

### Administrative Rule Review (ARR) Process

1. A state agency submits an adopted rule to Legislative Counsel within 10 days after filing a certified copy with the Secretary of State. ORS 183.715 (1).
2. Legislative Counsel reviews the adopted rule and makes a determination as to whether it:
  - a. Is within the intent and scope of the enabling legislation; or
  - b. Raises constitutional issues. ORS 183.720 (3).
3. If there is a negative determination regarding an adopted rule, one or more of the following take place:
  - a. The reviewing attorney contacts the agency to see if the concerns can be informally resolved, typically by the agency agreeing to adopt amended rules.
  - b. The reviewing attorney sends a written negative determination memorandum requesting a written response from the agency within approximately 30 days.
4. If an informal resolution pursuant to 3(a) or a written response pursuant to 3(b) do not resolve the negative determination, Legislative Counsel contacts the interim committee to which the agency has been assigned by sending a copy of the negative determination memorandum and the agency's written response, if any.
5. The interim committee administrator contacts the agency once the date and time for the meeting at which the interim committee will consider the negative determination has been scheduled. ORS 183.720; ORS 183.722.
6. The interim committee considers the negative rule determination, and any written response of the agency's, at a meeting of the interim committee. ORS 183.722 (1)(b). Both Legislative Counsel and an agency representative typically present their respective positions to the interim committee.
7. If the interim committee adopts the Legislative Counsel determination that a rule is not authorized by the enabling legislation or raises a constitutional concern, the determination is posted on the Legislative Counsel website where it remains until the earliest of the following:
  - a. *The rule is modified* and Legislative Counsel determines that the modified rule is within the intent and scope of the enabling legislation or is otherwise constitutional;
  - b. *The state agency notifies Legislative Counsel* that a court has determined the rule is within the intent and scope of the enabling legislation or is otherwise constitutional, and all appeals are exhausted;
  - c. *The state agency notifies Legislative Counsel* that the Legislative Assembly has modified the enabling legislation so as to authorize the rule; or
  - d. *The state agency notifies Legislative Counsel* that any constitutional defect has been cured. ORS 183.722 (1)(b).

**NOTE: Whether or not the interim committee's adopts a negative determination, the rule is not changed or invalidated. The Oregon Constitution does not permit legislative committees to directly change agency rules. The effect of adopting a negative determination, however, is to alert the public to legal grounds that may be used to challenge the rule's validity in court.**