

FIRST REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 36

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ROSS.

1409H.011

D. ADAM CRUMBLISS, Chief Clerk

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 House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2018, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article III of the Constitution of the state of Missouri:

Section A. Article III, Constitution of Missouri, is amended by adding one 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 administrative rules, selected by and from the members of each house as provided by law. The committee may employ staff as provided by law. The committee shall meet when necessary to perform the duties assigned to it by law. The members of the committee shall receive no compensation in addition to their salary as members of the general assembly, but may receive their necessary expenses while attending the meetings of the committee.

2. The committee shall review all rules promulgated by state agencies, including any constitutionally or statutorily created agencies, departments, or commissions, and may, by majority vote of its members, recommend that the general assembly disapprove and annul any rule or portion thereof contained in an order of rulemaking after hearings thereon and upon a finding that such rule or portion thereof should be disapproved and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 **annulled. Any such rule disapproved by majority vote of the committee shall be held in**
13 **abeyance and not effective until the conclusion of legislative and judicial action as provided**
14 **in this section. Grounds upon which the committee may recommend that such rule or**
15 **portion thereof is not in the public interest or is not authorized by the general assembly are**
16 **as follows:**

17 **(1) An absence of statutory authority for the proposed rule;**

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

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

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

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

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

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

36 **4. Persons aggrieved by the disapproval of rules under the provisions of subdivision**
37 **(1), (2), or (3) of subsection 2 of this section may bring an action for de novo review in a**
38 **court of competent jurisdiction. Persons aggrieved by the disapproval of rules pursuant to**
39 **the provisions of subdivision (4), (5), or (6) of subsection 2 of this section may bring an**
40 **action for judicial review in a court of competent jurisdiction, but the legislative**
41 **determination shall be upheld if a rational basis exists that the rule violates any of such**
42 **subdivisions.**

Section B. Under chapter 116, RSMo, and other applicable constitutional provisions and
2 laws of this state allowing the general assembly to adopt ballot language for the submission of a
3 joint resolution to the voters of this state, the official ballot title of the amendment proposed in
4 section A shall be as follows:

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

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