

SB 370 STAFF MEASURE SUMMARY

Senate Committee On Rules

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Meeting Dates: 3/19

WHAT THE MEASURE DOES:

The measure requires the Legislative Policy and Research Director, by December 31 of each even-numbered year, to distribute to each interim committee, a summary of administrative rules that were adopted during the previous two years, that are relevant to the subject of each interim committee.

Fiscal impact: The measure may have a fiscal impact, but a statement has not yet been issued.

Revenue impact: The measure may have a fiscal impact, but a statement has not yet been issued.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The Legislative Policy and Research Office

The Legislative Policy and Research (LPRO) is a non-partisan office of the Legislative Assembly. It provides three primary services: committee, language access, and research. The director is charged with several tasks, including: preparing legislative research and facilitating the development of legislative policy, upon request from members of the legislative assembly; and providing advice, assistance, and clerical and administrative services to legislative committees.

The LPRO director is appointed by the Legislative Policy and Research Committee, which is a joint committee of the Legislative Assembly comprised of the Speaker of the House of Representatives, the President of the Senate, and an equal number of members of each party from each chamber, including the presiding officers, who are appointed by their respective presiding officer.

Administrative Rulemaking

Agency rulemaking is governed by the Administrative Procedures Act (APA) (ORS 183.310 to 183.690). Permanent and Temporary Agency Rules have different requirements for agency notice to the Legislative Assembly and opportunities for legislative oversight of agency rulemaking activities.

Agency rules must be authorized by constitutional or statutory authority. The Court of Appeals may determine the validity of any rule and must declare a rule invalid if it finds the rule: violates constitutional provisions, exceeds the statutory authority of the agency, or was adopted without compliance with applicable rulemaking procedures.

The APA establishes procedures that each agency must follow when adopting, amending, or repealing a rule. The specific rulemaking process can vary by agency, but will generally include the six steps listed below.

1. Seek Public Input
2. Complete Impact Analyses
3. Publish of Notice of Agency Rulemaking
4. Opportunity for Public Comment
5. File with Secretary of State
6. Five-Year Rule Review

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For permanent rulemaking, the APA requires: an agency to give notice of permanent rulemaking to specified lawmakers and legislative committees at least 49 days before the effective date of the proposed rules; the SOS to submit an electronic copy of the adopted, amended, or repealed rule to Legislative Counsel within 10 days of filing; and, each agency to make an annual rulemaking report to the Legislative Assembly.

The rulemaking annual report must include, for the preceding 12-month period, the number of permanent rules adopted, amended, or repealed. It must also include a list of all temporary rules, the statement of need prepared for each temporary rule, and an explanation of why temporary rulemaking was more appropriate than permanent rulemaking. Annual rulemaking reports are posted on the Oregon Legislature's website under "Reports Required by Statute."

Legislative Review of Administrative Rulemaking

Legislative Counsel (LC) is authorized to review agency rules and produce written determinations regarding whether the rules are within the intent and scope of enabling legislation, or duplicative of or in conflict with another state or federal agency rule or regulation.

Certain duties of the legislative review of agency rulemaking are the shared responsibility of interim committees. After the end of each odd-numbered year regular session, LC must develop and distribute a list assigning state agencies to at least one interim committee. Assignments are based on subject-matter and made with the goal of ensuring that the rule review workload is approximately equally distributed between the interim committees of both chambers. Requirements for legislative review of agency rulemaking by an interim committee are satisfied when considered by an interim committee in either chamber. The interim committee assignment list is posted on LC's Administrative Rule Review webpage.