

House Research Act Summary

CHAPTER: 193

SESSION: 1999 Regular Session

TOPIC: Local Government Rulemaking Petitions

Date: May 21, 1999

Analyst: Mark Shepard, 651-296-5051

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

Permits a city or county to petition a state agency for amendment or repeal of a rule if the petitioner shows that since the rule was adopted there is: significant new evidence relating to need for or reasonableness of the rule; or a less costly or intrusive method of achieving the purpose of the rule.

If the agency does not take the action requested in the petition, an administrative law judge (ALJ) would conduct a hearing, at which the agency must show the continued need for and reasonableness of the rule. If the ALJ determines the agency has not made this showing, the rule ceases to have the force of law in 90 days unless the agency amends the rule within prescribed timelines.

- 1 **Petition; Unit of Local Government.** (a) Permits the governing body of a city or county to petition a state agency for amendment or repeal of a rule. The written petition must demonstrate one of the following have become available since the rule was adopted:
 1. significant new evidence relating to need for or reasonableness of the rule; or
 2. less costly or intrusive methods of achieving the purpose of the rule.

(b) Requires an agency to respond within 30 days. The response must state either:

 1. Within 90 days the agency will give notice of intent to adopt the requested amendment or repeal; or
 2. The agency does not intend to amend or repeal the rule as has requested the office of administrative hearings to review the petition.

Requires an agency to use an expedited process if adopting the amendment or repeal requested by the petitioner.

- (c) Requires an administrative law judge (ALJ) to review the petition for compliance with paragraph (a), and to dismiss the petition if specified findings are made.
(d) If the ALJ finds the petitioner has complied with paragraph (a), the ALJ must conduct a

hearing and issue a decision on the petition within 120 days. The agency must give notice of the hearing. At the hearing the agency must make an affirmative presentation of facts establishing the need for and reasonableness of the rule or portion of the rule in question. Unless the agency starts the process of amending the rule within 90 days, the rule does not have the force of law, effective 90 days after an ALJ decision finding that the agency has not established need and reasonableness.

- (e) The agency may amend or repeal the rule in the manner requested by the petitioner, or in another manner that the ALJ has determined is needed and reasonable. Amendments may be adopted under an expedited process, but the full process must be used if requested by 100 people. If the agency uses the expedited process, it must be completed within 90 days of the ALJ report. If a hearing is required, the agency has 180 days. A rule that is not amended by these deadlines does not have force of law upon expiration of the deadline.
- (f) Requires the ALJ to report decisions under this section to appropriate legislative committees.
- (g) Provides that the petitioner shall pay half the ALJ's costs for processing a petition and conducting a public hearing on the petition under this section.
- (h) The section expires July 31, 2001.