

SAS

SENATE ANALYSIS SECTION

APR 14 1987

Lansing, Michigan 48909

Mich. State Law Library

House Bill 4124 (as reported without amendment)**Sponsor:** Representative Michael J. Griffin**House Committee:** House Oversight**Senate Committee:** Government Operations**Date Completed:** 3-16-87**RATIONALE**

The Joint Committee on Administrative Rules (JCAR) considers all administrative rules proposed by State agencies, once the proposed rules have been approved by the Legislative Service Bureau and the Attorney General. The JCAR can approve or disapprove a proposed rule, or it can certify an impasse when a majority fails either to approve or disapprove the proposed rule.

Questions have been raised concerning the procedures for adopting or disapproving proposed rules and for certifying an impasse. The JCAR has recommended clarification of this language. In addition, some people contend that the JCAR's workload is such that membership on the committee should be increased.

CONTENT

House Bill 4124 would amend the Administrative Procedures Act to increase the membership of the Joint Committee on Administrative Rules (JCAR) from ten to twelve by adding one member each from the Senate and the House of Representatives. The bill also specifies that the committee chairperson could certify "an impasse after votes for approval or disapproval have failed to receive concurrent majorities"; and that, if the JCAR had not taken any action on a proposed rule within the time period designated by the Act, it would be the responsibility of the chairperson and the alternate chairperson to "cause concurrent resolutions approving the rule to be introduced in both houses simultaneously". (Under current law these responsibilities are assigned to "the committee".)

MCL 24.235 and 24.245

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

BACKGROUND

The Joint Committee on Administrative Rules was created in 1947 by an amendment to Public Act 88 of 1943. The committee was authorized to meet between legislative sessions and to suspend until the next regular session of the Legislature any rule not in conformity with the statute under which it had been promulgated. At first, the JCAR reviewed only those promulgated rules about which a complaint was filed. In 1958, however, the law was amended to require the committee to consider all rules referred to it. Then in 1964, the law was amended once more to allow the JCAR to meet during, as well as between, legislative sessions. Since then the committee has acted basically on a year-round basis, and generally meets weekly while the Legislature is in session.

In 1969, the Administrative Procedures Act was adopted, taking effect on July 1, 1970. This new law was designed to update and facilitate the rule-making process. Based on the National Conference of Commissioners on Uniform State Laws' Revised Model State Administrative Procedures Act, the Act offered extensive procedures for the processing and publication of rules, for contested case hearings, and for judicial review. Changes to the Act in 1971 and 1977 made the JCAR an active, rather than merely reactive, agent in the formulation of administrative rules. In 1971, the committee began reviewing rules extensively before they formally were adopted and promulgated by an agency, and since 1977 agencies have been required to get approval for proposed rules from the JCAR or the Legislature before they can be adopted and promulgated. These and subsequent changes significantly have increased the committee's oversight authority and workload.

In 1978, membership on the committee was increased from eight to ten, adding two members from the Senate for a total of five members from each house who are appointed in the same manner as standing committee members are appointed.

ARGUMENTS**Supporting Argument**

Public Act 292 of 1986, which amended the Administrative Procedures Act, was enacted, in part, to clarify some of the language regarding the procedures for approving or disapproving proposed administrative rules or for certifying an impasse when the JCAR neither approved nor disapproved a proposed rule or set of rules. It did not adequately clarify the provisions, however, and the bill would accomplish this by (a) transferring the language regarding time extensions to the appropriate section of existing law, and (b) clarifying procedures in the event of an impasse.

Legislative Analyst: P. Affholter

Fiscal Analyst: B. Bowerman

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

H.B. 4124 (3-16-87)