

House Joint Resolution 38

Sponsored by Representative ESQUIVEL; Representatives BOONE, FREEMAN, GARRARD, OLSON, SCHAUFLER, SPRENGER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Proposes amendment to Oregon Constitution to establish procedure for requiring legislative review of administrative rules.

Refers proposed amendment to people for their approval or rejection at next regular general election.

JOINT RESOLUTION

Be It Resolved by the Legislative Assembly of the State of Oregon:

PARAGRAPH 1. The Constitution of the State of Oregon is amended by creating a new section 34 to be added to and made a part of Article IV, such section to read:

SECTION 34. (1) The people reserve to themselves the power to require that the Legislative Assembly review and approve administrative rules in the manner provided by this section.

(2) The Legislative Assembly shall review and approve an administrative rule or rules upon the filing of a petition with the Secretary of State that has been signed by at least 10,000 qualified voters. A petition filed under the provisions of this subsection shall identify the specific administrative rule or rules that the Legislative Assembly is required to review. The administrative rules identified in the petition must relate to a single subject and matters properly connected therewith.

(3)(a) Upon receiving a petition that meets the requirements of subsection (2) of this section, the Secretary of State shall cause written notice to be given to the President of the Senate. The President of the Senate shall cause to be prepared and introduced in the Senate at the next following regular session of the Legislative Assembly a bill approving the administrative rule or rules. If the petition is filed with the Secretary of State during a regular session of the Legislative Assembly, the bill required by this subsection must be introduced at the regular session of the Legislative Assembly next following the session during which the petition is filed.

(b) The Legislative Assembly may approve the administrative rule or rules specified in the bill introduced under this subsection by passing the bill. The Legislative Assembly may approve by amendment of the bill only some of the specified administrative rules or only part of a specified rule. Any administrative rule or part of a rule not approved by the passage of the bill has no further force or effect after adjournment sine die of the legislative session in which the bill is introduced.

(c) A bill introduced under this subsection must receive at least one hearing in the Senate and must be submitted for a vote in the Senate before adjournment sine die of the legislative session in which the bill is introduced.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (4)(a) Disapproval of an administrative rule or part of a rule under subsection (3) of this
2 section does not prevent a state agency from thereafter adopting another rule pertaining to
3 the issue or issues addressed by the disapproved rule. If a state agency adopts an adminis-
4 trative rule or rules addressing the same issue that was the subject of a rule that was dis-
5 approved under subsection (3) of this section, the President of the Senate shall cause to be
6 prepared and introduced in the Senate a bill approving the rule or rules. The bill must be
7 introduced at the regular session of the Legislative Assembly next following the effective
8 date of the administrative rule or rules. If the administrative rule or rules take effect during
9 a regular session of the Legislative Assembly, the bill required by this subsection must be
10 introduced at the regular session of the Legislative Assembly next following the session
11 during which the rule takes effect.

12 (b) The Legislative Assembly may amend a bill introduced pursuant to this subsection in
13 the same manner as provided for bills introduced under subsection (3) of this section. Any
14 administrative rule or part of a rule not approved by the passage of the bill has no further
15 force or effect after adjournment sine die of the legislative session in which the bill is in-
16 troduced. If an administrative rule or part of a rule is disapproved under this subsection, any
17 rule adopted by a state agency that addresses the same issue that was the subject of the
18 disapproved rule is of no force or effect until such time as the Legislative Assembly by law
19 approves the rule.

20 (c) A bill introduced under this subsection must receive at least one hearing in the Sen-
21 ate and must be submitted for a vote in the Senate before adjournment sine die of the leg-
22 islative session in which the bill is introduced.

23 (d) Any person may seek judicial review of a determination made by the President of the
24 Senate as to whether an administrative rule addresses the same issue that was the subject
25 of a rule that was previously disapproved under subsection (3) of this section. Any person
26 may seek a judicial determination as to whether an administrative rule adopted by a state
27 agency after disapproval of a rule under this subsection addresses the same issue that was
28 the subject of the disapproved rule. In any proceeding for judicial review under this sub-
29 section, the court shall liberally construe the language of a rule in favor of a finding that the
30 rule addresses the same issue that was the subject of a previously disapproved administrative
31 rule. The Legislative Assembly shall by law provide a process for seeking judicial review un-
32 der this subsection.

33 (5) Any bill introduced under this section is subject to veto by the Governor in the
34 manner provided by section 15b, Article V of this Constitution. If the Governor vetoes a bill
35 introduced pursuant to this section, the administrative rule or part of a rule specified in the
36 bill shall be considered disapproved for the purposes of this section unless the Legislative
37 Assembly overrides the veto in the manner provided by subsection (2) of section 15b of Ar-
38 ticle V of this Constitution.

39 (6) Nothing in this section affects any right of a person to seek judicial review of any
40 administrative rule as otherwise provided for by law.

41 (7) As used in this section:

42 (a) "Administrative rule" means any state agency directive, standard, regulation or
43 statement of general applicability that implements, interprets or prescribes law or policy, or
44 that describes the procedures or practices of a state agency. "Administrative rule" does not
45 include:

1 **(A) Executive orders; or**

2 **(B) State agency internal management directives, regulations or statements if those di-**
3 **rectives, regulations or statements do not substantially affect the interests of members of**
4 **the public.**

5 **(b) “State agency” means any elected or appointed state officer, board, commission, de-**
6 **partment, agency or institution, except those in the legislative and judicial branches.**

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8 **PARAGRAPH 2.** **The amendment proposed by this resolution shall be submitted to the**
9 **people for their approval or rejection at the next regular general election held throughout**
10 **this state.**

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