

LEGISLATURES

**Table 3.26
LEGISLATIVE REVIEW OF ADMINISTRATIVE REGULATIONS: POWERS**

State	Reviewing committee's powers:			Legislative powers:
	Advisory powers only (a)	No objection constitutes approval of proposed rule	Committee may suspend rule	Method of legislative veto of rules
Alabama .....	...	★	★	Joint resolution (b)
Alaska*	(c)	(c)	...	Statute (c)
Arizona	★	N.A.	N.A.	Statute
Arkansas	(d)	N.A.	N.A.	Statute (d)
California .....	.....	.....	(e)	.....
Colorado .....	...	★	...	Statute (f)
Connecticut* .....	...	★	...	Statute (g)
Delaware	(h)	N.A.	N.A.	N.A.
Florida	★	...	(i)	Statute
Georgia .....	...	★	...	Resolution (j)
Hawaii	★	...	(e)	No formal mechanism for legislature's review of administrative rules except as may be required by specific statute.
Idaho .....	...	★	...	Concurrent resolution (k)
Illinois .....	...	...	★	Joint resolution
Indiana	★(l)	...	N.A.	(m)
Iowa .....	...	★	★	Joint resolution
			proposed rules	
Kansas .....	...	N.A.	...	Statute
Kentucky .....	...	★	...	Statute
Louisiana* .....	...	★	(n)	Concurrent resolution to suspend, amend or repeal adopted rules or fees. For proposed rules and emergency rules, see footnote (n).
Maine .....	...	★	N.A.	(o)
Maryland	(p)	...	...	Majority vote of committee. Governor can override.
Massachusetts* .....	...	...	...	The legislature may pass a bill which would supersede a regulation if signed into law by the governor.
Michigan .....	...	...	(q)	Concurrent resolution (r)
Minnesota .....	.....	.....	(s)	.....
Mississippi* .....	.....	.....	(e)	.....
Missouri .....	...	★	★	Statute, concurrent resolutions (t)
Montana .....	...	...	★(b)	Statute
Nebraska .....	.....	.....	(e)	.....
Nevada .....	...	★	★	Vote of committee suspends regulation until the final day of next regular legislative session. Concurrent resolution of legislature required to extend suspension indefinitely.
New Hampshire	★	(u)	N.A.	Statute (v)
New Jersey .....	.....	.....	(w)	.....
New Mexico .....	.....	.....	(e)	.....
New York	★	N.A.	N.A.	The legislature may pass a bill which would supersede a regulation if signed into law by the governor.
North Carolina* .....	★	...	...	Any member of the General Assembly may introduce a bill to disapprove a rule that has been approved by the commission and that has not become effective or has become effective by executive order. (x)
North Dakota .....	...	★(y)	★	(z)
Ohio .....	...	(aa)	★	Concurrent resolution. Adopt within jurisdiction of committee or extended until House and Senate have held five voting sessions.
Oklahoma	★	★	...	Joint resolution or concurrent resolution if within review period.
Oregon	★	N.A.	N.A.	(cc)
Pennsylvania	Standing committees Independent commission	★	N.A.	Concurrent resolution (dd)
Rhode Island* .....	.....	.....	(e)	.....
South Carolina .....	...	★	...	Joint resolution (ee)
South Dakota .....	...	★	★	Statute
Tennessee .....	...	★	★	Statute (ff)
Texas .....	.....	(e)	.....	Statute
Utah .....	...	...	...	Statute (ff)
Vermont*	★(gg)	★	N.A.	Statute

Table 3.26
LEGISLATIVE REVIEW OF ADMINISTRATIVE REGULATIONS: POWERS - continued

State	Reviewing committee's powers:			Legislative powers:
	Advisory powers only (a)	No objection constitutes approval of proposed rule	Committee may suspend rule	Method of legislative veto of rules
Virginia (e)	★(hh)	N.A.	(ii)	N.A.
Washington*	★(jj)	N.A.	(kk)	N.A.
West Virginia .....	★	...	...	(ll)
Wisconsin .....	...	★	★	Statute (mm)
Wyoming	(nn)	N.A.	...	Statute (oo)

Source: The Council of State Governments survey, January 2000, except where noted by * where data are from *The Book of the States, 1998-1999*.

Key:

★ — Yes

... — No

N.A. — Not applicable

(a) This column is defined by those legislatures or legislative committees that can only recommend changes to rules but have no power to enforce a change.

(b) A rule disapproved by the reviewing committee is reinstated at the end of the next session if a joint resolution in the legislature fails to sustain committee action.

(c) Committee powers are advisory. Veto authority of the committee was ruled unconstitutional. However, the legislature can pass legislation for presentment to the executive to annul a rule.

(d) A legislative council subcommittee reviews the rules and regulations, makes recommendations to the full Legislative Council (a committee of the General Assembly). Members of the General Assembly may submit legislation that addresses agency authority to enact or modify rules or regulations.

(e) No formal mechanism for legislative review of administrative rules. In Virginia, legislative review is optional. In Hawaii, the legislative reference bureau assists agencies in complying to a uniform format of style. This does not affect the status of rules.

(f) All newly adopted or amended rules expire on May 15 of the year following adoption or amendment. The legislature exercises sunset control over rules. Each year a bill is filed that extends all rules promulgated the previous year, except for those rules specifically designated by the committee.

(g) By February 15 of each regular session, the committee submits for study to the General Assembly a copy of all disapproved regulations. The General Assembly may by resolution sustain or reverse a vote of disapproval.

(h) During the legislative interim, July 1 and the second Tuesday in January, the chairperson of a standing committee of either house, may, by majority vote, draft a committee report setting forth its suggestions and recommendations and to request the President Pro Tempore of the Senate or the Speaker of the House to call a special session to consider the committee's recommendations. Each committee report shall be forwarded to the Sunset Committee.

(i) Committee may submit recommendation for suspension to full legislature, which may enact a statute suspending a rule.

(j) The reviewing committee must introduce a resolution to override a rule within the first 30 days of the next regular session of the General Assembly. If the resolution passes by less than a two-thirds majority of either house, the governor has final authority to affirm or veto the resolution.

(k) All rules are terminated one year after adoption unless the legislature reauthorizes the rule.

(l) Governor can veto rules with or without cause.

(m) Legislature has authority to intervene only after a rule is adopted. The committee meets during the interim but can affect a rule only through recommending a change in statute.

(n) If the committee determines that a proposed rule is unacceptable, it submits a report to the governor who then has 10 days to accept or reject the report. If the governor rejects the report, the rule change may be adopted by the agency. If the governor accepts the report, the agency may not adopt the rule. Emergency rules become effective upon adoption or up to 60 days after adoption as provided in the rule, but a standing committee or governor may void the rule by finding it unacceptable within 2-61 days after adoption and reporting such finding to agency within four days.

(o) Certain proposed rules must be reviewed by the legislature before they may be adopted. The legislature must enact legislation to approve, approve with changes or disapprove final adoption. If the legislature determines an existing rule is inappropriate or unnecessary, it may direct the Office of Policy and Legal Analysis to draft legislation to amend the statutory authority of the agency to amend the rule.

(p) The committee can delay regulations for a limited time before the regulations are adopted.

(q) Committee can suspend rules during interim.

(r) JCAR has 21 days to approve a formal notice of objection.

(s) As of December, 1995 The Legislative Commission to Review Administrative Rules (LCRAR) is scheduled to cease operating, effective July 1, 1996. The Legislative Coordinating Commission (LCC) may perform the Statutory functions of the LCRAR as it deems necessary. Contact the LCC for more information.

(t) The General Assembly may revoke or suspend rules or portions thereof. Missouri uses a concurrent resolution which must be presented to the governor, but the legislature has 30 days in which to act on a resolution regardless of when it is heard by JCAR.

(u) Failure to object or approve within 45 days of agency filing of final proposal constitutes approval.

(v) The committee can temporarily suspend adoption of a rule via voting to sponsor a joint resolution. The legislature may permanently block regulation via legislation.

(w) Article V, Section IV of the Constitution, as amended in 1992, says the legislature may review any rule or regulation to determine whether the rule or regulation is consistent with legislative intent. The legislature transmits its objections to existing or proposed rules or regulations to the governor and relevant agency via concurrent resolutions. The legislature may invalidate or prohibit an existing or proposed rule from taking effect by a majority vote of the authorized membership of each house.

(x) If an agency does not amend a rule to address an objection of the commission, the commission may send written notice to leadership in both houses. The General Assembly may enact legislation disapproving the rule.

(y) Unless formal objections are made or the rule is declared void, rules are considered approved.

(z) The committee can void a rule.

(aa) Committee does not approve rules. Committee can recommend invalidation of all or part of a rule. Inaction on a rule is not considered approval or consent of legality of a rule.

(bb) Neither the governor nor the legislature has veto authority over rules.

(cc) The committee reports to the legislature during each regular session on the review of rules by the committee.

(dd) The committee has 14 days to introduce a concurrent resolution, which then must be passed by both chambers within 10 legislative days or 30 calendar days, followed by presentment to the governor.

(ee) Must be passed within 120-day review period and presented to the governor for signature.

(ff) The legislature exercises sunset control over rules. Each year a bill is filed that extends all rules promulgated the previous year, except for those rules specifically designated by the committee. In Tennessee, standing committees may suspend effectiveness of proposed rules.

(gg) LCAR cannot veto on delay adoption of rule, but can object. Objection has the effect of removing the presumption of validity that normally attached to rules.

(hh) Rules objected to become effective 21 days after receipt of objection by the Registrar of Regulations.

(ii) Standing committee of both houses in concurrence with governor may suspend effective date until the end of the next General Assembly session.

(jj) Objections are published in the Washington State Register.

(kk) By a majority vote of the committee members, the committee may request the governor to approve suspension of a rule. If the governor approves, the suspension is effective until 90 days after the end of the next regular session.

(ll) State agencies have no power to promulgate rules without first submitting proposed rules to the legislature which must enact a statute authorizing the agency to promulgate the rule. If the legislature, during a regular session disapproves all or part of any legislative rule, the agency may not issue the rule nor take action to implement all or part of the rule unless authorized to do so. However, the agency may resubmit the same or a similar proposed rule to the committee.

(mm) Bills are introduced simultaneously in both houses.

(nn) Legislative Management Council can recommend action be taken by the full legislature.

(oo) Action must be taken before the end of the next succeeding legislative session to nullify a rule.¹