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FISCAL IMPACT REPORT

SPONSOR	<u>Pettigrew/Townsend</u>	LAST UPDATED	<u>2/6/2024</u>
		ORIGINAL DATE	<u>2/6/2024</u>
		BILL	<u>House Memorial</u>
SHORT TITLE	<u>State Agency Rules Oversight Committee</u>	NUMBER	<u>43</u>
		ANALYST	<u>Hanika-Ortiz</u>

APPROPRIATION* (dollars in thousands)

FY24	FY25	Recurring or Nonrecurring	Fund Affected
	No fiscal impact		

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 124

Sources of Information

LFC Files

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has not received an analysis from agencies, specifically the Commission of Public Records that administers the State Rules Act. This analysis could be updated if an analysis is received.

SUMMARY

Synopsis of House Memorial 43

House Memorial 43 (HM43) asks the Legislative Council Service (LCS) to create an interim committee to review rules proposed by executive state agencies.

HM43 suggests that: sometimes rules promulgated pursuant to authorizing statutes do not reflect legislative intent; the process of challenging a rule in court is costly; the State Rules Act requires the public to be put on notice of proposed rule changes and new rulemaking; and the Legislature should consider strategies to review the proposed rules to ensure they reflect legislative intent.

FISCAL IMPLICATIONS

No fiscal impact, because the memorial has no force of law. However, if LCS chooses to establish another interim committee, the “Feed Bill” (the legislation that funds session and interim committee expenses) would need to include sufficient funds to cover the expenses of the new committee, in addition to other legislative expenses, including for LCS, Legislative Finance Committee, Legislative Education Study Committee, Senate Rules Committee, as well as the Chief Clerks’ Offices for both the Senate and House of Representatives.

Since the infrastructure to conduct an interim committee is already in place, the cost for 2 FTE and per diem and mileage for 12 legislators could be at a minimum \$200 thousand annually.

For instance, presumably, the interim committee could choose not to review emergency rules, and prioritize only new rules, or rule changes with a proposed fiscal impact of over \$1 million.

SIGNIFICANT ISSUES

LCS is being asked to create an interim administrative rule oversight committee of 12 members with the majority and minority floor leaders each appointing three members. The position of chair would alternate between both the House and the Senate and the two largest political parties.

LCS would distribute notices of proposed rulemaking to the new interim committee. Committee staff would analyze the rule, its policy and fiscal impact, and whether it reflects legislative intent.

The new committee would meet one time per month during the interim. During that time, the committee would analyze proposed rules and their fiscal impact at least two weeks prior to the public rulemaking process, except when the Legislature is in session. The committee would then make a recommendation to the proposing agency including for changes to an authorizing statute. This suggests the recommendation would be treated like any other public comment. Under the State Rules Act, an executive agency may revise a proposed rule based on public comments.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to HB124, Admin Rule Oversight Committee, which appropriates \$2 million from the general fund for FY25 for committee staff, legislative per diem and mileage, and other costs. This bill also requires the proposing agency to submit certain fiscal impact statements to the committee.

OTHER SUBSTANTIVE ISSUES

The memorial could be considered to violate the constitutional separation of powers between branches of government if a recommendation is interpreted as binding upon the proposing agency.

It may be preferable for the committee to have an odd number of members, to avoid a tied vote.

AHO/al/ne/ss