

House Bill 2249

Sponsored by Representative BOSHART DAVIS (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Expands definition of "rule" for purposes of Administrative Procedures Act.

A BILL FOR AN ACT

1 Relating to administrative rules; amending ORS 183.310.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1.** ORS 183.310 is amended to read:

4 183.310. As used in this chapter:

5 (1) "Agency" means any state board, commission, department, or division thereof, or officer au-
6 thorized by law to make rules or to issue orders, except those in the legislative and judicial
7 branches.
8

9 (2)(a) "Contested case" means a proceeding before an agency:

10 (A) In which the individual legal rights, duties or privileges of specific parties are required by
11 statute or Constitution to be determined only after an agency hearing at which such specific parties
12 are entitled to appear and be heard;

13 (B) Where the agency has discretion to suspend or revoke a right or privilege of a person;

14 (C) For the suspension, revocation or refusal to renew or issue a license where the licensee or
15 applicant for a license demands such hearing; or

16 (D) Where the agency by rule or order provides for hearings substantially of the character re-
17 quired by ORS 183.415, 183.417, 183.425, 183.450, 183.460 and 183.470.

18 (b) "Contested case" does not include proceedings in which an agency decision rests solely on
19 the result of a test.

20 (3) "Economic effect" means the economic impact on affected businesses by and the costs of
21 compliance, if any, with a rule for businesses, including but not limited to the costs of equipment,
22 supplies, labor and administration.

23 (4) "Hearing officer" includes an administrative law judge.

24 (5) "License" includes the whole or part of any agency permit, certificate, approval, registration
25 or similar form of permission required by law to pursue any commercial activity, trade, occupation
26 or profession.

27 (6)(a) "Order" means any agency action expressed orally or in writing directed to a named per-
28 son or named persons, other than employees, officers or members of an agency. "Order" includes
29 any agency determination or decision issued in connection with a contested case proceeding.
30 "Order" includes:

31 (A) Agency action under ORS chapter 657 making determination for purposes of unemployment
32 compensation of employees of the state;

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 (B) Agency action under ORS chapter 240 which grants, denies, modifies, suspends or revokes
 2 any right or privilege of an employee of the state; and

3 (C) Agency action under ORS 468B.050 to issue a permit.

4 (b) “Final order” means final agency action expressed in writing. “Final order” does not include
 5 any tentative or preliminary agency declaration or statement that:

6 (A) Precedes final agency action; or

7 (B) Does not preclude further agency consideration of the subject matter of the statement or
 8 declaration.

9 (7) “Party” means:

10 (a) Each person or agency entitled as of right to a hearing before the agency;

11 (b) Each person or agency named by the agency to be a party; or

12 (c) Any person requesting to participate before the agency as a party or in a limited party status
 13 which the agency determines either has an interest in the outcome of the agency’s proceeding or
 14 represents a public interest in such result. The agency’s determination is subject to judicial review
 15 in the manner provided by ORS 183.482 after the agency has issued its final order in the pro-
 16 ceedings.

17 (8) “Person” means any individual, partnership, corporation, association, governmental subdivi-
 18 sion or public or private organization of any character other than an agency.

19 (9)(a) “Rule” means any agency directive, standard, regulation or statement of general applica-
 20 bility that implements, interprets or prescribes law or policy, or describes the procedure or practice
 21 requirements of any agency. *[The term includes the amendment or repeal of a prior rule, but does not*
 22 *include:]*

23 (b) “Rule” includes:

24 (A) The amendment or repeal of a prior rule.

25 (B) Agency guidance that substantially affects the interests of the public, will result in
 26 a significant economic impact to a person or business or alters a past agency practice.

27 (c) “Rule” does not include:

28 *[(a) Unless a hearing is required by statute, internal management directives, regulations or state-*
 29 *ments which do not substantially affect the interests of the public:]*

30 *[(A) Between agencies, or their officers or their employees; or]*

31 *[(B) Within an agency, between its officers or between employees.]*

32 *[(b) Action by agencies directed to other agencies or other units of government which do not sub-*
 33 *stantially affect the interests of the public.]*

34 *[(c)] (A) Declaratory rulings issued pursuant to ORS 183.410 or 305.105.*

35 *[(d) Intra-agency memoranda.]*

36 *[(e)] (B) Executive orders of the Governor.*

37 *[(f)] (C) Rules of conduct for persons committed to the physical and legal custody of the De-*
 38 *partment of Corrections, the violation of which will not result in:*

39 *[(A)] (i) Placement in segregation or isolation status in excess of seven days.*

40 *[(B)] (ii) Institutional transfer or other transfer to secure confinement status for disciplinary*
 41 *reasons.*

42 *[(C)] (iii) Disciplinary procedures adopted pursuant to ORS 421.180.*

43 (10)(a) “Small business” means a corporation, partnership, sole proprietorship or other legal
 44 entity formed for the purpose of making a profit, which is independently owned and operated from
 45 all other businesses and which has 50 or fewer employees.

1 (b) "Small business" does not include a coordinated care organization as defined in ORS 414.025.

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