

Fiscal Estimate Narratives

DWD 7/6/2017

LRB Number	17-3287/1	Introduction Number	SB-322	Estimate Type	Original
Description review by state agencies of administrative rules and enactments; an expedited process for repealing rules an agency no longer has the authority to promulgate; retrospective economic impact analyses for rules; and reporting by the Legislative Reference Bureau on rules in need of revision					

Assumptions Used in Arriving at Fiscal Estimate

Current law dictates the six-step procedure for promulgating administrative rules. This bill provides for an alternate, expedited three-step procedure an agency may use to repeal a rule that the agency determines it no longer has the authority to promulgate due to repeal or amendment of the law that previously authorized its promulgation.

Next, this bill requires each agency with any rules published in the code to biennially submit a report to the Joint Committee for Review of Administrative Rules (JCRAR) listing rules promulgated or otherwise administered by the agency. These include unauthorized rules; rules for which the authority to promulgate has been restricted; rules that are obsolete or that have been rendered unnecessary; rules that are duplicative or, superseded by or in conflict with another rule, a state statute, a federal statute or regulation, or a court ruling; and economically burdensome rules. This report must include a description of the agency's actions to address each rule in the report or a statement for why no action is being taken; a description of the status of each rule listed in the previous year's report not otherwise listed; and if the agency determines that there are no such rules to list, a statement of that determination. If the agency identifies an unauthorized rule in the report, the bill requires the agency to submit a petition to repeal the unauthorized rule, using the newly created three step process, within 30 days after the report.

This bill also requires agencies to review enactments of the legislature (acts) to determine whether any parts of an act results in any of the following: it eliminates or restricts the agency's authority to promulgate any of the agency rules; it renders any of the agency's rules obsolete or unnecessary; it renders, for any reason, any of the agency's rules not in conformity with or superseded by state statute, including due to statutory number or terminology changes in the act; or it requires or otherwise necessitates rule making by the agency. If the agency determines any consequence listed results, within six months after the act's effective date, the agency must take one or more of the following steps: submit a statement of scope of a proposed rule to address any such consequence to the governor, unless the act requires otherwise or unless the agency submits a notice to JCRAR explaining why it is unable to submit the statement within the time period and an estimate of when the agency plans to submit the scope statement; submit a petition to use the expedited procedure described above for repealing an unauthorized rule to the Legislative Council Staff; or submit a request to the Legislative Reference Bureau (LRB) for the LRB to use its revision authority to make certain changes to the code.

Finally, this bill allows JCRAR to direct an agency to prepare a retrospective economic impact analysis for any of an agency's rules that are published as code. JCRAR may direct what is to be reviewed and specify a deadline for the preparation of this analysis. The agency must include in this impact analysis a comparison of the actual economic effect of the rules to any economic impact analysis that analyzed the economic effect of the rules when they were proposed. Finally, the bill otherwise requires an agency to prepare a retrospective economic impact analysis in a manner like that prescribed for an economic impact analysis for a proposed rule.

The Department of Workforce Development estimates that this bill would have no fiscal effect on the agency. Any changes to workload can be absorbed at current staffing levels.

Long-Range Fiscal Implications