

State Government Committee

HB 1969

Brief Description: *Expanding legislative oversight of agency rules.*

Sponsors: *Representatives Lambert, Boldt, Dunn and Mulliken.*

Brief Summary of Bill

- *Adds the Lieutenant Governor to the Joint Administrative Rules Review Committee (JARRC).*
- *Requires an agency to conduct a hearing on an adverse JARRC finding within 90 days.*
- *Increases the time within which the JARRC may respond to the agency's response to 120 days.*
- *Provides that an adverse JARRC finding creates a rebuttable presumption that a rule is invalid and shifts the burden of proof in a court action.*

Hearing Date: *2/19/01*

Staff: *Jim Morishima (786-7191).*

Background:

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:

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

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Governor that the rule be suspended or recommend to the Legislature that the rule's enacting legislation be amended or repealed.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.

Summary of Bill:

The Lieutenant Governor is added to the JARRC. The Lieutenant Governor is a non-voting member of the committee except to break ties.

Agency hearings must be conducted within 90 days of an adverse JARRC finding, and the period within which the JARRC must respond to the agency's response is increased from 30 to 120 days.

An adverse JARRC finding on a rule shifts the burden of proof in an action questioning the validity of the rule from the person making the challenge to the agency. An adverse JARRC finding also establishes a rebuttable presumption that the rule is invalid.

Rulemaking Authority: *No express authority.*

Appropriation: *None.*

Fiscal Note: *Not Requested.*

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