
State Government & Tribal Affairs
Committee

HB 2810

Brief Description: Establishing a legislative rule-making accountability committee.

Sponsors: Representatives Ericksen, Ross, Haler, Taylor, Short, Angel, Pearson, Smith and Johnson.

Brief Summary of Bill

- Establishes a rule-making accountability committee to review any proposed rule in which 200 or more letters of protest regarding the rule are received.

Hearing Date: 1/26/10

Staff: Marsha Reilly (786-7135).

Background:

Administrative Procedure Act.

State agencies adopt rules to implement legislation. Most rules must be adopted pursuant to the provisions of the Administrative Procedures Act. In most cases, an agency must obtain input from the public and must conduct hearings before adopting rules. In some instances, an agency may adopt emergency rules without following the regular rule making procedures; such rules may not take effect for more than 120 days. In other instances, the agency must follow the more complicated process for significant legislative rules.

Joint Administrative Rules Review Committee.

In 1981 the Legislature created the Joint Administrative Rules Review Committee (JARRC). The committee consists of eight members, four from the House and four from the Senate. The purpose of the committee is to exercise legislative oversight over executive agency rulemaking. The JARRC exercises this oversight in three ways:

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- by ensuring that proposed and existing rules are within the intent of the Legislature;
- by ensuring that proposed and existing agency rules are adopted in accordance with all applicable provisions of law; and
- by ensuring that agencies do not use policy or interpretive statements in place of rules.

The JARRC review of agency rules is purely selective. If the JARRC makes an adverse finding regarding an agency rule, it must notify the affected agency of its findings. The agency must then schedule a hearing within 30 days (however, there is no requirement as to when the hearing must be held). Within seven days of the hearing, the agency must notify the JARRC of its intended actions.

If the JARRC finds that the agency response does not address its concerns, it may, within 30 days of the agency's notification, file notice of its objections with the Code Reviser to be published in the State Register. The committee may also recommend to the Governor that the rule be suspended or recommend to the Legislature that the rule's enacting legislation be amended or repealed.

Adverse JARRC findings do not create presumptions in judicial proceedings interpreting agency rules. If a person challenges an agency action, including the adoption of rules, the burden of demonstrating the invalidity of the agency action is on the person making the challenge.

Summary of Bill:

A rule-making accountability committee is established and is composed of five members from each of the two largest caucuses in the House of Representatives, selected by the Speaker of the House of Representatives, and five members from each of the two largest caucuses in the Senate, selected by the President of the Senate. The committee shall meet monthly, unless there are no proposed rules in dispute.

If an agency receives 200 or more letters of protest regarding a proposed rule, the rule may not be adopted until it has been reviewed by the rule-making accountability committee. If 15 members of the committee vote in favor of the proposed rule, it may be implemented or adopted. Otherwise, it shall be presented to the Legislature in the next Legislative session for a vote. Until the Legislature votes on the proposed rule, it shall remain suspended or on hold. If the Legislature takes no action, the proposed rule may not be implemented or adopted.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.