

# Legislature missed the message; vote no again

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How many times do Idaho voters have to say "no" to a proposed power-grabbing constitutional amendment before the Legislature gets the message?

Two years ago, voters rejected House Joint Resolution 2, a constitutional amendment to essentially give the Legislature supreme authority over agency rules, overriding anything the executive and judicial branches might do. In layman's terms, compare the proposed amendment to a pig - a dirty, smelly animal that most people don't like to touch.

For this election, legislators took the same pig, gave it a new name (HJR 5), cleaned it up and drenched it in perfume to mask the bad smell. But it's still a pig, and we're recommending that voters say "no" again. The system is not broken and does not need to be fixed by a constitutional amendment that few people outside the legislative arena can fully understand or care about in their daily lives.

Legislators have no choice but to pay attention to rulemaking, because they're spending the early part of every session reviewing those rules. Lawmakers often are frustrated, because rules have the same effect as laws and some of those rules shouldn't belong on the books. At least, in the mind of some legislators.

But giving the Legislature full authority over rulemaking and taking away the checks and balances provided by the three branches of government is not the answer. Agency rules are part of what comes from the executive branch. The judicial branch has the authority to evaluate the rules and even decide if those rules are constitutional. The Legislature has oversight and the ability to accept or reject rules. It also can write new laws.

U.S. Sen. Jim Risch, R-Idaho, a former longtime state legislator who is promoting passage of HJR5, says in a recent opinion piece that was published on our pages that a "yes" vote "will be securing the ability to hold politicians accountable, protect Idahoans from excessive regulations, ensure your voice is heard and hold our state government accountable to the people it serves." The Legislature's authority to approve or reject rules, he said, "will not be taken away by an activist court."

Part of Risch's argument is that the proposed amendment has "strong support" of the Idaho Farm Bureau, the Milk Producers of Idaho, the Idaho Chamber of Commerce Alliance, the Idaho Realtors Association and the Idaho Water Users. To us, listing the high-powered lobbyists supporting HJR 5 is an excellent argument for voting against it.

Idahoans have more to think about in their lives than the laborious rulemaking process, and there's no great demand for holding local state representatives accountable. But the lobbyists certainly care about the rules and would love to have the ability to have their hands digging deeper into the process, which certainly would occur if HJR 5 passes. In the "ideal" world, legislators are accountable to the people who elect them. In the "real" world of legislative politics, lawmakers too often end up being accountable to the lobbyists - and especially the high-powered ones that donate to campaigns.

Attorney General Lawrence Wasden, who is against the proposed amendment, discussed his concerns about lobbyist influence in another opinion piece that appeared in this paper.

"HJR 5 will permanently allow well-heeded individual interests to overturn the open negotiated process of rulemaking by hiring a lobbyist, who can then influence the Legislature to reject rules based on narrow lobbied interest," Wasden said.

The attorney general is on target with his assessment. Voters should reject HJR 5 and hopefully soundly enough so this bad idea does not return on Idaho ballots.