

SENATE SUBSTITUTE
FOR
SENATE JOINT RESOLUTION NO.42

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 CON-
CURRING THEREIN:

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

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

10 Section 35(a). 1. There shall be a permanent joint
11 committee on administrative rules, selected by and from the
12 members of the senate and the house of representatives as
13 provided by law. The committee may employ a staff as provided by
14 law. The committee shall meet when necessary to perform the
15 duties assigned to it by law. The members of the committee shall
16 receive no compensation in addition to their salary as members of
17 the general assembly, but may receive their necessary expenses
18 while attending the meetings of the committee.

1 2. The committee shall review all rules promulgated by
2 state agencies, including any constitutionally or statutorily
3 created agencies, departments, or commissions, and may, by
4 majority vote of its members, recommend that the general assembly
5 disapprove and annul any rule or portion thereof contained in an
6 order of rulemaking after hearings thereon and upon a finding
7 that such rule or portion thereof should be disapproved and
8 annulled. Any such rule disapproved by majority vote of the
9 committee shall be held in abeyance and not effective until the
10 conclusion of legislative and judicial action as provided in this
11 section. Grounds upon which the committee may recommend that
12 such rule or portion thereof is not in the public interest or is
13 not authorized by the general assembly are as follows:

14 (1) An absence of statutory authority for the proposed
15 rule;

16 (2) The proposed rule is in conflict with state law;

17 (3) The proposed rule is so arbitrary and capricious
18 as to create such substantial inequity as to be unreasonably
19 burdensome on persons affected;

20 (4) Such proposed rule is likely to substantially endanger
21 the public health, safety or welfare;

22 (5) The rule is excessive because it exceeds the purpose,
23 or is more restrictive than is necessary to carry out the
24 purpose, of the statute granting rulemaking authority; or

25 (6) A substantial change in circumstance has occurred since
26 enactment of the law upon which the proposed rule is based as to
27 result in a conflict between the purpose of the law and the
28 proposed rule, or as to create a substantial danger to public

1 health and welfare.

2 3. No proposed order of rulemaking, final order of
3 rulemaking or portion thereof shall take effect, or be published
4 by the secretary of state, so long as the general assembly, by a
5 six-tenths majority, shall disapprove such by concurrent
6 resolution within thirty legislative days occurring during the
7 same regular session of the general assembly. The concurrent
8 resolution shall specify the grounds for disapproval as provided
9 in subsection 2 of this section and shall be proceeded upon in
10 the same manner as in the case of a bill, but shall not be
11 presented to the governor.

12 4. Persons aggrieved by the disapproval of rules pursuant
13 to the provisions of subdivision (1), (2), or (3) of subsection 2
14 of this section may bring an action for de novo review in a court
15 of competent jurisdiction. Persons aggrieved by the disapproval
16 of rules pursuant to the provisions of subdivision (4), (5), or
17 (6) of subsection 2 of this section may bring an action for
18 judicial review in a court of competent jurisdiction, but the
19 legislative determination shall be upheld if a rational basis
20 exists that the rule violates any of such subdivisions.

21 Section B. Pursuant to chapter 116, RSMo, and other
22 applicable constitutional provisions and laws of this state
23 allowing the general assembly to adopt ballot language for the
24 submission of a joint resolution to the voters of this state, the
25 official ballot title of the amendment proposed in section A
26 shall be as follows:

27 "Shall the Constitution of the State of Missouri be amended
28 to guarantee a legislative check on the executive power to

1 promulgate administrative rules which are unlawful, arbitrary and
2 capricious, dangerous to the public, excessive, or inconsistent
3 with the original purpose of the law, with all such legislative
4 decisions subject to the check of judicial review?".

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