

# House Joint Resolution 26

Sponsored by Representative ESQUIVEL; Representatives KRIEGER, PARRISH, SMITH, WEIDNER, WHITSETT

## 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

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

3 **PARAGRAPH 1.** The Constitution of the State of Oregon is amended by creating a new section  
4 34 to be added to and made a part of Article IV, such section to read:

5 **SECTION 34. (1) The people reserve to themselves the power to require that the Legis-**  
6 **lative Assembly review and approve administrative rules in the manner provided by this**  
7 **section.**

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

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

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

28 **(c) A bill introduced under this subsection must receive at least one hearing in the Sen-**  
29 **ate and must be submitted for a vote in the Senate before adjournment sine die of the leg-**  
30 **islative 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 administrative rule  
3 or rules pertaining to the issue or issues addressed by the disapproved rule. If a state agency  
4 adopts an administrative rule or rules addressing the same issue that was the subject of a  
5 rule that was disapproved under subsection (3) of this section, the President of the Senate  
6 shall cause to be prepared and introduced in the Senate a bill approving the administrative  
7 rule or rules. The bill must be introduced at the regular session of the Legislative Assembly  
8 next following the effective date of the administrative rule or rules. If the administrative  
9 rule or rules take effect during a regular session of the Legislative Assembly, the bill re-  
10 quired by this subsection must be introduced at the regular session of the Legislative As-  
11 sembly next following the session during which the administrative rule or rules take 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 an administrative rule in favor of  
30 a finding that the rule addresses the same issue that was the subject of a previously disap-  
31 proved rule. The Legislative Assembly shall by law provide a process for seeking judicial re-  
32 view under 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)(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.

45           (B) "Administrative rule" does not include:

1 (i) Executive orders; or

2 (ii) 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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