

**INITIATIVE 272**

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 272 to the Legislature is a true and correct copy as it was received by this office.

1 AN ACT Relating to requiring that only elected representatives, not  
2 unelected bureaucrats, shall have the power to impose rules on the  
3 people; requiring publicly elected representatives to either  
4 reauthorize or invalidate existing rules imposed on the people by  
5 unelected bureaucrats; and limiting the duration of emergency rules  
6 adopted by state agencies to a maximum of one year unless reauthorized  
7 by the legislature; amending RCW 34.05.350 and 34.05.380; adding new  
8 sections to chapter 34.05 RCW; and creating new sections.

9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

10 **I. REQUIRING THAT ONLY PUBLICLY ELECTED REPRESENTATIVES, NOT**  
11 **UNELECTED BUREAUCRATS, SHALL HAVE THE POWER TO IMPOSE**  
12 **RULES ON THE PEOPLE**

13 NEW SECTION. **Sec. 1.** A new section is added to chapter 34.05 RCW  
14 to read as follows:

15 The intent of this initiative is to enforce the constitutional  
16 principle of Article II of the state Constitution that the legislative  
17 power is vested only in the Washington legislature and the people  
18 through the initiative and referendum power. Publicly elected

1 representatives and the people are responsible for making all laws.  
2 Unelected bureaucrats on state agencies, boards, and commissions should  
3 not have the power to impose rules on the people. Accordingly, only  
4 those rules which are approved by elected representatives and the  
5 people may have long-term force and effect. Emergency rules as  
6 necessary for the preservation of the public health or safety may be  
7 temporarily adopted but shall expire at the end of the following  
8 legislative session if not approved by the legislature.

9 **II. REQUIRING PUBLICLY ELECTED OFFICIALS TO EITHER REAUTHORIZE**  
10 **OR INVALIDATE RULES IMPOSED ON THE PEOPLE BY UNELECTED BUREAUCRATS**

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 34.05 RCW  
12 to read as follows:

13 (1) All rules of state agencies existing on the effective date of  
14 this act shall be reviewed in the following four sessions of the  
15 Washington legislature pursuant to the schedule set forth in this  
16 section. If not enacted by the legislature as a bill after such  
17 review, every such rule shall be void and of no effect as of thirty  
18 days after the legislative session in which review is provided.  
19 Agencies shall review all their rules and repeal those that are  
20 unnecessary without offering them for review by the legislature. Rules  
21 not offered for review by the legislature by the schedule provided in  
22 this subsection are void as of thirty days after the legislative  
23 session by which review was scheduled in (a) through (d) of this  
24 subsection.

25 (a) Chapters 1 through 178 of the Washington Administrative Code  
26 shall be reviewed by the legislature by the 2004 legislative session,  
27 if offered for review by the agency which originally adopted such  
28 rules.

29 (b) Chapters 180 through 296 of the Washington Administrative Code  
30 shall be reviewed by the legislature by the 2005 legislative session,  
31 if offered for review by the agency which originally adopted such  
32 rules.

33 (c) Chapters 300 through 374 of the Washington Administrative Code  
34 shall be reviewed by the legislature by the 2006 legislative session,  
35 if offered for review by the agency which originally adopted such  
36 rules.

1 (d) Chapters 375 through the end of the Washington Administrative  
2 Code shall be reviewed by the legislature by the 2007 legislative  
3 session, if offered for review by the agency which originally adopted  
4 such rules.

5 (2) The people declare that state agencies may fail to deliver  
6 services as effectively and efficiently as is expected by the general  
7 public and as originally contemplated by the legislature. The people  
8 further find that state government actions have produced a substantial  
9 increase in numbers of agencies, growth of programs, and proliferation  
10 of rules, and that the entire process has evolved without sufficient  
11 legislative and executive oversight, regulatory accountability, or a  
12 system of checks and balances. The people further find that by  
13 establishing a system for the termination, continuation, or  
14 modification of state agencies, coupled with a system of scheduled  
15 review of such agencies, it will be in a better position to evaluate  
16 the need for the continued existence of existing and future state  
17 agencies. The people recognize that the executive branch shares in  
18 this duty and responsibility to assure that state government operates  
19 in an efficient, orderly, and responsive manner. Therefore, during the  
20 same legislative session at which an agency's rules are reviewed as  
21 provided in subsection (1) of this section, the legislature shall also  
22 review whether continuation of the agency's existence is in the public  
23 interest.

24 (3) To further the purposes underlying Article II, section 19 of  
25 the Washington Constitution, no bill enacted under this section shall  
26 contain more than one chapter of the Washington Administrative Code.

27 (4) The legislature may approve rules offered under this section  
28 either in whole or in part.

29 (5) By receiving legislative approval under this section, the rule  
30 becomes law and is subject to the referendum provisions of Article II,  
31 section 1 of the Washington Constitution.

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

34 In addition to other rule-making requirements imposed by law, every  
35 rule adopted pursuant to this chapter and/or pursuant to any other  
36 rule-making authority of any state agency shall cease to be effective  
37 after the thirtieth day following the adjournment of the next session

1 of the legislature, unless the rule is approved through legislation  
2 enacted by the legislature.

3           **III.   LIMITING THE DURATION OF EMERGENCY RULES ADOPTED BY STATE**  
4                   **AGENCIES TO A MAXIMUM OF ONE YEAR UNLESS REAUTHORIZED**  
5                                   **BY THE LEGISLATURE**

6           **Sec. 4.** RCW 34.05.350 and 1994 c 249 s 3 are each amended to read  
7 as follows:

8           (1) If an agency for good cause finds:

9           (a) That immediate adoption, amendment, or repeal of a rule is  
10 necessary for the preservation of the public health, safety, or general  
11 welfare, and that observing the time requirements of notice and  
12 opportunity to comment upon adoption of a permanent rule would be  
13 contrary to the public interest; or

14           (b) That state or federal law or federal rule or a federal deadline  
15 for state receipt of federal funds requires immediate adoption of a  
16 rule,

17 the agency may dispense with those requirements and adopt, amend, or  
18 repeal the rule on an emergency basis. The agency's finding and a  
19 concise statement of the reasons for its finding shall be incorporated  
20 in the order for adoption of the emergency rule or amendment filed with  
21 the office of the code reviser under RCW 34.05.380 and with the rules  
22 review committee.

23           (2) An emergency rule adopted under this section takes effect upon  
24 filing with the code reviser, unless a later date is specified in the  
25 order of adoption, and may not remain in effect for longer than one  
26 hundred twenty days after filing, or thirty days after the end of the  
27 next session of the legislature following its adoption, whichever is  
28 earlier. Identical or substantially similar emergency rules may not be  
29 adopted in sequence unless conditions have changed or the agency has  
30 filed notice of its intent to adopt the rule as a permanent rule, and  
31 is actively undertaking the appropriate procedures to adopt the rule as  
32 a permanent rule. This section does not relieve any agency from  
33 compliance with any law requiring that its permanent rules be approved  
34 by designated persons or bodies before they become effective.

35           (3) Within seven days after the rule is adopted, any person may  
36 petition the governor requesting the immediate repeal of a rule adopted  
37 on an emergency basis by any department listed in RCW 43.17.010.

1 Within seven days after submission of the petition, the governor shall  
2 either deny the petition in writing, stating his or her reasons for the  
3 denial, or order the immediate repeal of the rule. In ruling on the  
4 petition, the governor shall consider only whether the conditions in  
5 subsection (1) of this section were met such that adoption of the rule  
6 on an emergency basis was necessary. If the governor orders the repeal  
7 of the emergency rule, any sanction imposed or agency decision based on  
8 that rule is void. This subsection shall not be construed to prohibit  
9 adoption of any rule as a permanent rule.

10 (4) In adopting an emergency rule, the agency shall (~~comply with~~  
11 ~~section 4 of this act or~~) provide a written explanation for its  
12 failure to do so.

13 **Sec. 5.** RCW 34.05.380 and 1989 c 175 s 11 are each amended to read  
14 as follows:

15 (1) Each agency shall file in the office of the code reviser a  
16 certified copy of all rules it adopts, except for rules contained in  
17 tariffs filed with or published by the Washington utilities and  
18 transportation commission. The code reviser shall place upon each rule  
19 a notation of the time and date of filing and shall keep a permanent  
20 register of filed rules open to public inspection. In filing a rule,  
21 each agency shall use the standard form prescribed for this purpose by  
22 the code reviser.

23 (2) Emergency rules adopted under RCW 34.05.350 become effective  
24 upon filing unless a later date is specified in the order of adoption.  
25 All other rules become effective upon the expiration of (~~thirty days~~  
26 ~~after the date of filing, unless a later date is required by statute or~~  
27 ~~specified in the order of adoption~~) ninety days after approval of the  
28 legislature under section 2 of this act or RCW 34.05.350.

29 (3) A rule may become effective immediately upon its filing with  
30 the code reviser or on any subsequent date earlier than that  
31 established by subsection (2) of this section, if the agency  
32 establishes that effective date in the adopting order and finds that:

33 (a) Such action is required by the state or federal Constitution,  
34 a statute, or court order;

35 (b) The rule only delays the effective date of another rule that is  
36 not yet effective; or

37 (c) The earlier effective date is necessary because of imminent  
38 peril to the public health, safety, or welfare.

1       The finding and a brief statement of the reasons therefor required  
2 by this subsection shall be made a part of the order adopting the rule.

3       (4) With respect to a rule made effective pursuant to subsection  
4 (3) of this section, each agency shall make reasonable efforts to make  
5 the effective date known to persons who may be affected by it.

6       NEW SECTION.   **Sec. 6.**   The provisions of this act are to be  
7 liberally construed to effectuate the policies and purposes of this  
8 act.

9       NEW SECTION.   **Sec. 7.**   Part headings used in this act are not any  
10 part of the law.

11       NEW SECTION.   **Sec. 8.**   If any provision of this act or its  
12 application to any person or circumstance is held invalid, the  
13 remainder of the act or the application of the provision to other  
14 persons or circumstances is not affected.

15       NEW SECTION.   **Sec. 9.**   This act may be known and cited as the  
16 lawmakers' accountability act.

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