

SENATE BILL REPORT

SB 5364

As of February 16, 2015

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

Brief Description: Concerning proceedings of the joint administrative rules review committee.

Sponsors: Senators Dansel, Padden and Honeyford.

Brief History:

Committee Activity: Government Operations & Security: 2/02/15.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Staff: Curt Gavigan (786-7437)

Background: Joint Administrative Rules Review Committee (JARRC) Generally. JARRC is an eight-member legislative committee consisting of four senators and four representatives, with no more than two members from each house of the same political party.

JARRC is authorized to conduct selective review, initiated on its own or by petition, of agency rules and policies to determine whether:

- rules are consistent with legislative intent;
- rules are adopted consistent with the law; or
- agency policy or interpretive statements are being used in place of a rule.

Petitions to JARRC. Any person may petition JARRC for a review of a proposed or existing rule, policy, or interpretive statement. JARRC must acknowledge receipt of a petition within 30 days and describe any initial action taken. If JARRC rejects the petition, a written statement of the reasons must be included. Within 90 days, JARRC must make a final decision on any petition for which review was not previously rejected.

JARRC Sanction Authority. The JARRC sanction process involves the following potential steps:

- JARRC may exercise its selective rule review authority;
- If JARRC finds, by a majority vote, that a rule is not consistent with legislative intent, was not adopted consistent with the law, or that policies or interpretive statements are being used in place of a rule, it must notify the relevant agency of its decision;

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- The relevant agency must give notice and hold a hearing on the rule or policy, and consider written and in-person testimony;
- After its hearing, the agency must notify JARRC of its intended action on the rule or policy;
- If JARRC finds, by a majority vote, that the agency has not addressed the issue, it may file its objections with the Code Reviser for publication. The Code Reviser may only remove reference to the JARRC objections if a subsequent adjudicatory proceeding determines that rule meets legislative intent or was properly adopted; and
- In addition to filing objections with the Code Reviser, JARRC may also, by a majority vote, recommend suspension of an existing rule. If the Governor approves this recommendation, the suspension remains in effect until 90 days after the next regular legislative session.

Summary of Bill: The filing of a petition for review of a rule or policy triggers a stay of implementation, enforcement, or changes to the relevant rule or policy until the conclusion of the rules review process.

If JARRC makes an initial decision, receives the agency response, and finds by a majority vote that the agency has not corrected the issue:

- the initial stay remains in effect; and
- JARRC must file its objections with the Code Reviser for publication within ten days of this decision.

In addition to publishing a reference to JARRC's objections, the Code Reviser must also note the existence of the stay of the relevant rule or policy. This reference may only be removed if:

- a later judicial proceeding determines that the rule meets legislative intent and was properly adopted; or
- the Senate adopts a resolution lifting the stay.

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: PRO: JAARC can be a political process, and this will help improve agency responsiveness. Rules impact property and individuals, partially the expense of compliance. This will help ensure that the public petition is given a fair evaluation.

CON: There are concerns about whether this interferes with civics and the different roles of government branches. It also creates uncertainty around rules and negative impacts on business investments due to rule changes.

Persons Testifying: PRO: Cindy Alia, Citizens Alliance for Property Rights.

CON: Ben Serrurier, Climate Solutions; Kevin Kuper, Sequential Pacific Biodiesel.