

### Fiscal Estimate - 2017 Session

Original     
  Updated     
  Corrected     
  Supplemental

|                             |                                   |
|-----------------------------|-----------------------------------|
| <b>LRB Number</b> 17-5307/1 | <b>Introduction Number</b> SB-745 |
|-----------------------------|-----------------------------------|

**Description**  
 deference by courts to agency interpretations of law, notice and comment requirements for guidance documents issued by agencies, and agency rule-making authority

**Fiscal Effect**

**State:**

- No State Fiscal Effect
- Indeterminate
  - Increase Existing Appropriations
  - Decrease Existing Appropriations
  - Create New Appropriations
- Increase Existing Revenues
- Decrease Existing Revenues
- Increase Costs - May be possible to absorb within agency's budget
  - Yes
  - No
- Decrease Costs

**Local:**

- No Local Government Costs
- Indeterminate
  - 1.  Increase Costs
  - 2.  Decrease Costs
  - 3.  Increase Revenue
  - 4.  Decrease Revenue
- Permissive  Mandatory
  - Permissive  Mandatory
  - Permissive  Mandatory
  - Permissive  Mandatory
- 5. Types of Local Government Units Affected
  - Towns     Village     Cities
  - Counties     Others    0
  - School Districts     WTCS Districts

|   |                                       |
|---|---------------------------------------|
| <b>Fund Sources Affected</b>  | <b>Affected Ch. 20 Appropriations</b> |
| <input checked="" type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS |                                       |

|                                 |                             |             |
|---------------------------------|-----------------------------|-------------|
| <b>Agency/Prepared By</b>       | <b>Authorized Signature</b> | <b>Date</b> |
| DNR/ Joe Polasek (608) 266-2794 | Joe Polasek (608) 266-2794  | 3/20/2018   |

## Fiscal Estimate Narratives

DNR 3/20/2018

|   |           |                     |        |               |          |
|---|-----------|---------------------|--------|---------------|----------|
| LRB Number  | 17-5307/1 | Introduction Number | SB-745 | Estimate Type | Original |
| <b>Description</b><br>deference by courts to agency interpretations of law, notice and comment requirements for guidance documents issued by agencies, and agency rule-making authority |           |                     |        |               |          |

### Assumptions Used in Arriving at Fiscal Estimate

Assembly Bill 880 proposes: (a) prohibiting courts from granting any deference to a state agency's experience, technical competence or specialized knowledge; (b) requiring agencies to meet new publication and public comment requirements for guidance issued by agencies in the future; and (c) clarifying that settlement agreements, consent decrees and court orders do not provide authority to an agency to promulgate rules. Regarding existing guidance documents, the legislation requires that by July 1, 2018 agencies either certify that the guidance meets the requirements of the bill or the guidance must follow the publication requirements of the bill.

### Fiscal Effect

1. Increased costs for the DNR are anticipated under the bill's new requirement for all agencies issuing guidance to follow specific publication and public comment procedures.
2. Additionally, the requirement that courts grant no deference to agencies could lead to increased litigation in the future, which would further increase costs for the DNR.
3. The bill could also lead the DNR to increasingly engage outside experts during litigation, which would also increase costs.

### Long-Range Fiscal Implications