

1999 DRAFTING REQUEST

Assembly Resolution

Received: **03/23/2000**

Received By: **dykmapj**

Wanted: **Soon**

Identical to LRB:

For: **Daniel Vrakas (608) 266-3007**

By/Representing: **Brian Pleva**

This file may be shown to any legislator: **NO**

Drafter: **dykmapj**

May Contact:

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Subject: **Memorials - Congress to**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Congress to pass expedited waiver review process

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	dykmapj 03/23/2000	gilfokm 03/23/2000	martykr 03/23/2000	_____	lrb_docadmin 03/23/2000	lrb_docadmin 03/23/2000	

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FE Sent For:

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4814

Daniel P. Vrakas

Wisconsin State Representative

Majority Caucus Chair

Chair: Assembly Committee on Labor & Employment
Assembly Chair: Joint Survey Committee on Retirement Systems

MEMORANDUM

TO: Peter J. Dykman
FROM: Brian J. Pleva
DATE: March 22, 2000
RE: Request for a Resolution Draft

I am requesting that the Legislative Reference Bureau draft an Assembly Resolution that will reflect the points made in the accompanying packet.

Specifically, I would like it to be a "resolution version" of H.R. 2376 and its amendment (both attached).

If you have any questions, feel free to call me at **4-8668**.

Thank you!

P.O. Box 8953 • Madison, Wisconsin 53708-8953
Office: (608) 266-3007 • Residence: (414) 367-5201
Toll-Free: 1 (888) 529-0033
Rep.Vrakas@legis.state.wi.us

106TH CONGRESS
1ST SESSION

H. R. 2376

To require executive agencies to establish expedited review procedures for granting a waiver to a State under a grant program administered by the agency if another State has already been granted a similar waiver by the agency under such program.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 1999

Mr. GREEN of Wisconsin (for himself, Mr. SIMPSON, Mr. FLETCHER, Mr. DEMINT, Mr. HAYES, Mr. OSE, Mr. KUYKENDALL, Mr. RYAN of Wisconsin, Mr. SWEENEY, and Mrs. BIGGERT) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To require executive agencies to establish expedited review procedures for granting a waiver to a State under a grant program administered by the agency if another State has already been granted a similar waiver by the agency under such program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. REQUIREMENT TO ESTABLISH EXPEDITED RE-**
2 **VIEW PROCEDURES FOR AN AGENCY TO**
3 **GRANT WAIVERS TO STATES UNDER GRANT**
4 **PROGRAMS ADMINISTERED BY THE AGENCY.**

5 (a) **REQUIREMENT TO ESTABLISH EXPEDITED RE-**
6 **VIEW PROCEDURES.**—The head of each executive agency
7 shall establish expedited review procedures under which a
8 State may be granted a waiver by the agency with respect
9 to a requirement applicable to grant program adminis-
10 tered by the agency if another State has applied for a simi-
11 lar waiver under the program and been granted the waiver
12 by the agency.

13 (b) **REGULATIONS.**—The head of each executive
14 agency shall promulgate regulations to carry out the re-
15 quirement in subsection (a).

16 (c) **DEFINITION OF EXECUTIVE AGENCY.**—In this
17 section, the term “executive agency” has the meaning
18 given that term in section 105 of title 5, United States
19 Code.

○

AMENDMENT IN THE MATURE OF A SUBSTITUTE
TO H.R. 2376
OFFERED BY MR. HORN

Strike all after the enacting clause and insert the
following:

1 SECTION 1. INCREASING FLEXIBLITY FOR STATE WAIVERS
2 OF REQUIREMENTS

3 (a) REVIEW OF Processes.—The head of each Fed-
4 eral grant making agency shall—

5 (1) review the processes under which States
6 apply for waivers of statutory and regulatory re-
7 quirements under grant programs; and

8 (2) take appropriate steps to streamline those
9 processes.

10 (b) CONSIDERATION OF APPLICATIONS.—The head
11 of each such agency shall, to the extent practicable and
12 permitted by law, consider any application by a State for
13 a waiver of statutory or regulatory requirements in con-
14 nection with any grant program funded by that agency
15 with a general view toward increasing opportunities for
16 utilizing flexible policy approaches at the State level in
17 causes in which the proposed waiver is consistent with ap-
18 plicable Federal policy objectives and is otherwise appro-
19 priate.

1 oped not later than six months after the date of the
2 enactment of this Act.

3 (b) EXCEPTIONS.—

4 (1) NEW GRANT PROGRAMS.—The review pro-
5 cedures required by subsections (a)(1) shall not apply
6 with respect to a grant program during the first 2
7 years after the initial establishment of the program.

8 (2) FIRST YEAR OF APPROVAL OF SIMILAR
9 WAIVER.—The review procedures required by sub-
10 section (a)(1) shall not apply to an application simi-
11 lar to a previously approved waiver application for
12 another State during the first year of the approval
13 of the application for the other State.

14 SEC.3. PUBLICATION OF DISPOSITION OF WAIVER APPLI-
15 CATIONS.

16 The head of each federal grant making agency shall
17 publish on a quarterly basis in the Federal Register—

18 (1) the action taken by the agency (if such ac-
19 tion was complete approval or denial) during the
20 preceding quarter on the disposition of each applica-
21 tion by a State for a waiver of a specific requirement
22 under a grant program funded by the agency, or an
23 indication of whether a State withdrew an applica-
tion for a waiver;

5

1 (1) The term "capped grant program" means a
2 grant program for which an appropriation act fully
3 determines the budget authority.

4 (2) The term "open-ended entitlement pro-
5 gram" means an entitlement program for which an
6 appropriation act only nominally determines the
7 budget authority because the statute authorizing the
8 program obligate the United States to make pay-
9 ments to persons who meet requirements established
10 by law.

 Amend the title so as to read: To streamline proc-
essing by agencies of State requests for waivers under
Federal grant programs.

188

3

-- Expedited Waiver Review Proposal --
H.R. 2376

Background

- **Base Bill:** HR 2376 simply directs federal grant-making agencies to establish an expedited review procedure for the following waiver scenario -- where one state is requesting a waiver that is "similar" to a waiver already requested and granted for another state.
- **Manager's Amendment:** Adds these provisions to base bill:
 - Generally requires grant making agency heads to review their waiver review processes and take "appropriate steps to streamline those processes."
 - Puts into law the standards already in Clinton Administration Executive Orders re waiver review: "to the extent practicable and permitted by law, render a decision . . . within 120 days of receipt of such application . . ."
 - Exempts from the "expedited waiver review process" established by this bill (a) federal grant programs that have been in effect for less than 2 years and (b) waivers granted to one state during the first year of approval of that waiver.
 - Directs agencies to publish quarterly a progress report regarding waiver applications -- action taken, date that applications were made and the date of disposition of any waiver application.
 - Directs OMB, USDA and DHSS to develop, along with NCSL and NGA, an interagency memorandum of understanding "specifying a common approach . . . for budget neutrality with respect to a State for the open-ended entitlement programs . . . " funded by those agencies.
- **Reasons for the Bill:**
 - One of the suggestions made by governors in response to outreach project in which they were asked what the federal government could do to attack some of the rules, regulations, bureaucratic barriers, etc. that reduce their ability to be innovative in policy making.
 - The waiver process often slows the implementation process for cutting edge state initiatives by months and even years. In many cases, waivers are not granted or are only conditionally granted. The more common problem is that even where the waivers are granted, the process takes so long that states are discouraged from seeking waivers in the first place.

MARK GREEN
8TH DISTRICT, WISCONSIN
ASSISTANT MAJORITY WHIP



CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

COMMITTEE ON BANKING
AND FINANCIAL SERVICES
COMMITTEE ON THE BUDGET
COMMITTEE ON SCIENCE
REPUBLICAN POLICY
COMMITTEE

TESTIMONY OF CONGRESSMAN MARK GREEN
"GRANT WAIVERS: H.R. 2376
AND STREAMLINING THE PROCESS"
SEPTEMBER 30, 1999

Mr. Chairmen and Members of the Subcommittees –

I thank you for holding this hearing today. I am pleased to be here today to testify on the federal waiver process, and specifically my bill, H.R. 2376.

According to information supplied to this committee, from 1997 to August of 1999, my state of Wisconsin applied for 70 waivers from federal agencies. These waivers were not because Wisconsin couldn't or wouldn't meet federal policy objectives, but because like so many states, Wisconsin wanted to try new innovative approaches to meeting long-standing policy challenges. Each of these waivers requests required extensive paperwork and man-hours to meet the burdensome application requirements. Even after the necessary forms were filled out, the response and processing time from the agencies added further burdens – burdens of uncertainty and suspended state policymaking. In some instances, it took almost 18 months to get approval of a waiver request. Of course, not all of Wisconsin's requests were approved –but the burdens and costs Wisconsin encountered were often as great as for those granted.

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waiver request. The Agency responds with 10 pages of questions. Once the state answers the questions, the Agency submits terms and conditions, negotiations take place, there is a six-month delay.... and so on. It really is a game. Every time a state takes a step forward, they must take a step back. The delays and red-tape are unreasonable, and need to be greatly reduced.

Last week, I attended a hearing in the Budget Committee, and heard Governor Jeb Bush testify on his education proposals for Florida. According to Governor Bush, 40 percent of man-hours at the Florida Department of Education –that's 40 percent – are spent merely filling out federal paperwork. Surely we can find more productive uses for their time and for taxpayers' money. Clearly, this is a case in point for simplifying the waiver process and setting up expedited procedures for states.

This brings me to my legislation, H.R. 2376. This bill, in a very modest, common sense way, would help streamline the complicated, time consuming federal waiver process. Simply put, it would require federal agencies to establish expedited review procedures for state-requested waivers if the agency previously authorized a similar waiver for another state.

The inspiration for this bill came out of an effort that I, along with a number of my freshmen colleagues, have made to reach out to governors – both Republican and Democrat – and find out what steps we could take to help them be innovative in their policy making.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4814/1

PJD.....
King

1999 ASSEMBLY RESOLUTION

5000

1 **Relating to:** urging Congress to pass legislation to require federal executive
2 agencies to establish expedited review procedures for granting a waiver to a
3 state under a grant program administered by the federal agency if another
4 state has already been granted a similar waiver by the agency under that
5 program.

6 Whereas, from 1997 to August 1999, Wisconsin applied for 70 waivers from
7 federal agencies; and

8 Whereas, these waivers were not because Wisconsin couldn't or wouldn't meet
9 federal policy objectives, but because ^{like} so many states, Wisconsin wanted to try
10 new innovative approaches to meeting long-standing policy challenges; and

11 Whereas, each waiver application requires extensive efforts and costs, and the
12 response and processing time from the federal agencies adds the burdens of
13 uncertainty and suspended state ^{policy}making; and

14 Whereas, the difficulty, cost and delays of obtaining a federal waiver discourage
15 states from trying to meet their residents' needs in innovative ways; and

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 03/23/2000

To: Representative Vrakas

Relating to LRB drafting number: LRB-4814

Topic

Congress to pass expedited waiver review process

Subject(s)

Memorials - Congress to

1. **JACKET** the draft for introduction

in the **Senate** ____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Attorney Peter J. Dykman, General Counsel
Telephone: (608) 266-7098