

HOUSE ENERGY AND TECHNOLOGY
EXCERPTS FROM RULEMAKING STATUTES
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3 V.S.A. § 841. FINAL PROPOSAL

(a) After considering public comment as required in section 840 of this title, an agency shall file a final proposal with the Secretary of State and with the Legislative Committee on Administrative Rules.

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(c) The Legislative Committee on Administrative Rules shall distribute a copy of the final proposal to:

- (1) **the chairs of the appropriate standing committees;**
- (2) **each member of the appropriate standing committees who requests a copy of the filing;** and

(3) the Chairs of the House and Senate Committees on Government Operations, if the cover sheet accompanying the filing identifies a Public Records Act exemption in the rule.

(d) **The chair of a standing committee that considered legislation delegating rulemaking authority and, in the case of rules that create or enlarge the scope of a Public Records Act exemption, the Chairs of the House and Senate Committees on Government Operations, may convene the committee for the purpose of considering a recommended course of action for the Legislative Committee on Administrative Rules.** The chair may convene such a meeting, pursuant to 2 V.S.A. § 406, while the General Assembly is not in session. **Any recommended course of action shall be filed with the Legislative Committee on Administrative Rules no later than five working days before the Committee has scheduled a review of the proposed rule.**

3 V.S.A. § 842. REVIEW BY LEGISLATIVE COMMITTEE

(a) Within 30 days of the date a rule is first placed on the Committee's agenda but no later than 45 days after the filing of a final proposal unless the agency consents to an extension of this review period, **the Legislative Committee on Administrative Rules, by majority vote of the entire Committee, may object under subsection (b), (c), or (d) of this section,** and recommend that the agency amend or withdraw the proposal. The agency shall be notified promptly of the objections. Failure to give timely notice shall be deemed approval. The agency shall within 14 days of receiving notice respond in writing to the Committee. After receipt of this response the Committee may withdraw or modify its objections.

(b) **The Committee may object under this subsection if:**

- (1) **a proposed rule is beyond the authority of the agency;**
- (2) **a proposed rule is contrary to the intent of the Legislature;**
- (3) **a proposed rule is arbitrary; or**
- (4) **the agency did not adhere to the strategy for maximizing public input prescribed by the Interagency Committee on Administrative Rules.**

When objection is made under this subsection, and the objection is not withdrawn after the agency responds, on majority vote of the entire Committee, it may file the objection in certified

form with the Secretary of State. The objection shall contain a concise statement of the Committee's reasons for its action. The Secretary shall affix to each objection a certification of its filing and as soon as practicable transmit a copy to the agency. After a Committee objection is filed with the Secretary under this subsection, or on the same grounds under subsection 817(d) of this title, to the extent that the objection covers a rule or portion of a rule, the burden of proof thereafter shall be on the agency in any action for judicial review or for enforcement of the rule to establish that the part objected to is within the authority delegated to the agency, is consistent with the intent of the Legislature, is not arbitrary, and the agency did adhere to the strategy for maximizing public input prescribed by the Interagency Committee on Administrative Rules. If the agency fails to meet its burden of proof, the Court shall declare the whole or portion of the rule objected to invalid. The failure of the Committee to object to a rule is not an implied legislative authorization of its substantive or procedural lawfulness.

(c) The Committee may object under this subsection if a proposed rule is not written in a satisfactory style according to section 833 of this title.

(d) The Committee may object under this subsection if the economic impact statement fails to recognize a substantial economic impact of the proposed rule that the Committee describes in its notice of objection. The Committee may object one time under this subsection and return the proposed rule to the agency as unacceptable for filing. The agency may then cure the defect and adopt the rule, or it may adopt the rule without change.

(e) When an objection is made under subsection (b) of this section and has been certified by the Secretary of State, notice of the objection shall be included on all copies of the rule distributed to the public.