

~~Government Reform and Land~~ Use Committee

BILL ANALYSIS SSB 6575

Title of the Bill: Extending the powers of JARRC.

What this Bill Does: Allows JARRC to review guidelines and documents of general applicability, in addition to policy and interpretive statements, to determine whether a guideline or document is being used as a rule.

Sponsors: Senators Hale, T. Sheldon, McCaslin, Snyder, Horn, McDonald, Sellar, Newhouse, Schow, Strannigan, Benton, Zarelli, Stevens, Roach, Heavey and Oke.

Hearing Date: 2/18/98

Fiscal Note: Not requested.

Analysis Prepared By: Joan Elgee, 786-7135

BACKGROUND:

The Administrative Procedure Act details procedures agencies must follow when adopting rules. Generally, a "rule" is any agency order, directive, or regulation of generally applicability which:

- (a) Subjects a person to a sanction if violated; or
- (b) Establishes or changes any procedure or qualification relating to:
 - Agency hearings, benefits or privileges conferred by law;
 - Licenses to pursue any commercial activity, trade, or profession; or
 - Standards for the sale or distribution of products or materials.

The rule-making procedures include publishing notice of the proposed rule in the state register, sending a copy of the notice to a person requesting it, and holding a hearing. A rule is invalid if not adopted in accordance with statutory rule-making procedures.

In addition to rules, agencies issue other types of documents. A policy statement states an agency's current approach to the implementation of a statute and an interpretive statement states an agency's interpretation of the meaning of a statute. By definition, a policy statement must be titled "policy statement", and an interpretive statement must be titled "interpretive statement". Unlike rules, interpretive and policy statements are advisory only.

The Joint Administrative Rules Review Committee (JARRC) selectively reviews rules to determine whether a rule is within the intent of the legislature and whether it has been adopted in accordance with all applicable provisions of law. JARRC may also review policy and interpretive statements to determine whether an agency is using a policy or interpretive statement in place of a rule.

If JARRC finds that an agency is using a policy or interpretive statement in place of a rule, the agency must hold a hearing on JARRC's finding and report back to JARRC on its intended action. If JARRC find that the agency will not replace the policy or interpretive statement with a rule, JARRC may file notice with the code reviser.

A person may also petition JARRC to review a policy or interpretive statement.

SUMMARY:

In addition to reviewing policy and interpretive statements, JARRC may review guidelines and documents of general applicability, or their equivalents, to determine whether the agency is using them as rules not adopted in accordance with all applicable provisions of law.

JARRC may advise the Governor if an agency refuses to replace a statement, guideline, or document with a rule, after finding that the agency is using the statement, guideline, or document as a rule.

A person may petition JARRC to review a guideline, document of general applicability, or its equivalent, in addition to review of policy and interpretive statements. A petition may only be filed for the purpose of requesting JARRC to determine whether the statement, guideline, or document is being used as a rule not adopted in accordance with all applicable provisions of law.