

office on the issue of the constitutionality of the legislative veto, viz:

"Essentially, this Office has said that the power of the General Assembly consists of several species of legislative power, only one of which is the power to make laws. Another species of legislative power is the power of oversight authority making power. We concluded that, in exercising this oversight authority, the General Assembly may enact legislation making the exercise of rulemaking authority subject to approval by one of the Houses or committees of the General Assembly. Because such approval would not constitute the making of a law, it need not be given by both Houses or subject to veto by the Governor. Moreover, as it would be a species of legislative power, -- i.e., the oversight power -- its exercise would not violate separation of powers by infringing on the power of the Executive or Judiciary." (Emphasis supplied).

In that letter we were discussing the constitutionality of the interaction between the Executive and Legislative Branches contained in several provisions of existing law.

House Bill 1255 goes substantially beyond what was found to be constitutionally defensible in that letter. Of major constitutional significance is the authority granted to the AELR Committee to suspend the adoption of a regulation or any portion of it "if the Committee finds the regulation or the suspended portion thereof: (i) is unconstitutional; (ii) exceeds the statutory authority of the promulgating unit; (iii) fails to comply with the legislative intent of the statute authorizing it; or (iv) is unreasonable or unnecessarily burdensome." The bill raises more than a legislative veto of executive power issue; rather it raises the question of the General Assembly's ability to perform functions exclusively the prerogative of the judicial branch.

The separation of powers clause of the Declaration of Rights, Article 8, provides:

"That the Legislative, Executive and Judicial power of Government ought to be forever separate and distinct from each other, and no person exercising the functions of one of said Departments shall assume or discharge the duties of any other."

The purpose of this separation of powers provision has been stated as follows:

"The evident purpose of the declaration last quoted, is to parcel out and separate the powers of government, and to confide particular classes of them to particular branches of the supreme authority. That