

## 25.1 INTRODUCTION

The legislature oversees administrative rulemaking in two ways: (1) by controlling the initial delegation of rulemaking authority and (2) by reviewing (and sometimes rewriting) adopted rules.

Both houses of the legislature have internal rules governing legislative delegation of rulemaking authority to state agencies. House of Representatives Rule 4.13 and Senate Rule 4.5 require a bill to be referred to the governmental operations committee in the respective chamber if the bill delegates rulemaking authority to an agency or exempts an agency from the customary rulemaking procedures. Because of these legislative rules, bills containing rulemaking delegations or exemptions are re-referred from the committee with primary jurisdiction to the governmental operations committee. Often, the rulemaking delegation or exemption is the only reason that a bill is referred to the House or Senate governmental operations committees, so these committees give special attention to the rulemaking provisions of the bill.

The most common method for legislative review of adopted administrative rules is for the legislative committee with jurisdiction over the agency rules to hold a hearing. As a result of a hearing, a legislative committee may encourage an agency to amend or withdraw a proposed rule, or to amend or repeal an existing rule. Although the Legislative Coordinating Commission (LCC) has statutory authority over rulemaking, it seldom has used this authority.

Legislators also introduce bills that change the substance of rules, repeal rules, or require agencies to amend rules in a specified manner. In recent years, it has become more common for agencies to ask the legislature to repeal certain rules or to amend rules in specified ways. Sometimes, having prescribed some or all of the substance of a rule, the legislature will allow the agency to adopt the rule using an expedited or exempt rulemaking process.

The remainder of this chapter provides historical background on legislative oversight of state agency rules, and then describes current laws on this topic.