

25.2 LCRAR HISTORY

Until July 1, 1996, the Legislative Commission to Review Administrative Rules (LCRAR) was the main legislative body with oversight of state agency rules. The LCRAR was a joint house and senate commission of the Minnesota Legislature created in 1974 to assist in legislative oversight of state agency rules and to investigate citizens' complaints about rules. The LCRAR was served by a full-time, nonpartisan staff person, and was assisted by other legislative staff. In July of 1996, the LCRAR was abolished along with a number of other legislative commissions and the LCC was directed to take over the functions and duties of the LCRAR that it deemed necessary.¹ The LCC also is a joint house and senate commission. However, the LCC has a wide variety of duties, and does not focus on administrative rulemaking.

While in existence, the LCRAR was viewed as more cost effective than litigation and as acting in a timelier manner on a wide range of problems relating to administrative rules. The LCRAR was especially effective in resolving complaints where a negative impact was perceived but where there was no legal defect that would convince a court to act. For these disputes, mainly about public policy choices, the legislative arena was and still is the logical one in which to attempt resolution of the problem.

During the late 1960s and early 1970s, Minnesota state government, like the federal government, witnessed growth in the number, extent, and complexity of issues demanding attention. Unlike the U.S. Congress, however, the Minnesota Legislature is only in session part-time. Therefore, Minnesota legislators have less time than their federal counterparts in which to educate themselves on increasingly technical issues and to act through legislation.

The result has been the passage of a large number of laws that are more general than specific and that delegate legislative authority to administrative agencies. Delegation has obvious attractions for legislators. More problems can be addressed in a session if decisions are delegated to agencies. Laws identifying general problems and directing agencies to solve them have typically been easier to pass; the more specific a bill is made, the greater the likelihood of organized opposition, since the winners and losers are more clearly defined. Many of the decisions needed to implement the delegations of legislative authority are, therefore, made through administrative rules. While increased reliance on agency rulemaking solves one problem for legislators, it creates another: how does that same part-time, overworked legislature monitor rules adopted by agencies?

By the mid-1970s, state legislators were increasingly frustrated by their inability to check agencies' use of delegated authority. Many legislators believed agencies were sometimes acting without statutory authority, exceeding legislative intent, or, in cases where the agency opposed a program created by the legislature, failing to adopt the rules needed to implement the program.

Complaints from constituents about agency rules were another source of legislative frustration. Constituents frequently contacted legislators when they encountered an obstacle obstructing something they want to do, especially when that obstacle is "some bureaucrat." Acting individually, legislators were not always successful

¹ 1995 Minn. Laws ch. 248, art. 2, § 6, at 2422-43.

in obtaining relief for their constituents. Constituents themselves felt even less able to influence agency actions.

The creation of a legislative body before which complaints could be aired and with power to affect agency rules addressed both the oversight function and constituent service needs of the legislature. Minnesota legislators discovered a model in Wisconsin and adopted a nearly identical version of Wisconsin law for the Minnesota Legislature in 1974. The Minnesota and Wisconsin rule review commissions were among the first in the nation to review agency rules.²

The LCRAR was abolished in 1996 as part of a larger series of reforms. The LCC was authorized to assume some of the rule review authority formerly held by the LCRAR.

² COUNCIL OF STATE GOV'TS, BOOK OF THE STATES 2013, tbl. 3.26 (2013), *available at* http://knowledgecenter.csg.org/kc/system/files/3.26_2013.pdf (identifying states that have a formal mechanism for legislative review of administrative rules).