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## JOINT COMMITTEE ON AGENCY RULE REVIEW

### Rule adoption and review

- Tolls the time during which a concurrent resolution invalidating a proposed rule may be adopted when the agency that filed the rule informs the Joint Committee on Agency Rule Review (JCARR) that it intends to file a revised version.
- Eliminates prohibitions against JCARR reviewing an administrative rule when JCARR becomes aware that the rule has an adverse impact on business but has not been analyzed by the Common Sense Initiative Office.

### Administration

- Makes the JCARR chairperson and vice-chairperson co-chairs and requires the House-appointed co-chair to conduct meetings during the first regular session of a General Assembly and the Senate-appointed co-chair to do so during the second.
- Allows the JCARR chairperson in charge of calling and conducting meetings to schedule JCARR's public hearing on a proposed rule earlier than 41 days after the rule was filed.

### Principles of law or policy

- Increases, from three months to six months the time an agency has after the expiration of a governor's term to transmit to JCARR the agency's report concerning principles of law or policies relied on by the agency that have not been stated in an administrative rule.
- Exempts legislative agencies from this requirement.

### Rule adoption and review

(R.C. 106.02 and 106.031; R.C. 121.83, repealed, with conforming changes in R.C. 107.51, 121.81, 121.811, 308.21, and 1710.02)

#### Concurrent resolution invalidating a proposed rule

The act allows an agency that has filed a proposed administrative rule for review by the Joint Committee on Agency Rule Review (JCARR) to inform JCARR that it intends to file a revised version of the rule. When the agency so informs JCARR, the time during which the General Assembly may adopt an invalidating concurrent resolution is tolled. If the agency revises and refiles the proposed rule 35 or fewer days after filing the original, JCARR must review the revised version, and an invalidating concurrent resolution may be adopted, no later than 65 days after the original rule was filed. If, however, the agency files the revised rule more than 35 days after it filed the original, the General Assembly may adopt an invalidating resolution no later than 30 days after the agency filed the revised rule with JCARR.

Subject to limited exceptions, continuing law requires an agency that intends to adopt an administrative rule to file the proposed rule and related documents with JCARR at least 65 days

before the rule's intended effective date.<sup>108</sup> JCARR reviews the proposed rule and, if it makes specific findings, JCARR may recommend the General Assembly adopt a concurrent resolution invalidating the proposed rule.<sup>109</sup> In most cases, the General Assembly must adopt the resolution no later than the 65<sup>th</sup> day after the day on which the agency filed the proposed rule.

## **Jurisdiction**

The act eliminates a prohibition against JCARR reviewing an administrative rule having an adverse impact on business before the rule has been analyzed by the Common Sense Initiative Office (CSIO). Under continuing law, an agency proposing a new rule (or performing a mandatory five-year review of an existing rule) must evaluate the rule using a business impact analysis instrument developed by CSIO to determine whether the rule has an adverse impact on business. If it has such an impact, the agency must transmit a copy of the rule and the agency's analysis to CSIO. CSIO analyzes the rule and makes recommendations on how to eliminate or reduce the adverse impact on business.<sup>110</sup>

Formerly, JCARR did not have jurisdiction to review and had to reject a rule if JCARR discovered the rule had an adverse impact on business and the agency did not put it through the CSIO process.

## **Administration**

(R.C. 101.35 and 106.02, with conforming changes in 101.352, 101.353, 103.0521, 106.032, 106.04, and 106.041)

### **Chairperson**

The act makes the JCARR chairperson and vice-chairperson co-chairs. Formerly, the Speaker of the House appointed the chairperson in the first regular session of the General Assembly, and the Senate President appointed the vice-chairperson. In the second regular session, the President appointed the chair and the Speaker appointed the vice-chair.

Under the act, the Speaker and Senate President each appoint one co-chair. The House-appointed co-chair calls and conducts meetings during the first regular session of a General Assembly, and the Senate-appointed co-chair does so during the second. If the co-chair responsible for calling and conducting meetings is absent or temporarily unable to perform the chairperson's duties, the other co-chair acts as a substitute. As with the chair and vice-chair under former law, the co-chairs serve until their respective successors are appointed or until they are no longer members of the General Assembly.

### **Public hearings on proposed rules**

The act allows the JCARR chairperson responsible for calling and conducting meetings to schedule JCARR's public hearing on a proposed rule earlier than 41 days after the rule was filed.

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<sup>108</sup> R.C. 111.15 and R.C. 119.03, not in the act.

<sup>109</sup> R.C. 106.021, not in the act.

<sup>110</sup> R.C. 121.81 to 121.811 and R.C. 107.52 to 107.54 and 121.82, not in the act.

However, the act also requires the JCARR chairperson to try to not hold the hearing before the 41<sup>st</sup> day. Formerly, JCARR could not hold a public hearing on a proposed rule earlier than the 41<sup>st</sup> day after the agency filed it.

## **Policy and principal of law reporting**

(R.C. 121.93)

The act increases the time an agency has to transmit to JCARR its report concerning principles of law or policies relied on by the agency that have not been stated in an administrative rule. Continuing law requires most state agencies periodically to review their operations and identify principles of law or policy that have not been stated in a rule and that the agencies are relying on for either:

- Conducting adjudications or other determinations of rights and liabilities; or
- Issuing writings and other materials.

Under continuing law, an agency must perform at least one review during a governor's term and transmit a report to JCARR stating that the agency has completed one or more of the required reviews and certain steps the agency is taking regarding those reviews. The act extends the deadline to submit the report to six months after the end of the Governor's term.

The act also exempts an agency, commission, or committee created in the legislative branch or to serve the General Assembly (a "legislative agency") from the reporting requirement. Legislative agencies include, but are not limited to, all of the following:

- The Joint Legislative Ethics Committee;
- The Joint Medicaid Oversight Committee;
- The Correctional Institution Inspection Committee;
- The Legislative Service Commission;
- The Legislative Information Services;
- The Capitol Square Review and Advisory Board.

The Governor, Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, Attorney General, state institutions of higher education, and the state retirement systems are exempt from the reporting requirement.<sup>111</sup>

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<sup>111</sup> R.C. 121.933, not in the act.