

Larry Wolpert, Executive Director
Joint Committee on Agency Rule Review (JCARR)
Senate Bill 221

Thank you Mr. Chairman and members of the Senate Government Oversight and Reform Committee for allowing me to submit written testimony on Senate Bill 221. I would first like to say JCARR's staff is very supportive of Senator Uecker's efforts to enhance and improve JCARR's rulemaking oversight in Senate Bill 221.

The bill adds two new major JCARR functions that I would like to briefly discuss. If the JCARR Chairman becomes aware of an agency that is conducting business through policy and not by rule, the Chairman may call the agency before the committee to explain their actions. After hearing the explanation, the committee may vote to recommend the agency put the policy in rule. If the committee votes to have the agency write rules, the agency has up to 6 months to write rules. The other new JCARR function concerns an agency not writing rules. If through legislation the General Assembly requires an agency write rules and the agency has not, the JCARR Chairman can request the agency to appear before the committee to explain why they have not written the rules.

After the explanation, the committee could vote to direct the agency to write rules.

Some of the other JCARR enhancements in Senate Bill 221 are as follows:

- Agencies must do self-examination after the start of a new gubernatorial term for policies that should be in rule and send the findings to JCARR.
- A person may petition an agency to write rules if they have been a partner to adjudication, order or civil action. If the agency disagrees, they must give the petitioner a hearing.
- JCARR can make a recommendation of invalidation if an agency proposes a fee that is not reasonable and fair related to cost incurred by the agency.
- The JCARR committee can order an agency to bring a rule in for legislative review before its 5 year review requirement if the rule has an unexpected effect on business.
- Expands the definition of adverse impact on business to include rules that directly reduce business revenue or increase expenses.
- The bill contains clarifications and enhancements of the JCARR incorporation by reference standards.

If you have any questions or comments about our support of the bill, please feel free to contact me. Thank you.