

VETO MESSAGE ON SB 6702

March 30, 1996

To the Honorable President and Members,  
The Senate of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to section 8, Engrossed Senate Bill No. 6702 entitled:

"AN ACT Relating to clarifying and streamlining procedures of the joint administrative rules review committee;"

The Joint Administrative Rules Review Committee (JARRC) plays an important role in providing a bipartisan forum for selective review of agency rules. This legislation clarifies a number of JARRC's procedures. I commend the members of the legislature for their continuing hard work.

However, section 8 of Engrossed Senate Bill No. 6702 includes language that I have vetoed from two other bills in prior legislative sessions. This section would give JARRC the ability, by a simple majority vote of committee members, to establish a rebuttable presumption in judicial proceedings that a rule does not comply with the legislature's intent. The burden of proof to establish that a rule was within legislative intent would be shifted to the state agency rather than placed on the individual bringing the challenge. This would mean that five legislators out of a total of 147 could determine legislative intent. These five individual legislators would have this ability regardless of their participation in the policy committees that developed the underlying legislation upon which the rule is based.

I have serious concerns about the constitutionality of this kind of authority. Article II, section 22 and Article III, section 12 of the state constitution require that legislative acts be passed by a majority of the members elected to each house of the legislature, with presentment to the governor for approval. This section violates these provisions. Moreover, section 8 of Engrossed Senate Bill No. 6702 violates the separation of powers doctrine in that it intrudes unduly into those constitutional powers reserved for the executive and judicial branches of government.

For these reasons, I have vetoed section 8 of Engrossed Senate Bill No. 6702.

With the exception of section 8, Engrossed Senate Bill No. 6702 is approved.

Respectfully submitted,  
Mike Lowry  
Governor