

[Service Date March 17, 2006]

March 17, 2006

**NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS ON  
PREPROPOSAL STATEMENT OF INQUIRY (CR-101) AND DISCUSSION DRAFT  
(By Monday, April 24, 2006)**

RE: Rulemaking to Consider Rules Implementing SHB 2426, 2006 Session, Relating to  
Delegation of Certain Commission Decisions  
Docket No. A-060357

TO INTERESTED PERSONS:

On March 15, 2006, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to consider the development of rules to implement SHB 2426. The Washington State legislature enacted the law on March 3, 2006 to become effective in June, 2006.

The changes to the law allow the Commission to delegate routine decisions, while maintaining oversight by the commissioners. The Commission requested these changes so that it can respond to routine requests more quickly and make better use of the commissioners' time. In implementing the delegation provision, the Commission is looking in particular at the types of decisions now included on the consent portion of the open meeting agenda as potential candidates for delegation. However, it recognizes that not every decision that was made using the consent agenda should be delegated.

Provisions for which rules may be necessary or appropriate include (1) determination of a process by which interested persons may receive notice of matters that may be delegated; (2) determining whether to designate any specific decisions for delegation, and if so, whether by rule or by order; and (3) identifying a process by which probable cause determinations of administrative law judges are made.

**You may read the session law at <<http://www.leg.wa.gov/pub/billinfo/2005-06/Pdf/Bills/House%20Passed%20Legislature/2426-S.PL.pdf>>.**

The CR-101, as filed with the Code Reviser, is available for inspection on the Commission's web site at [www.wutc.wa.gov/060357](http://www.wutc.wa.gov/060357). If you are unable to access the Commission's web page and would like a copy of the CR-101 mailed to you, please contact the Records Center at (360) 664-1234.

## WRITTEN COMMENTS AND WORKSHOP

Written comments addressing the discussion draft must be filed with the Commission no later than **Monday, April 24, 2006**, to ensure consideration at the **Thursday, May 11, 2006 workshop**.

The Commission will convene a workshop on **Thursday, May 11, 2006, beginning at 9:30 a.m., in Room 206, 1300 S. Evergreen Park Drive S.W., Olympia, Washington**. If you cannot attend the workshop, you can arrange to dial into the Commission's conference bridge at (360) 664-3846. You may reserve a line by calling Kippi Walker at (360) 664-1139.

**Topics to address:** While you may address any aspect of potential rules to implement the law, the Commission is particularly interested in comments addressing the following aspects of the statute:

- **Matters amendable to delegation.** Given the Commission's intention to use delegation only for noncontroversial matters equivalent to items presently on the open meeting consent agenda,
  - How may such matters be defined?
  - Which categories of decisions could be delegated?
  - Should delegated matters be defined by rule or order? If some categories are amenable to one or the other, which ones?
  - Should a rule define the process for entering an order defining a matter as subject to delegation?

- **Process for providing notice.** The Commission must promulgate rules identifying a process for providing notice of decisions to ensure that interested persons have an appropriate opportunity to receive a Commission rather than a delegated decision.
  - Should the rule clearly provide that matters contested by the parties will not be delegated? How should “contest” be defined in that context?
  - How may matters subject to delegation, once classified (see above) be identified for parties’ review on the question of delegation? Is the Commission’s list of received filings sufficient? What other means of providing notice will be effective and appropriate?
  - The law permits the Commission to provide a decision without delegation, or to review decisions that have been delegated. How should the notice process be determined for different categories of decisions? How can notice and opportunity for review be provided while continuing to make timely decisions?
  
- **Process for probable cause determinations.** The statute empowers administrative law judges to make determinations of probable cause and issue complaints in the name of the Commission.
  - Should a rule be adopted to identify the process for making such decisions, or is it an internal matter that may be determined without a rule?
  - What record of review and decision should be required for probable cause decisions?
  - Should the process differ between determinations of probable cause to issue a complaint and determinations for penalty assessments?

Please file written comments with the Commission no later than **Monday, April 24, 2006**, for consideration at the **Thursday, May 11, 2006, stakeholder workshop**.

**Electronic filing.** Please send us your comments electronically. **You do not need to send paper copies.**

- If possible, please send comments via the Commission's web portal [www.wutc.wa.gov/e-filing](http://www.wutc.wa.gov/e-filing).
- If you aren't able to use the web portal, you may send comments by electronic mail to the Commission's Records Center at [records@wutc.wa.gov](mailto:records@wutc.wa.gov).
- You may mail or deliver an electronic copy to the address above, on a 3 ½ inch, IBM-formatted, high-density disk. Please use Word 97 or later and, if convenient, .pdf (Adobe Acrobat) format.
- The Commission will always accept a paper document. Send or deliver it to the address shown below.

Please include this information with your comments:

- The docket number of this proceeding (**A-060357**)
- Your name and contact information, so we can respond to you and attribute your comments, and
- The title and date of the comment or comments

We will post comments on the Commission's web site along with other information about the rulemaking, including schedule information and discussion drafts. The web site is located at <http://www.wutc.wa.gov/060357>.

We also expect to invite additional comments later in the rulemaking. We will use the contact information you provide with your comments to send you a notice of the opportunity to comment. If you don't submit comments, you may watch the web site for schedule information, and if you ask, we will put you on a list to receive docket information. Please look to the notice box below to see how to get further notices and information.

You may also ask questions about this docket by contacting Bob Wallis at (360) 664-1142 or [bwallis@wutc.wa.gov](mailto:bwallis@wutc.wa.gov).

The Commission's mailing address is:

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Sincerely,

CAROLE J. WASHBURN  
Executive Secretary