

# SENATE BILL REPORT

## SB 5274

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As Reported by Senate Committee On:  
Energy, Environment & Telecommunications, February 18, 2015

**Title:** An act relating to the responsibilities of the joint administrative rules review committee.

**Brief Description:** Revising the responsibilities of the joint administrative rules review committee.

**Sponsors:** Senators Schoesler, Sheldon and Hewitt.

**Brief History:**

**Committee Activity:** Energy, Environment & Telecommunications: 2/17/15, 2/18/15 [DPS, DNP].

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### SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

**Majority Report:** That Substitute Senate Bill No. 5274 be substituted therefor, and the substitute bill do pass.

Signed by Senators Ericksen, Chair; Sheldon, Vice Chair; Braun, Brown and Honeyford.

**Minority Report:** Do not pass.

Signed by Senators McCoy, Ranking Minority Member; Cleveland.

**Staff:** Jan Odano (786-7486)

**Background:** Joint Administrative Rules Review Committee (JARRC). JARRC consists of eight members: four from the Senate and four from the House of Representatives, comprised of two from each caucus in each house, and additionally four alternates, one from each caucus of each house. JARRC reviews proposed and existing agency rules to determine whether they conform to the intent of the statute they purport to implement. JARRC does not review an agency rule if the objection is a matter of substantive policy, rather than legislative intent; or when a rule is the subject of a lawsuit.

When JARRC determines that a proposed rule does not conform to legislative intent, JARRC must notify the agency of the objections and the reasons. The notice must be provided at least seven days prior to the agency's rule-adoption hearing. The agency must consider JARRC's decision and must notify JARRC of its intended action within seven days after the hearing. If JARRC determines that the agency failed to amend, withdraw, or repeal the rule

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to make it conform with legislative intent; adopted a rule that is not in accordance with all applicable provisions of law; or will not replace a policy or interpretive statement of general applicability with a rule, JARRC may prepare and file a formal objection against the rule for publication in the next Washington Register. In addition, by a majority vote, JARRC may also recommend suspension of a rule. The Governor must approve or disapprove the suspension within 30 days. If approved, the suspension remains in effect until 90 days after next legislative session.

Any person may petition JARRC to review a rule, but only after the agency denies request to amend or repeal. JARRC must make a final decision within 90 days of receipt of the petition.

Stormwater. The federal Clean Water Act (CWA) establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater and stormwater discharges from point sources to surface waters. The NPDES permits are required for anyone who discharges wastewater or stormwater to surface waters, or who has a significant potential to impact surface waters. The Department of Ecology (Ecology) is delegated federal CWA authority by the United States Environmental Protection Agency.

Ecology administers state discharge permits. A wastewater discharge permit places limits on the quantity and concentrations of contaminants that may be discharged and may require wastewater treatment or impose operating or other conditions. Ecology issues individual permits, covering single, specific activities or facilities, and general permits, covering a category of similar dischargers, in the state and the NPDES permit programs. General permits include, but are not limited to, the construction stormwater general permit, the sand and gravel general permit, the industrial stormwater general permit, and the municipal stormwater permits.

**Summary of Bill (Recommended Substitute):** For purposes of review by JARRC, a proposed rule includes any draft stormwater general permit issued by Ecology. If JARRC makes an adverse finding regarding of a proposed rule, it may recommend suspension of rulemaking proceedings.

JARRC may not reject a petition that is signed by at least 30 members of the Legislature. A petition from legislators that complies with all requirements may petition directly to JARRC. It is not required to be sent first to an agency to request repeal or amendment.

**EFFECT OF CHANGES MADE BY ENERGY, ENVIRONMENT & TELECOMMUNICATIONS COMMITTEE (Recommended Substitute):** Specifies that JARRC may review municipal stormwater general permits.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Original Bill:** PRO: This is a potential tool to see if rulemaking has gone too far in some instances. It will ensure the system works for taxpayers.

OTHER: There are concerns for the impacts on the issuance and reissuance of permits. This could delay the process and may require new permits to be issued. It would cause uncertainty for businesses. State and federal permits are required for stormwater discharges. It is unclear how JARRC would review federal rules.

**Persons Testifying:** PRO: Senator Schoesler, prime sponsor.

OTHER: Donald Seeberger, Ecology.