the Governor April 4, 1980, with the exception of Sections 1 through 9 and 16 through 22, which are vetoed.

Filed in Office of Secretary of State April 4, 1980.

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

"I am returning herewith without my approval as to several sections Senate Bill No. 3240 entitled:

"AN ACT Relating to state government".

The sections of this bill that establish legislative rules review committees and the procedures for that review are not necessary. All aspects of sections one through nine and 16 through 22, with the exception of publishing the notice of legislative dissent, can be accomplished within existing statutory authority and present administrative procedures.

With the exception of sections one through nine and 16 through 22 which I have vetoed, the remainder of Senate Bill No. 3240 is approved."