

Senate Joint Resolution 2002 - Introduced

SENATE JOINT RESOLUTION 2002
BY CHELGREN

SENATE JOINT RESOLUTION

1 A Joint Resolution proposing an amendment to the Constitution
2 of the State of Iowa creating an administrative rules review
3 committee in the legislative department and granting the
4 committee powers.

5 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Article III of the Constitution of the State of
2 Iowa is amended by adding the following new section:

3 **Administrative rules review committee. SEC. 41.**

4 1. For the purposes of this section:

5 a. "Administrative rule" means each state agency statement
6 of general applicability that implements, interprets, or
7 prescribes law or policy, or that describes the organization,
8 procedure, or practice requirements of any state agency.
9 "Administrative rule" includes an executive order or directive
10 of the governor that creates a state agency or establishes a
11 program or that transfers a program between state agencies
12 established by statute or administrative rule. "Administrative
13 rule" includes a portion of an administrative rule or the
14 amendment or repeal of an existing administrative rule. The
15 general assembly may provide by law for exclusions from this
16 definition.

17 b. "State agency" means each board, commission, department,
18 officer, or other administrative office or unit of the state.
19 "State agency" does not include the general assembly, the
20 judicial branch or any of its components, the governor, or a
21 political subdivision of the state or its offices and units.
22 The general assembly may provide by law for exclusions from
23 this definition.

24 2. An administrative rules review committee is created in
25 the legislative department, to consist of an equal number of
26 members of each house of the general assembly, for the purpose
27 of providing oversight of powers and duties delegated to state
28 agencies. The general assembly shall provide by law for the
29 implementation of this section, including but not limited to
30 procedures for the committee to exercise its powers.

31 3. A state agency shall not adopt an administrative rule
32 without notice or public participation unless explicitly
33 granted authority to adopt such administrative rule without
34 notice or public participation by law or unless the committee
35 determines that notice and public participation would be

1 unnecessary, impracticable, or contrary to the public interest.

2 4. The powers of the committee include but are not limited
3 to the following:

4 a. Suspending further action by a state agency prior to
5 adoption of a proposed administrative rule for a period of time
6 no longer than seventy days as provided by law.

7 b. Requiring a state agency to complete and publish
8 a regulatory analysis of a proposed administrative rule,
9 detailing costs, benefits, and alternative methods for
10 achieving the purpose of the administrative rule, before the
11 state agency adopts the administrative rule. The committee
12 may also require a state agency to complete and publish a
13 regulatory analysis of an administrative rule adopted by the
14 state agency without notice or public participation.

15 c. Objecting to the adoption of an administrative rule by
16 a state agency without notice or public participation. The
17 administrative rule shall cease to be effective after a period
18 of time subsequent to the objection as provided by law. The
19 committee may also suspend the implementation or enforcement of
20 the administrative rule until the administrative rule ceases
21 to be effective. In any proceeding for judicial review or for
22 enforcement of the administrative rule heard subsequent to the
23 objection, the burden of proof shall be on the state agency
24 to establish that allowing for notice or public participation
25 before adopting the administrative rule was impracticable,
26 unnecessary, or contrary to the public interest. If the state
27 agency fails to meet the burden of proof prescribed for the
28 administrative rule, the court shall declare the administrative
29 rule invalid.

30 d. Suspending the implementation or enforcement of an
31 administrative rule adopted by a state agency for a period
32 of time no later than the adjournment of the next regular
33 session of the general assembly as provided by law, if the
34 effective date of such administrative rule occurred sooner than
35 thirty-five days after the administrative rule was officially

1 published as provided by law.

2 e. Delaying the effective date of an administrative rule
3 proposed by a state agency for a period of time no later than
4 the adjournment of the next regular session of the general
5 assembly as provided by law.

6 f. Objecting to an administrative rule proposed or adopted
7 by a state agency if the committee deems the administrative
8 rule unreasonable, arbitrary, capricious, or otherwise
9 beyond the authority delegated to the state agency. In any
10 proceeding for judicial review or for enforcement of the
11 administrative rule heard subsequent to the objection, the
12 burden of proof shall be on the state agency to establish
13 that the administrative rule is not unreasonable, arbitrary,
14 capricious, or otherwise beyond the authority delegated to the
15 state agency. If the state agency fails to meet the burden
16 of proof prescribed for the administrative rule, the court
17 shall declare the administrative rule invalid and judgment
18 shall be rendered against the state agency for court costs and
19 reasonable attorney fees.

20 Sec. 2. REFERRAL AND PUBLICATION. The foregoing proposed
21 amendment to the Constitution of the State of Iowa is referred
22 to the general assembly to be chosen at the next general
23 election for members of the general assembly, and the secretary
24 of state is directed to cause the proposed amendment to be
25 published for three consecutive months previous to the date of
26 that election as provided by law.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 This joint resolution proposes an amendment to the
31 Constitution of the State of Iowa creating an administrative
32 rules review committee in the legislative department and
33 granting the committee powers.

34 The resolution creates an administrative rules review
35 committee in the legislative branch, to consist of an equal

1 number of members of each house of the general assembly,
2 for the purpose of providing oversight of powers and duties
3 delegated to state agencies. The resolution directs the
4 general assembly to provide by law for implementation of the
5 resolution, including but not limited to procedures for the
6 committee to exercise its powers.

7 The resolution defines "administrative rule" as each state
8 agency statement of general applicability that implements,
9 interprets, or prescribes law or policy, or that describes
10 the organization, procedure, or practice requirements of any
11 state agency. "Administrative rule" includes an executive
12 order or directive of the governor that creates a state agency
13 or establishes a program or that transfers a program between
14 state agencies established by statute or administrative rule.
15 "Administrative rule" includes a portion of an administrative
16 rule or the amendment or repeal of an existing administrative
17 rule. The resolution defines "state agency" as each board,
18 commission, department, officer, or other administrative office
19 or unit of the state. "State agency" does not include the
20 general assembly, the judicial branch or any of its components,
21 the governor, or a political subdivision of the state or its
22 offices and units. The general assembly may provide by law for
23 exclusions from these definitions.

24 The resolution prohibits a state agency from adopting an
25 administrative rule without notice or public participation
26 unless explicitly granted authority to adopt such
27 administrative rule by law or unless the committee determines
28 that notice and public participation would be unnecessary,
29 impracticable, or contrary to the public interest.

30 The resolution provides for powers of the committee.

31 The committee may suspend further action by a state agency to
32 adopt a proposed administrative rule for a period of time no
33 longer than 70 days as provided by law.

34 The committee may require a state agency to complete and
35 publish a regulatory analysis of a proposed administrative

1 rule, detailing costs, benefits, and alternative methods for
2 achieving the purpose of the administrative rule before the
3 state agency adopts the administrative rule. The committee
4 may also require a state agency to complete and publish a
5 regulatory analysis of an administrative rule adopted without
6 notice or public participation.

7 The committee may object to the adoption of an
8 administrative rule by a state agency without notice or public
9 participation. The administrative rule ceases to be effective
10 after a period of time subsequent to the objection as provided
11 by law. The committee may also suspend the implementation or
12 enforcement of the administrative rule until the administrative
13 rule ceases to be effective. In any proceeding for judicial
14 review or for enforcement of the administrative rule heard
15 subsequent to the objection, the state agency bears the burden
16 of proof to establish that allowing for notice or public
17 participation before adopting the administrative rule was
18 impracticable, unnecessary, or contrary to the public interest.
19 If the state agency fails to meet the burden of proof, the
20 court shall declare the administrative rule invalid.

21 The committee may suspend the implementation or enforcement
22 of an adopted administrative rule for a period of time no later
23 than the adjournment of the next regular session of the general
24 assembly as provided by law, if the effective date of such
25 administrative rule occurred sooner than 35 days after the
26 administrative rule was officially published as provided by
27 law.

28 The committee may delay the effective date of an
29 administrative rule proposed by a state agency for a period of
30 time no later than the adjournment of the next regular session
31 of the general assembly as provided by law.

32 The committee may object to an administrative rule proposed
33 or adopted by a state agency if the committee deems the
34 administrative rule unreasonable, arbitrary, capricious, or
35 otherwise beyond the authority delegated to the state agency.

1 In any proceeding for judicial review or for enforcement of
2 the administrative rule heard subsequent to the objection, the
3 state agency bears the burden of proof to establish that the
4 administrative rule is not unreasonable, arbitrary, capricious,
5 or otherwise beyond the authority delegated to the state
6 agency. If the state agency fails to meet the burden of proof,
7 the court shall declare the administrative rule invalid and
8 judgment shall be rendered against the state agency for court
9 costs and reasonable attorney fees.

10 The resolution, if adopted, would be published and then
11 referred to the next general assembly (86th) for adoption a
12 second time, before being submitted to the electorate for
13 ratification.