

HOUSE BILL REPORT

ESB 6702

As Passed House:

February 23, 1996

Title: An act relating to clarifying and streamlining procedures of the joint administrative rules review committee.

Brief Description: Clarifying and streamlining of the joint administrative rules review committee.

Sponsors: Senators Fraser, McCaslin, Sheldon, West, Winsley and Hale.

Brief History:

Committee Activity:

Government Operations: 2/20/96 [DP].

Floor Activity:

Passed House: 2/23/96, 76-15.

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: Do pass. Signed by 15 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Goldsmith, Vice Chairman; Rust, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Conway; R. Fisher; Hargrove; Honeyford; Hymes; Mulliken; Scheurman; D. Schmidt; Van Luven and Wolfe.

Staff: Charlie Murphy (786-7135).

Background: The regulatory reform legislation in 1994 and 1995 contained provisions which enhanced legislative oversight of state agency rule-making through the Joint Administrative Rules Review Committee (JARRC).

Provisions were added to allow any person to petition an agency to adopt, amend, or repeal a rule. An appeal to the Governor was authorized if the agency denied the request; however, no express avenue of appeal to JARRC was referenced.

It has been difficult to schedule JARRC meetings and to have a quorum in attendance.

JARRC was also given review authority over an agency's use of policy statements, guidelines, and issuances of general applicability. Agency hearing and publication

requirements were specified if JARRC made findings that the legislative intent or rule adoption requirements were not followed or that the agency was using a policy statement, guideline, or issuance in place of a rule.

Authority for JARRC to receive petitions from any person requesting a review of a rule was granted. Requirements for a JARRC quorum of five members was specified with authority for a majority of the quorum being allowed to render any decision except the suspension of a rule. Legislative policy before ESHB 1010 (regulatory reform of 1995) declared that JARRC's review of agency rules and formal objection notice filed under law carried no presumption of the legality or constitutionality of the rule in any later judicial proceedings interpreting the rule.

Summary of Bill: An appeal avenue to JARRC is provided when an agency denies a person's petition to repeal or amend a rule under certain situations. The appointing authorities may designate alternate members from each caucus of each house to serve on JARRC. Certain clarifying provisions are included, as well as a narrowed focus on agency policy and interpretive statements for JARRC's selective review. The basis for a person's petition to JARRC for review is enlarged to include a proposed rule in addition to a policy or interpretive statement. Before an individual can submit a petition to JARRC for review, the agency must have denied the request to amend or repeal the rule.

The provision allowing the majority of a quorum present to conduct business is repealed.

A JARRC recommendation to suspend a rule results in a rebuttable presumption that the rule is invalid in proceedings challenging the rule. The adopting agency has the burden of demonstrating the rule's validity.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: ESHB 1010, regulatory reform of 1995, delineated new duties for JARRC. This bill contains streamlining provisions for the processes involved and will allow JARRC to meet the increased workload.

Testimony Against: None.

Testified: Senator Karen Fraser, prime sponsor.