

HB 434 - AS INTRODUCED

2015 SESSION

15-0209
10/03

HOUSE BILL **434**

AN ACT relative to review of proposed agency administrative rules by standing committees of the general court.

SPONSORS: Rep. Itse, Rock 10; Rep. Hoell, Merr 23; Rep. C. McGuire, Merr 29; Rep. Tucker, Rock 23; Rep. Edelblut, Hills 38; Rep. Baldasaro, Rock 5

COMMITTEE: Legislative Administration

ANALYSIS

This bill allows a standing committee of the general court to review any proposed rule of an agency. An objection by the standing committee may be a basis for final objection of a proposed agency rule. The bill also provides for the filing of legislation by the joint legislative committee on administrative rules to adopt an amendment to a proposed rule.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to review of proposed agency administrative rules by standing committees
 of the general court.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; Joint Legislative Committee on Administrative Rules; Rule Amendments.
2 Amend RSA 541-A:2 by inserting after paragraph III the following new paragraph:

3 III-a. The committee may propose amendments to rules filed by an agency either on the
4 committee's initiative or on behalf of a standing policy committee objecting to a proposed rule. If the
5 agency proposing the rule does not concur and revise the rule, the committee shall have appropriate
6 legislation filed for introduction in the house of representatives adopting a rule as amended by the
7 committee or the standing committee.

8 2 Filing of Proposed Rule; Standing Committee Review. Amend RSA 541-A:10, I to read as
9 follows:

10 I. At the same time the notice required by RSA 541-A:6, I is filed, the agency shall file the
11 text of the proposed rule with the director of legislative services. ~~[The first time]~~ **Whenever** a rule is
12 proposed under RSA 541-A:3 to implement newly-enacted state authority, **or amended under**
13 **existing statutory authority**, the agency shall send an electronic copy of the notice and proposed
14 rule to the chair of each house and senate standing policy committee, as defined in RSA 541-A:1,
15 XVI, for distribution to the members of such standing policy committees. If the newly-enacted **or**
16 **existing** state authority was not referred originally to a standing policy committee, the agency shall
17 send an electronic copy of the notice and proposed rule to the speaker of the house and senate
18 president for appropriate distribution. If the agency does not have the technology necessary to send
19 an electronic copy, the agency shall send a paper copy.

20 **I-a.** The members of the standing policy committees receiving proposed rules ~~[may]~~ **shall**
21 review the proposed rules to determine whether the proposed rule is consistent with the intent of the
22 authorizing legislation **or if the policy committee otherwise objects to the proposed rule**. If a
23 standing policy committee, **after a public hearing on the matter**, concludes that the proposed rule
24 is not consistent with the intent of the authorizing legislation, **or objects to the rule**, the standing
25 policy committee shall send written notice to the agency, with a copy to the director of legislative
26 services **and the chair of the committee**, ~~[identifying the provision or provisions the committee~~
27 ~~believes to be]~~ **stating the objections to the proposed rule, any reason it is** inconsistent with
28 legislative intent, **and may propose changes to the rule**. Such written notice may be sent to the
29 agency via e-mail and shall be delivered so as to be received by the agency no later than the deadline
30 for public comment specified in the rulemaking notice.

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1 ***I-b.*** If the agency does not receive notice from any standing policy committee by the end of
2 the public comment period, the agency may proceed on the basis that the rule is consistent with the
3 intent of the authorizing legislation. ***If the agency receives notice and proposed changes from***
4 ***the standing policy committee, the agency shall revise the rule.*** The text of the proposed rules
5 as filed by the agency pursuant to RSA 541-A:3, III shall not be changed prior to the hearing held
6 pursuant to RSA 541-A:11, I(a).

7 3 Review by Joint Legislative Committee on Administrative Rules. Amend RSA 541-A:13, IV to
8 read as follows:

9 IV. The committee may object to a proposed rule if the rule is:
10 (a) Beyond the authority of the agency;
11 (b) Contrary to the intent of the legislature;
12 (c) Determined not to be in the public interest; ~~[or]~~
13 (d) Deemed by the committee to have a substantial economic impact not recognized in
14 the fiscal impact statement~~[-]~~; ***or***

15 ***(e) Subject to an objection by a standing policy committee under RSA 541-A:10, I-***
16 ***a which is not revised by the agency to remove the basis for objection. In such instance the***
17 ***standing policy committee under RSA 541-A:10, I-b shall be permitted to present oral and***
18 ***written testimony to the committee concerning the basis for the objection to the proposed***
19 ***rule.***

20 4 Effective Date. This act shall take effect 60 days after its passage.