

SECOND REGULAR SESSION

SENATE JOINT RESOLUTION NO. 42

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHMITT.

Read 1st time January 13, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

5282L.01I

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment to article III of the Constitution of Missouri, and adopting one new section relating to the joint committee on administrative rules.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on
2 Tuesday next following the first Monday in November, 2014, or at a special
3 election to be called by the governor for that purpose, there is hereby submitted
4 to the qualified voters of this state, for adoption or rejection, the following
5 amendment to article III of the Constitution of the state of Missouri:

Section A. Article III, Constitution of Missouri, is amended by adding one
2 new section, to be known as section 35(a), to read as follows:

**Section 35(a). 1. There shall be a permanent joint committee on
2 administrative rules, selected by and from the members of each house
3 as provided by law. The committee may employ a staff as provided by
4 law. The committee shall meet when necessary to perform the duties
5 assigned to it by law. The members of the committee shall receive no
6 compensation in addition to their salary as members of the general
7 assembly, but may receive their necessary expenses while attending the
8 meetings of the committee.**

9 **2. The committee shall review all rules promulgated by state
10 agencies and may, by majority vote of its members, recommend that the
11 general assembly disapprove and annul any rule or portion thereof
12 contained in an order of rulemaking after hearings thereon and upon
13 a finding that such rule or portion thereof should be disapproved and
14 annulled. Any such rule disapproved by majority vote of the committee
15 shall be held in abeyance and not effective until the conclusion of**

16 legislative and judicial action as provided in this section. Grounds
17 upon which the committee may recommend that such rule or portion
18 thereof is not in the public interest or is not authorized by the general
19 assembly are as follows:

- 20 (1) An absence of statutory authority for the proposed rule;
- 21 (2) The proposed rule is in conflict with state law;
- 22 (3) The proposed rule is so arbitrary and capricious as to create
23 such substantial inequity as to be unreasonably burdensome on persons
24 affected;
- 25 (4) Such proposed rule is likely to substantially endanger the
26 public health, safety or welfare;
- 27 (5) The rule is excessive because it exceeds the purpose, or is
28 more restrictive than is necessary to carry out the purpose, of the
29 statute granting rulemaking authority; or
- 30 (6) A substantial change in circumstance has occurred since
31 enactment of the law upon which the proposed rule is based as to result
32 in a conflict between the purpose of the law and the proposed rule, or
33 as to create a substantial danger to public health and welfare.

34 3. No proposed order of rulemaking, final order of rulemaking
35 or portion thereof shall take effect, or be published by the secretary of
36 state, so long as the general assembly, by a three-fifths majority, shall
37 disapprove such by concurrent resolution within thirty legislative days
38 occurring during the same regular session of the general assembly. The
39 concurrent resolution shall specify the grounds for disapproval as
40 provided in subsection 2 of this section and shall be proceeded upon in
41 the same manner as in the case of a bill, but shall not be presented to
42 the governor.

43 4. Persons aggrieved by the disapproval of rules pursuant to the
44 provisions of subdivision (1), (2), or (3) of subsection 2 of this section
45 may bring an action for de novo review in a court of competent
46 jurisdiction. Persons aggrieved by the disapproval of rules pursuant
47 to the provisions of subdivision (4), (5), or (6) of subsection 2 of this
48 section may bring an action for judicial review in a court of competent
49 jurisdiction, but the legislative determination shall be upheld if a
50 rational basis exists that the rule violates any of such subdivisions.

Section B. Pursuant to chapter 116, RSMo, and other applicable
2 constitutional provisions and laws of this state allowing the general assembly to

3 adopt ballot language for the submission of a joint resolution to the voters of this
4 state, the official ballot title of the amendment proposed in section A shall be as
5 follows:

6 "Shall the Constitution of the State of Missouri be amended to guarantee
7 a legislative check on the executive power to promulgate administrative rules
8 which are unlawful, arbitrary and capricious, dangerous to the public, excessive,
9 or inconsistent with the original purpose of the law, with all such legislative
10 decisions subject to the check of judicial review?".

✓
Unofficial

Bill

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