

**Discussion Summation of the JCARR Reform Bill (9/1/17)**

**Sections**

**Lines**

**101.352**

**Policy vs Rules**

**22-84**

1. If the committee Chair becomes aware of an agency that is conducting business through policy and not by rule as required by law, the Chair may call the agency before the committee.

2. After the hearing, the committee may vote to have the agency write rules. The agency has up to six months to do it. If not, the agency cannot use the policy.

**101.353**

**Not Writing Rules**

**85-127**

1. If the committee Chair becomes aware of an agency that has not written rules as directed by the General Assembly, the Chair may call the agency before the committee.

2. The agency will testify why they have not completed the rules. After the testimony, the committee may vote to direct the committee to write the required rules.

**121.933**

**Exemptions of Statewide Offices and other Agencies**

**1465 – 1476**

1. This section exempts the statewide officeholders from sections 101.352, 101.353, 121.93, 121.931 and 121.932.

2. This section also exempts state institutions of Higher Education and state retirement systems from sections 101.352, 101.353, 121.93, 121.931 and 121.932.

**121.93**

**Agency Self Examination**

**1293 -1365**

1. An agency must self-examine for policies that should be in rules.
2. Within three months after the start of a new gubernatorial term, all agencies must conduct a self-exam.
3. A copy of the finding must be sent to JCARR.
4. If the agency finds policy, it must start to write rules.

**121.931**

**Petitioning an Agency**

**1366 – 1449**

1. A person may petition an agency to write rules if they have been a partner to adjudication, an order or civil action.
2. If the agency agrees, the agency has 9 months to write rules.
3. If the agency disagrees, the agency must give the petitioner a hearing to explain why they will not write rules.

**121.932**

**Cause of Action**

**1450 - 1464**

1. A person may have cause of action for court action if an agency took action based on policy and not rules.
2. Can get receive court costs and attorney fees.

**Incorporation by Reference Revision**

**121.72**

**1134 – 1167**

1. Changes when a rule has IBR by the following - “when a rule states” to “when a rule refers”.
2. Requires a citation for reference. The citation must be dated.
3. The citation may include a website.
4. The agency may not incorporate future references.

**Incorporation by Reference Revision**

**121.73**

**1168 – 1209**

1. If IBR text is not easily accessible by JCARR, the agency must attach it to the rule.

### **Incorporation by Reference Revision**

**121.74**

**1210 – 1232**

1. If the IBR text is not easily available to the public, the agency must make it available to the public at no cost at their agency.

### **Incorporation by Reference Revision**

**106.021 (D)**

**174 - 190**

1. Permits JCARR to make a motion for invalidation for proposed rules if the agency does not meet IBR standards. (Same in current code but modified to meet new language).

### **Incorporation by Reference Revision**

**106.03 (A)(4)**

**317 – 336**

1. Revises the agency's review standard for five year review concerning the new incorporation by reference language.

### **Incorporation by Reference Revision**

**106.031 (E)(3)**

**450 – 470**

1. Permits JCARR to make a motion for invalidation for existing rules if the agency does not meet IBR standards. (Same in current code but modified to meet new language).

### **Incorporation by Reference Revision**

**106.24**

**270 – 288**

1. Permits exemptions to IBR requirements. (Technical changes.)

## **Incorporation by Reference Revision**

**121.75**

**1233 – 1292**

- changes.)
1. Lists all the exemptions to IBR requirements. (Existing but with technical changes.)
  2. In addition to current exemptions, it adds electronic forms.

## **New JCARR 7<sup>th</sup> Prong**

**106.021 (G)**

**200 - 203**

1. Permits JCARR to make a motion for invalidation if a rule imposes a fee that is not reasonable and fair related to the cost incurred by the agency. (This is a new the 7<sup>th</sup> JCARR Prong)

## **Accelerated 5 Year Review if Due To Unforeseen Effect on Business**

**106.032**

**495 – 531**

1. Permits the committee to order an agency to accelerate the required 5 year review immediately if the rule has had an unforeseen effect on business. It takes a vote of the committee. When the rule is under review, the committee is permitted to recommend invalidation, if the rule has unintended effect on business that is not within the express scope of the statute under which the agency adopted the rule.

## **Expands the Definition of Adverse Impact on Business**

**107.52 (D.)**

**543 – 545**

1. Expands the definition of adverse impact on business to include if a rule is likely to reduce the revenue or increase the expenses of the lines of business.