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## Governance Reform and Land Use Committee

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### BILL ANALYSIS HJR 4214

**What this Resolution Does:** Allows legislative veto of agency rules.

**Sponsors:** Representatives Lambert, Carrell, McCune, Zellinsky, Mulliken, D. Sommers, Schoesler and Thompson.

**Hearing Date:** 1/28/98

**Fiscal Note:** Not requested.

**Analysis Prepared By:** Joan Elgee, 786-7135

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#### BACKGROUND:

Many state agencies have authority to adopt rules to implement their statutory mandates. The Joint Administrative Rules Review Committee (JARRC), a statutory legislative committee, provides the legislature's oversight of agency rule-making. JARRC selectively reviews agency rules and policy and interpretive statements. JARRC may examine whether the rules and statements were adopted in compliance with required procedures and whether they are within the intent of the legislature.

A process is established in statute for JARRC to make findings, and for the agency to respond. Ultimately, JARRC may recommend that the Governor suspend a rule. JARRC has no authority to require the agency to take any action. A JARRC finding expressly does not establish a presumption as to the legality or constitutionality of a rule in any subsequent judicial proceeding. Several times, the Governor has vetoed legislation stating that a suspension recommendation by JARRC creates a rebuttable presumption that a rule is invalid.

Congress and a number of states have attempted to create legislative veto— authority in which the legislative branch is allowed to overrule agency action. In 1983, the United States Supreme Court invalidated the Congressional legislative veto. The court found that permitting one House of Congress to veto agency action violated the bicameral (majority vote in both houses) and presentment (bills must be presented to the President) requirements in the United States Constitution. The Washington State Constitution contains similar provisions

providing that no bill may become a law unless a majority of each house votes in favor (Art. 2, Sec. 22) and that every act passed by the legislature must be presented to the governor before it becomes law. (Art. 3. Sec. 12).

## **SUMMARY:**

At the next general election, an amendment to the Washington State Constitution will be submitted to the people for their approval or rejection.

The amendment will allow the legislature to invalidate an agency rule if it finds that the rule is inconsistent with legislative intent or in excess of the agency's authority. A veto resolution requires a majority vote of each house and becomes effective 90 days after adjournment. Veto resolutions are not subject to the presentment requirements of the state constitution. The authority to invalidate rules does not apply to quasi-judicial actions or internal management rules.

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