

**2001 DRAFTING REQUEST**

**Bill**

Received: **01/17/2002**

Received By: **kuesejt**

Wanted: **Soon**

Identical to LRB:

For: **Steve Wieckert (608) 266-3070**

By/Representing: **him**

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

Drafter: **dykmapj**

May Contact: **Rep. Wieckert at home:  
(920) 731-3000**

Addl. Drafters: **nelsorp1**

Subject: **Legislature - miscellaneous  
Administrative Law**

Extra Copies:

Submit via email: **NO**

**Pre Topic:**

No specific pre topic given

**Topic:**

Pilot program for economic impact statements

**Instructions:**

Permit the majority and minority leaders of each house in each party to select one bill or proposed rule-making order each year (total of 8 per session) on which an economic impact statement will be prepared. DOA to prepare or require agencies to prepare the statements under its supervision. See 97 AB-745 for ideas; also look at VA, MD.OH and SC legislation 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>
/?	dykmapj 01/28/2002	gilfokm 01/28/2002					State
/P2			pgreensl 01/29/2002		lrb_docadmin 01/29/2002		State
/1	dykmapj 02/06/2002	gilfokm 02/06/2002	pgreensl 02/07/2002		lrb_docadmin 02/07/2002	lrb_docadmin	State 02/07/2002

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For: 01/31/2002.

1/1 " At intro.

<END>

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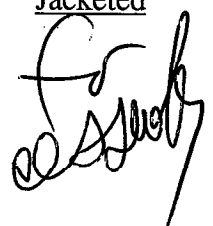
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/?	dykmapj 01/28/2002	gilfokll 01/28/2002					State
/P2		1-2/6 hmg	pgreensl 01/29/2002	2/7 gjh	lrb_docadmin 01/29/2002		State

FE Sent For:

01-31-02  
"/P2"

requested by PJD

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1?	dykmapj	1/1-1/28 Kmgj	1/28 P8	1/29 P8			

FE Sent For:

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## MEMORANDUM

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**DATE:** February 12, 1998  
**TO:** Interested Parties  
**FROM:** NCSL Fiscal Staff  
**RE:** States that Prepare Economic Impact Statements

In response to your request for information about economic impact statements, I called several states to try to determine which states routinely prepare economic analysis statements. Florida, Maryland and Virginia routinely prepare such statements and South Carolina does so upon request.

*Florida.* According to Keith Baker, economist for the House Taxation and Finance Committee, the bill analysis that is prepared for every bill contains four elements: 1) the fiscal impact of the proposed legislation on state agencies and state funds, both on a recurring and non-recurring basis; 2) the fiscal impact on local governments; 3) the direct economic impact on the private sector; and 4) fiscal comments. Keith noted that bill analyses must be completed in about a week. As a result, the quality of an analysis may suffer if a substantial amount of data collection is required. If you would like to talk with Keith directly, you may call him at (904) 488-1601.

✓ *Maryland.* According to Teresa Tuszynski, Analyst for the Department of Fiscal Services, legislation was passed in 1995 that requires an economic impact analysis to be prepared for every bill as an addition to the fiscal note. The analysis documents the anticipated impact of the proposed legislation on small business. For more information, call Teresa Tuszynski at (410) 841-3761.

✓ *South Carolina.* Five years ago, the legislature passed a bill requiring that, upon the written request of two members of the General Assembly, economic assessment reports be prepared for regulations that could have a substantial economic impact on industry. A copy of the Act is attached. These economic impact statements are prepared by the Office of Research and Statistical Services at the Budget and Control Board. For more information, contact Angie Stoner, Economic Research Program Manager, Office of Research and Statistical Services at (803) 734-3805.

Legislation was passed seven years ago requiring financial/economic impact statements for all bills that would affect health care. This requirement includes an economic analysis of how the private sector would be affected. Since its passage, no significant amendments to the legislation have been made. For more information, contact Beth Corley, Manager of Health and Demographics in the Office of Research and Statistical Services (803) 734-3822.

*Tennessee.* A fiscal impact determination of any bill that creates a new mandate on the health insurance industry is required.

*Virginia.* According to John Forbes at the Department of Planning and Budget, legislation was passed in 1994 as part of the Administrative Procedures Act (APA) that requires an economic impact analysis be prepared for all proposed regulations. A group of independent economists hired by the Department determines the appropriate assessment method(s) to be used and prepares the analysis within a 45 day statutory time limit. The analysis addresses questions such as the impact of a regulation on private firms and employment.

The economic impact statements are part of a larger regulation review required by Executive Order. In 1994, the governor mandated a comprehensive review of all existing and proposed regulations to help ensure the regulations are both essential, and that they achieve the least possible intervention in private enterprise. The promulgating agency must prepare a fiscal impact statement. Based on the findings of the economic and fiscal impact statements, the Department of Planning and Budget makes recommendations to the governor on suggested amendments or revisions to the regulation.

John points out that because the governor cannot succeed himself, the Executive Orders may not necessarily prevail. However, the requirement to prepare economic impact analyses is grounded in statute. For more information, call John Forbes, Manager, Economic and Regulatory Analysis Section, Department of Planning and Budget, (804) 371-8583.

If you have any questions, please call the NCSL Fiscal Affairs program at (303) 830-2200.

## § 2-1505.1.

  
State Government

(a) (1) In this section the following words have the meanings indicated.

(2) "**Economic impact analysis**" means an estimate of the cost or the economic benefit to small businesses that may be affected by a proposed bill introduced at a session of the General Assembly.

(3) "**Economic impact analysis rating**" means an estimate that a proposed bill will have:

(i) minimal or no economic impact on small businesses; or

(ii) meaningful economic impact on small businesses.

(4) "Small business" means a corporation, partnership, sole proprietorship, or other business entity, including its affiliates, that:

(i) is independently owned and operated;

(ii) is not dominant in its field; and

(iii) employs 50 or fewer full time employees.

(b) (1) An **economic impact analysis rating** and an **economic impact analysis**, as appropriate, shall be prepared by the appropriate Executive Branch agency for each bill that is introduced at the request of the administration or a department, agency, or commission of the Executive Branch of State government.

(2) A copy of the **economic impact analysis rating** and the **economic impact analysis** required under this subsection shall be submitted by the Governor's office:

(i) to the Department of Legislative Services within a reasonable time frame prior to the hearing on the bill to allow the Department to comment on the **economic impact analysis rating** and the **economic impact analysis**; and

(ii) to the committee to which the bill is referred prior to the hearing on the bill.

(c) (1) An **economic impact analysis rating** and an **economic impact analysis**, as appropriate, shall be prepared by the Department of Legislative Services for each bill that is introduced by a member of the General Assembly.

(2) A copy of the **economic impact analysis rating** and the **economic impact analysis** required under this subsection shall be submitted by the Department of Legislative Services:

(i) to the primary sponsor of the bill; and

(ii) to the committee to which the bill is referred prior to the hearing on the bill.

(d) (1) If the appropriate Executive Branch agency or the Department of Legislative Services

determines that a bill will have minimal or no economic impact on small businesses, the agency or Department shall indicate that determination by a brief written statement.

(2) If the appropriate Executive Branch agency or the Department of Legislative Services determines that a bill will have a meaningful economic impact on small businesses, the agency or Department shall develop a complete written **economic impact analysis**.

(3) (i) If the appropriate Executive Branch agency or the Department of Legislative Services determines that a bill will have a meaningful economic impact on small businesses and is unable to provide a complete written **economic impact analysis**, the agency or Department shall provide a written explanation of why the agency determined that the bill will have a meaningful economic impact.

(ii) The explanation may identify the impact in general terms and need not quantify the specific economic impact.

(e) The **economic impact analysis** rating and the **economic impact analysis** required under this section shall include estimates directly relating to the following factors, as appropriate:

- (1) cost of providing goods and services;
- (2) effect on the workforce;
- (3) effect on the cost of housing;
- (4) efficiency in production and marketing;
- (5) capital investment, taxation, competition, and economic development; and
- (6) consumer choice.

(f) (1) The Executive Branch agency or the Department of Legislative Services preparing the **economic impact analysis** rating and the **economic impact analysis** required under this section shall consult with, as appropriate:

- (i) other units of State government;
- (ii) units of local government; and
- (iii) business, trade, consumer, labor, and other groups impacted by or having an interest in the legislation.

(2) On request of the Executive Director of the Department of Legislative Services, a unit of the State or a local government shall provide the Department with assistance or information in the preparation of an **economic impact analysis** rating and **economic impact analysis**.

(g) (1) The Department of Legislative Services may include an **economic impact analysis** rating and **economic impact analysis** prepared by the Department or by the appropriate Executive Branch agency as part of a fiscal note.



(2) The Department of Legislative Services may comment on the **economic impact analysis** rating and **economic impact analysis** prepared by the appropriate Executive Branch agency.

(h) The Department of Legislative Services may revise the **economic impact analysis** rating and **economic impact analysis** consistent with an amended version of a bill.

(i) (1) The Department of Legislative Services shall keep a copy of each **economic impact analysis** rating and **economic impact analysis** for 3 years after preparation of the rating or the analysis.

(2) The copies shall be reasonably available for public inspection.

(j) **Economic impact analysis** ratings and economic impact analyses need not be published in the Senate journal or House journal.

(k) The validity of an enactment of a bill is not affected by the presence, absence, or content of an **economic impact analysis** rating or an **economic impact analysis**.

## § 2-1505.2.

## State Government

(a) (1) In this section the following words have the meanings indicated.

(2) "Committee" means the Joint Committee on Administrative, Executive, and Legislative Review.

(3) "**Economic impact analysis**" means an estimate of the cost or the economic benefit to small businesses that may be affected by a regulation proposed by an agency pursuant to Title 10, Subtitle 1 of this article.

(4) "**Economic impact analysis rating**" means an estimate that a proposed regulation will have:

(i) minimal or no economic impact on small businesses; or

(ii) meaningful economic impact on small businesses.

(5) "Small business" means a corporation, partnership, sole proprietorship, or other business entity, including its affiliates, that:

(i) is independently owned and operated;

(ii) is not dominant in its field; and

(iii) employs 50 or fewer full-time employees.

(b) (1) An **economic impact analysis rating** and an **economic impact analysis**, as appropriate, shall be prepared by the appropriate Executive Branch agency for each regulation that the agency proposes for adoption pursuant to Title 10, Subtitle 1 of this article.

(2) A copy of the **economic impact analysis rating** and the **economic impact analysis** required under this subsection shall be submitted by the appropriate agency:

(i) to the Department of Legislative Services no later than the time the agency submits the regulation to the Committee to allow the Department to comment on the **economic impact analysis rating** and the **economic impact analysis**; and

(ii) to the Committee at the time the agency submits the regulation to the Committee.

(c) (1) If the appropriate Executive Branch agency or the Department of Legislative Services determines that a regulation will have minimal or no economic impact on small businesses, the agency or Department shall indicate that determination by a brief written statement.

(2) If the appropriate Executive Branch agency or the Department of Legislative Services determines that a regulation will have a meaningful economic impact on small businesses, the agency or Department shall develop a complete written **economic impact analysis**.

(3) (i) If the appropriate Executive Branch agency or the Department determines that a

regulation will have a meaningful economic impact on small businesses and is unable to provide a complete written **economic impact analysis**, the agency or Department shall provide a written explanation of why the agency determined that the regulation will have a meaningful economic impact.

(ii) The explanation may identify the impact in general terms and need not quantify the specific economic impact.

(d) The **economic impact analysis** rating and the **economic impact analysis** required under this section shall include estimates directly relating to the following factors, as appropriate:

- (1) cost of providing goods and services;
- (2) effect on the workforce;
- (3) effect on the cost of housing;
- (4) efficiency in production and marketing;
- (5) capital investment, taxation, competition, and economic development; and
- (6) consumer choice.

(e) (1) The Executive Branch agency or the Department of Legislative Services preparing the **economic impact analysis** rating and the **economic impact analysis** required under this section shall consult with, as appropriate:

- (i) other units of State government;
- (ii) units of local government; and
- (iii) business, trade, consumer, labor, and other groups impacted by or having an interest in the regulation.

(2) On request of the Executive Director of the Department of Legislative Services, a unit of the State or a local government shall provide the Department with assistance or information in the preparation of an **economic impact analysis** rating and **economic impact analysis**.

(f) The Department of Legislative Services shall:

- (1) comment on the **economic impact analysis** rating and **economic impact analysis** prepared by the appropriate Executive Branch agency; and
- (2) transmit its comment to the Committee.

(g) The Department of Legislative Services shall revise the **economic impact analysis** rating and **economic impact analysis** consistent with an amended version of a regulation.

(h) (1) The Department of Legislative Services shall keep a copy of each **economic impact analysis** rating and **economic impact analysis** for 3 years after preparation of the rating or the analysis.

(2) The copies shall be reasonably available for public inspection.

(i) **Economic impact analysis** ratings and economic impact analyses shall be published in the Maryland Register at the same time as:

(1) a notice of proposed adoption of a regulation is published in the Maryland Register; or

(2) a notice of emergency adoption for a regulation is published in the Maryland Register.

(j) The validity of an enactment of a regulation is not affected by the presence, absence, or content of an **economic impact analysis** rating or an **economic impact analysis**.



§ 2.2-4007. (Effective October 1, 2001) Notice of intended regulatory action; public participation; informational proceedings; effect of noncompliance.

A. Any person may petition an agency to request the agency to develop a new regulation or amend an existing regulation. The agency receiving the petition shall consider and respond to the petition within 180 days. Agency decisions to initiate or not initiate rulemaking in response to petitions shall not be subject to judicial review.

B. In the case of all regulations, except those regulations exempted by §§ 2.2-4002, 2.2-4006 or § 2.2-4011, an agency shall provide the Registrar of Regulations with a Notice of Intended Regulatory Action that describes the subject matter and intent of the planned regulation. At least thirty days shall be provided for public comment after publication of the Notice of Intended Regulatory Action. An agency shall not file proposed regulations with the Registrar until the public comment period on the Notice of Intended Regulatory Action has closed.

C. Agencies shall state in the Notice of Intended Regulatory Action whether they plan to hold a public hearing on the proposed regulation after it is published. Agencies shall hold such public hearings if required by basic law. If the agency states an intent to hold a public hearing on the proposed regulation in the Notice of Intended Regulatory Action, then it shall hold the public hearing. If the agency states in its Notice of Intended Regulatory Action that it does not plan to hold a hearing on the proposed regulation, then no public hearing is required unless, prior to completion of the comment period specified in the Notice of Intended Regulatory Action (i) the Governor directs the agency to hold a public hearing or (ii) the agency receives requests for a public hearing from at least twenty-five persons.

D. Public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations shall be developed, adopted and utilized by each agency pursuant to the provisions of this chapter. The guidelines shall set out any methods for the identification and notification of interested parties, and any specific means of seeking input from interested persons or groups that the agency intends to use in addition to the Notice of Intended Regulatory Action. The guidelines shall set out a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working with the agency. Such policy shall address the circumstances in which the agency considers the panels or consultation appropriate and intends to make use of the panels or consultation.

E. In formulating any regulation, including but not limited to those in public assistance programs, the agency pursuant to its public participation guidelines shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency or its specially designated subordinate. However, the agency may begin drafting the proposed regulation prior to or during any opportunities it provides to the public to submit comments.

F. In the case of all regulations, except those regulations exempted by §§ 2.2-4002, 2.2-4006, or § 2.2-4011, the proposed regulation and general notice of opportunity for oral or written submittals as to that regulation shall be published in the Virginia Register of Regulations in accordance with the provisions of subsection B of § 2.2-4031. In addition, the agency may, in its discretion, (i) publish the notice in any newspaper and (ii) publicize the notice through press releases and such other media as will best serve the purpose and subject involved. The Register and any newspaper publication shall be made at least sixty days in advance of the last date prescribed in the notice for such submittals. All notices, written submittals, and transcripts, summaries or notations of oral presentations, as well as any agency action thereon, shall be matters of public record in the custody of the agency.

G. Before delivering any proposed regulation under consideration to the Registrar as required in subsection H, the agency shall deliver a copy of that regulation to the Department of Planning and Budget. In addition to determining the public benefit, the Department of Planning and Budget in coordination with the agency, shall, within forty-five days, prepare an economic impact analysis of the proposed regulation. The economic impact analysis shall include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected by the regulation; the projected number of persons and employment positions to be affected; the impact of the regulation on the use and value of private property; and the projected costs to affected businesses, localities or entities to implement or comply with the regulations, including the estimated fiscal impact on such localities and sources of potential funds to implement and comply with such regulation. Agencies shall provide the Department with such estimated fiscal impacts on localities and sources of potential funds. The Department may request the assistance of any other agency in preparing the analysis. The Department shall deliver a copy of the analysis to the agency drafting the regulation, which shall comment thereon as provided in subsection H, and a copy to the Registrar for publication with the proposed regulation. No regulation shall be promulgated for consideration pursuant to subsection H until the impact analysis has been received by the Registrar. For purposes of this section, the term "locality, business, or entity particularly affected" means any locality, business, or entity that bears any identified disproportionate material impact that would not be experienced by other localities, businesses, or entities. The analysis shall represent the Department's best estimate for the purposes of public review and comment on the proposed regulation. The accuracy of the estimate shall in no way affect the validity of the regulation, nor shall any failure to comply with or otherwise follow the procedures set forth in this subsection create any cause of action or provide standing for any person under Article 5 (§ 2.2-4025 et seq.) of this chapter or otherwise to challenge the actions of the Department hereunder or the action of the agency in adopting the proposed regulation.

H. Before promulgating any regulation under consideration, the agency shall deliver a copy of that regulation to the Registrar together with a summary of the regulation and a separate and concise statement of (i) the basis of the regulation, defined as the statutory authority for promulgating the regulation, including an identification of the section number and a brief statement relating the content of the statutory authority to the specific regulation proposed; (ii) the purpose of the regulation, defined as the rationale or justification for the new provisions of the regulation, from the standpoint of the public's health, safety or welfare; (iii) the substance of the regulation, defined as the identification and explanation of the key provisions of the regulation that make changes to the current status of the law; (iv) the issues of the regulation, defined as the primary advantages and disadvantages for the public, and as applicable for the agency or the state, of implementing the new regulatory provisions; and (v) the agency's response to the economic impact analysis submitted by the Department of Planning and Budget pursuant to subsection G. Any economic impact estimate included in the agency's response shall represent the agency's best estimate for the purposes of public review and comment, but the accuracy of the estimate shall in no way affect the validity of the regulation. Staff as designated by the Code Commission shall review proposed regulation submission packages to ensure the requirements of this subsection are met prior to publication of the proposed regulation in the Register. The summary; the statement of the basis, purpose, substance, and issues; the economic impact analysis; and the agency's response shall be published in the Virginia Register of Regulations, together with the notice of opportunity for oral or written submittals on the proposed regulation.

I. When an agency formulating regulations in public assistance programs cannot comply with the public comment requirements of subsection F due to time limitations imposed by state or federal laws or regulations for the adoption of such regulation, the Secretary of Health and Human Resources may shorten the time requirements of subsection F. If, in the Secretary's sole discretion, such time limitations reasonably preclude any advance published notice, he may waive the requirements of subsection F.

However, the agency shall, as soon as practicable after the adoption of the regulation in a manner consistent with the requirements of subsection F, publish notice of the promulgation of the regulation and afford an opportunity for public comment. The precise factual basis for the Secretary's determination shall be stated in the published notice.

J. If one or more changes with substantial impact are made to a proposed regulation from the time that it is published as a proposed regulation to the time it is published as a final regulation, any person may petition the agency within thirty days from the publication of the final regulation to request an opportunity for oral and written submittals on the changes to the regulation. If the agency receives requests from at least twenty-five persons for an opportunity to submit oral and written comments on the changes to the regulation, the agency shall (i) suspend the regulatory process for thirty days to solicit additional public comment and (ii) file notice of the additional thirty-day public comment period with the Registrar of Regulations, unless the agency determines that the changes made are minor or inconsequential in their impact. The comment period, if any, shall begin on the date of publication of the notice in the Register. Agency denial of petitions for a comment period on changes to the regulation shall be subject to judicial review.

K. In no event shall the failure to comply with the requirements of subsection F of this section be deemed mere harmless error for the purposes of § 2.2-4027.

L. This section shall not apply to the issuance by the State Air Pollution Control Board of variances to its regulations.

(1984, c. 5, § 9-6.14:7.1; 1985, c. 602; 1989, c. 71; 1991, c. 488; 1993, cc. 898, 944; 1994, c. 938; 1995, cc. 25, 677, 717, 790; 1997, c. 87; 2001, c. 844.)

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## SOUTH CAROLINA LAW ON ECONOMIC IMPACT STATEMENTS

SECTION 1-23-115. Regulations requiring assessment reports; report contents; exceptions; preliminary assessment reports.

(A) Upon written request by two members of the General Assembly, made before submission of a promulgated regulation to the General Assembly for legislative review, a regulation that has a substantial economic impact must have an assessment report prepared pursuant to this section and in accordance with the procedures contained in this article. In addition to any other method as may be provided by the General Assembly, the legislative committee to which the promulgated regulation has been referred, by majority vote, may send a written notification to the promulgating agency informing the agency that the committee cannot approve the promulgated regulation unless an assessment report is prepared and provided to the committee. The written notification tolls the running of the one hundred-twenty-day legislative review period, and the period does not begin to run again until an assessment report prepared in accordance with this article is submitted to the committee. Upon receipt of the assessment report, additional days must be added to the days remaining in the one hundred-twenty-day review period, if less than twenty days, to equal twenty days. A copy of the assessment report must be provided to each member of the committee.

(B) A state agency must submit to the State Budget and Control Board, Division of Research and Statistical Services, a preliminary assessment report on regulations which have a substantial economic impact. Upon receiving this report the division may require additional information from the promulgating agency, other state agencies, or other sources. A state agency shall cooperate and provide information to the division on requests made pursuant to this section. The division shall prepare and publish a final assessment report within sixty days after the public hearing held pursuant to Section 1-23-110. The division shall



forward the final assessment report and a summary of the final report to the promulgating agency.

(C) The preliminary and final assessment reports required by this section must disclose the effects of the proposed regulation on the public health and environmental welfare of the community and State and the effects of the economic activities arising out of the proposed regulation. Both the preliminary and final reports required by this section may include:

- (1) a description of the regulation, the purpose of the regulation, the legal authority for the regulation, and the plan for implementing the regulation;
- (2) a determination of the need for and reasonableness of the regulation as determined by the agency based on an analysis of the factors listed in this subsection and the expected benefit of the regulation;
- (3) a determination of the costs and benefits associated with the regulation and an explanation of why the regulation is considered to be the most cost-effective, efficient, and feasible means for allocating public and private resources and for achieving the stated purpose;
- (4) the effect of the regulation on competition;
- (5) the effect of the regulation on the cost of living and doing business in the geographical area in which the regulation would be implemented;
- (6) the effect of the regulation on employment in the geographical area in which the regulation would be implemented;
- (7) the source of revenue to be used for implementing and enforcing the regulation;

(8) a conclusion on the short-term and long-term economic impact upon all persons substantially affected by the regulation, including an analysis containing a description of which persons will bear the costs of the regulation and which persons will benefit directly and indirectly from the regulation;

(9) the uncertainties associated with the estimation of particular benefits and burdens and the difficulties involved in the comparison of qualitatively and quantitatively dissimilar benefits and burdens. A determination of the need for the regulation shall consider qualitative and quantitative benefits and burdens;

(10) the effect of the regulation on the environment and public health;

(11) the detrimental effect on the environment and public health if the regulation is not implemented. An assessment report must not consider benefits or burdens on out-of-state political bodies or businesses. The assessment of benefits and burdens which cannot be precisely quantified may be expressed in qualitative terms. This subsection must not be interpreted to require numerically precise cost-benefit analysis. At no time is an agency required to include items (4) through (8) in a preliminary assessment report or statement of the need and reasonableness; however, these items may be included in the final assessment report prepared by the division.

(D) If information required to be included in the assessment report materially changes at any time before the regulation is approved or disapproved by the General Assembly, the agency must submit the corrected information to the division which must forward a revised assessment report to the Legislative Council for submission to the committees to which the regulation was referred during General Assembly review.

(E) An assessment report is not required on:

(1) regulations specifically exempt from General Assembly review by Section 1-23-120; however, if any portion of a regulation promulgated to maintain compliance with federal law is more stringent than federal law, then that portion is not exempt from this section;

(2) emergency regulations filed in accordance with Section 1-23-130; however, before an emergency regulation may be refiled pursuant to Section 1-23-130, an assessment report must be prepared in accordance with this section;

(3) regulations which control the hunting or taking of wildlife including fish or setting times, methods, or conditions under which wildlife may be taken, hunted, or caught by the public, or opening public lands for hunting and fishing.

## 1999 SENATE BILL 120

April 21, 1999 – Introduced by Senators RISSER, DECKER, MOORE, ROESSLER, ROBSON, PLACHE and COWLES, cosponsored by Representatives POCAN, BERCEAU, BLACK, JOHNSRUD, BOYLE, TRAVIS, MILLER, COLON, GRONEMUS, BOCK, HUBER, RICHARDS, MUSSER, CARPENTER, RILEY, COGGS, LASSA and GROTHMAN. Referred to Committee on Insurance, Tourism, Transportation and Corrections.

1 AN ACT to create 13.0975 of the statutes; relating to: prison impact  
2 assessments.

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### *Analysis by the Legislative Reference Bureau*

Current law provides that a fiscal estimate be prepared for most legislative bills. A fiscal estimate for a bill is prepared by the appropriate state agency. However, current law exempts a bill containing penalty provisions from this procedure if no other provision of the bill requires a fiscal estimate.

This bill provides that the director of state courts must provide a prison impact assessment for any bill or bill draft that creates a felony (crime punishable by imprisonment in the state prison system) or modifies the period of imprisonment for a felony. The director has 21 days in which to prepare the assessment, beginning with the date on which the director receives a copy of an introduced bill from the legislative reference bureau or the date on which the requester of the bill draft asks for the assessment, whichever occurs first. The assessment includes estimates of the population of prisoners, probationers, parolees and persons on extended supervision; a fiscal estimate regarding the impact on prison construction and operation; an analysis of the impact on prosecutors, the state public defender and the courts; and a description of the assumptions and methodologies that were used to prepare the assessment. The bill provides that no legislative action on the bill or bill draft may be taken until the assessment is prepared. In addition, the director must prepare a yearly total prison impact assessment. The department of corrections, the office of justice assistance in the department of administration and the circuit courts must help the director by providing him or her with relevant information.

**SENATE BILL 120**

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 13.0975 of the statutes is created to read:

2           **13.0975 Prison impact assessments.** (1) In this section, “prison” means a  
3 state prison described under s. 302.01.

4           (2) The director of state courts shall prepare a prison impact assessment for  
5 any bill or, if requested, for any bill draft that creates a felony or modifies the period  
6 of imprisonment for a felony. Except as otherwise provided by the joint rules of the  
7 legislature, the director shall prepare the assessment within 21 calendar days after  
8 the date on which the director receives a copy of a bill under sub. (4) or the date on  
9 which the director receives a request to prepare the assessment from the requester  
10 of the bill draft, whichever occurs first. The assessment shall contain all of the  
11 following:

12           (a) Projections of the impact on statewide populations of prisoners,  
13 probationers, parolees and persons on extended supervision.

14           (b) An estimate of the fiscal impact of population changes under par. (a) on state  
15 expenditures, including expenditures for the construction and operation of state  
16 prisons for the current fiscal year and the 5 succeeding fiscal years.

17           (c) An analysis of any significant factor, not covered in complying with pars. (a)  
18 and (b), affecting the cost of the bill or bill draft and the factor’s impact on  
19 prosecutors, the state public defender and courts.

20           (d) A statement of the methodologies and assumptions that the director used  
21 in preparing the assessment.

**SENATE BILL 120**

1           (3) The legislature shall reproduce and distribute assessments under sub. (2)  
2 in the same manner as it reproduces and distributes amendments.

3           (4) A bill draft that requires an assessment by the director of state courts under  
4 this section shall have that requirement noted on its jacket when the jacket is  
5 prepared. When a bill that requires an assessment under this section is introduced,  
6 the legislative reference bureau shall submit a copy of the bill to the director.

7           (5) No public hearing before a standing committee may be held and no  
8 committee vote may be taken regarding any bill or bill draft described in sub. (2)  
9 unless the assessment under sub. (2) has been prepared.

10          (6) Annually, by March 1, the director of state courts shall submit to the  
11 legislature under s. 13.172 (2) a prison impact assessment reflecting the cumulative  
12 effect of all relevant changes in the statutes taking effect during the preceding  
13 calendar year.

14          (7) The department of corrections shall provide the director of state courts with  
15 information on current and past admissions and on length of time served as needed  
16 by the director in order to prepare assessments under subs. (2) and (6).

17          (8) The circuit courts and the office of justice assistance in the department of  
18 administration shall provide the director of state courts with information to assist  
19 the director in preparing assessments under subs. (2) and (6).

20          (9) This section applies to bills introduced or requests for assessments for bill  
21 drafts made on or after July 1, 2000.

22           **SECTION 2. Nonstatutory provisions.**



## 1999 ASSEMBLY BILL 23

January 14, 1999 - Introduced by Representatives SCHNEIDER, BOYLE, BERCEAU and LASSA, cosponsored by Senators DRZEWIECKI and SCHULTZ. Referred to Committee on Judiciary and Personal Privacy.

- 1 AN ACT *to create* 13.0991 of the statutes; **relating to:** preparation of privacy  
2 impact statements for bills that would impact personal privacy.

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### *Analysis by the Legislative Reference Bureau*

This bill provides that whenever a bill is introduced in either house of the legislature that would have an impact upon personal privacy, any standing committee to which the bill is referred must not hold a public hearing on the bill or report the bill until a privacy impact statement is prepared and received. The statement is prepared by one or more state agencies or authorities, as determined by the department of administration. The statement describes the impact upon personal privacy that would result from enactment of the bill and analyzes the desirability of that impact from the standpoint of public policy. The bill also permits either house of the legislature, under rules of that house or joint rules, to request the department of administration to order the preparation of a privacy impact statement with respect to any bill before that house, either in its original form or as affected by one or more amendments.

Under the bill, a bill has an impact on personal privacy if the bill would:

1. Provide for the creation of additional personally identifiable information that is not readily available to the public at the time the bill is introduced.
2. Create an activity that would constitute an intrusion upon the privacy of an individual, or alter an activity in such a way as to create such an intrusion.
3. Utilize the name, picture or likeness of an individual without the consent of the individual, or the consent of the individual's parent or guardian if the individual is a minor; or



**ASSEMBLY BILL 23**

4. Permit or cause publicity to be given to the private life of an individual.  
For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 13.0991 of the statutes is created to read:

2           **13.0991 Privacy impact statements.** (1) In this section:

3           (a) “Authority” means a body created under ch. 231, 232, 233, 234 or 235.

4           (b) “Impact upon personal privacy” means that a bill would do one or more of  
5 the following:

6           1. Provide for the creation of additional personally identifiable information  
7 that is not readily available to the public at the time the bill is introduced.

8           2. Create an activity that would constitute an intrusion upon the privacy of an  
9 individual, or alter an activity in such a way as to create such an intrusion.

10           3. Utilize the name, picture or likeness of an individual without the consent of  
11 the individual, or the consent of the individual’s parent or guardian if the individual  
12 is a minor.

13           4. Permit or cause publicity to be given to the private life of an individual.

14           (c) “Personally identifiable information” has the meaning given under s. 19.62  
15 (5).

16           (d) “State agency” means an office, department, independent agency,  
17 institution of higher education, association, society or other body in state  
18 government created or authorized to be created by the constitution or any law, which  
19 is entitled to expend moneys appropriated by law, including the legislature and the  
20 courts, but not including an authority.

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1           (2) (a) Whenever a bill is introduced in either house of the legislature that  
2 would have an impact upon personal privacy, the legislative reference bureau shall  
3 promptly transmit a copy of the bill to the department of administration.

4           (b) Either house of the legislature may, under rules of that house or joint rules  
5 of the legislature, request the department of administration to order the preparation  
6 of a privacy impact statement with respect to any bill before that house, either in its  
7 original form or as affected by one or more amendments. If a house so requests, the  
8 chief clerk of that house shall thereupon transmit a copy of that bill and any affected  
9 amendments to the department of administration.

10          (3) Upon receipt of a bill under sub. (2), the department of administration shall  
11 direct one or more state agencies or authorities to prepare a privacy impact  
12 statement with respect to that bill. Each privacy impact statement shall describe the  
13 impact upon personal privacy that would result from enactment of the bill and  
14 analyze the desirability of that impact from the standpoint of public policy.

15          (4) Each state agency or authority receiving a bill under sub. (3) shall provide  
16 the statement required under sub. (3) to the department of administration within 15  
17 days of the department's directive.

18          (5) Upon receiving a privacy impact statement under sub. (4), the department  
19 of administration shall provide one copy to the legislative reference bureau, one copy  
20 to the principal author of the bill and one copy to the chief clerk of the house of the  
21 legislature in which the bill originated. The chief clerk shall thereupon print and  
22 distribute the statement in the same manner as amendments to the bill are printed  
23 and distributed.

24          (6) Whenever a bill requires preparation of a privacy impact statement under  
25 this section, the legislative reference bureau shall include a notation to that effect

**ASSEMBLY BILL 23**

1 on the jacket of the bill when the jacket is prepared. If the preparation of a privacy  
2 impact statement is requested by a house of the legislature, the chief clerk of that  
3 house shall include a notation to that effect on the jacket of the bill.

4 (7) Whenever a privacy impact statement is required or requested for any bill  
5 under this section, any standing committee to which the bill is referred shall not hold  
6 a public hearing on the bill or report the bill until the statement is received by the  
7 chief clerk of the house in which the bill originated.

8 **SECTION 2. Initial applicability.**

9 (1) This act first applies with respect to bills introduced in the 2001-03  
10 legislative session.

11

(END)

**1997 ASSEMBLY BILL 745**

January 27, 1998 - Introduced by Representatives NASS, JENSEN, MUSSER, HUTCHISON, F. LASEE, HAHN, JOHNSRUD, KEDZIE, LADWIG, SERATTI, VRAKAS, MEYER, HUEBSCH, WALKER, PLALE, STASKUNAS, LA FAVE and LAZICH, cosponsored by Senators FARROW, HUELSMAN, DARLING, WELCH, ROSENZWEIG and RUDE. Referred to Committee on Mandates.

1 **AN ACT to create** 13.59, 20.765 (2) (c) and chapter 131 of the statutes; **relating**  
2 **to:** restricting state governmental units from engaging in certain commercial  
3 activities, state governmental procurement requirements and creating a  
4 legislative joint committee on public-private partnership.

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***Analysis by the Legislative Reference Bureau***

This bill creates a standing legislative joint committee on public-private partnership consisting of 3 members of each house of the legislature (including 2 members of the majority party and one member of the minority party in each house), the secretary of administration or his or her designee and 4 other members appointed by the governor for 2-year terms, 2 of whom must be appointed to represent specified portions of the business community and 2 of whom must be appointed to represent specified portions of the labor community. Any person who is adversely affected by any action of a state governmental unit that is restricted by any provision of the bill or by any inaction of a state governmental unit with respect to a matter that requires action by that governmental unit under the bill may file a statement of objections with the joint committee, which must provide a hearing to the person. The bill permits the committee to recommend proposed legislation to the legislature or to recommend proposed administrative rule changes to any state agency which the committee considers appropriate to carry out its functions. Under the bill, either house of the legislature may refer proposed legislation to the committee. The committee is directed to examine the possibility of creating additional partnerships between state governmental units and for-profit or nonprofit private enterprises for

**ASSEMBLY BILL 745**

the purpose of procurement of services from those enterprises when such action is appropriate. The committee is further directed to periodically review the performance of any private sector enterprise which contracts to provide a service to a state governmental unit to ensure that the enterprise is successfully and competently completing its contractual obligations. The committee is directed to advise state agencies in the executive branch concerning issues relating to public-private partnership. The cochairpersons of the committee may direct any legislative service agency to provide staffing assistance to the committee.

Under the bill, whenever a state governmental unit engages in a commercial activity, it must, upon request of a majority of the membership of the joint committee, also prepare a competitive impact statement concerning that activity, using uniform accounting principles, which describes the cost of the activity, the availability of the goods or services resulting from the activity from any for-profit or nonprofit private enterprise and the competitive impact upon for-profit and nonprofit private enterprises if the commercial activity is contracted by the state to a single for-profit or nonprofit private enterprise, and the effect that the creation of a public-private partnership may have upon employees of a state governmental unit who currently perform any service associated with the commercial activity. In addition, the bill requires state governmental units to prepare a competitive impact statement for any bill that is introduced in the legislature if the bill requires a fiscal estimate and it proposes to authorize or require a state governmental unit to engage in a commercial activity. The statement is also required for any such proposal that is contained within an executive budget bill. The joint committee receives all competitive impact statements and those concerning bills are printed in the same manner that fiscal estimates are printed currently.

This bill prohibits all state governmental units, including institutions of higher education, from engaging in any commercial activity for their own use, for the use of any other state governmental unit or for public use if the goods or services provided as a result of the activity can be procured from any for-profit or nonprofit private enterprise "through ordinary business channels". Under the bill, "commercial activity" means providing goods or performing services which can practically, in a cost-effective manner and consistently with state collective bargaining agreements and rules of the department of administration concerning conflicts of interests by proposed contractors, be obtained from a for-profit or nonprofit private enterprise. The prohibition does not apply if: 1) the activity is specifically authorized by law; 2) the activity is not available from any for-profit or nonprofit private enterprise; 3) the activity is inherently related to the state's defense; or 4) a state governmental unit can provide the goods or services resulting from the commercial activity to other state governmental units at a lower cost than if the goods or services were obtained from a for-profit or nonprofit private enterprise, using uniform accounting standards to make the cost comparison; 5) use of a for-profit or nonprofit private enterprise to engage in the activity would cause an unbearable delay or disruption of an essential program; 6) use of a for-profit or nonprofit private enterprise would impede the ability of a state governmental unit to fully comply with any collective bargaining agreement; or 7) the joint committee on public-private partnerships, taking into

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account any applicable competitive impact statement, and the views of private enterprises, state governmental units, and other affected persons, determines that the interests of the public are best served by maintaining existing practices used by a state governmental unit to obtain certain essential goods and services.

The bill provides that, unless otherwise required by law, if a state governmental unit is authorized by law to engage in a commercial activity, it must impose and collect a fee for that activity that includes all costs related to engaging in the activity.

Currently, there is no general restriction upon commercial activity by state governmental units. However, state governmental units are generally not authorized to engage in any activity unless a law so permits or requires.

Under current law, state governmental units are required to bargain collectively in good faith with labor organizations representing their employees before subcontracting any services performed by those employees to a nonstate source. The bill does not alter that duty.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1       **SECTION 1.** 13.59 of the statutes is created to read:

2       **13.59 Joint committee on public-private partnership. (1) CREATION.**

3       There is created a joint standing committee on public-private partnership composed  
4       of the following members:

5           (a) Two majority party senators, one minority party senator, 2 majority party  
6       representatives to the assembly and one minority party representative to the  
7       assembly, selected as are the members of standing committees in their respective  
8       houses.

9           (b) The secretary of administration or his or her designee.

10          (c) The following members appointed by the governor to serve for 2-year terms  
11       expiring on December 31 of each even-numbered year:

12           1. Two owners or officers of private enterprises as defined in s. 131.01 (6) or  
13       members or representatives of trade associations, one of whom shall be an owner or

**ASSEMBLY BILL 745**

1 officer of a private enterprise having less than \$1.5 million in gross annual sales in  
2 the most recent calendar or fiscal year or a member or representative of a trade  
3 association that is composed of such enterprises.

4 2. One member or representative of a labor organization that is certified to  
5 represent state employees under subch. V of ch. 111.

6 3. One member or representative of a labor organization that is recognized or  
7 certified to represent employees in the private sector.

8 (2) **LIMITATION ON SERVICES.** (a) No member appointed under sub. (1) (c) may  
9 serve for more than 5 consecutive full terms.

10 (b) A member appointed under sub. (1) (c) who ceases to maintain the member's  
11 status required for membership under that paragraph vacates his or her office.

12 (3) **OFFICERS.** The officers of the joint committee shall be a senate chairperson  
13 and vice chairperson, an assembly chairperson and vice chairperson and a secretary.  
14 The senate chairperson and vice chairperson shall be selected as are chairpersons  
15 and vice chairpersons of senate committees. The assembly chairperson and vice  
16 chairperson shall be appointed by the speaker. The secretary shall be elected by the  
17 committee from among its nonlegislator members.

18 (4) **COMPLAINTS; HEARINGS; RECOMMENDATIONS.** (a) In this subsection, "state  
19 governmental unit" has the meaning given in s. 131.01 (8).

20 (b) Any person who is adversely affected by any action of a state governmental  
21 unit which is restricted by ch. 131, or by any inaction of a state governmental unit  
22 with respect to a matter that requires action by a state governmental unit under ch.  
23 131, may file a written statement of objections with the joint committee stating the  
24 reasons why the person is adversely affected. Upon receipt of such statement:

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1           1. The committee shall immediately transmit a copy of the statement to the  
2 head of the state governmental unit which is referred to in the statement.

3           2. The head of the state governmental unit which is referred to in the statement  
4 shall respond to the joint committee in writing within 30 days after receipt of the  
5 statement and shall, if the action concerns a commercial activity and the state  
6 governmental unit has not previously submitted a competitive impact statement  
7 under s. 131.02 (4) with respect to that activity, submit a competitive impact  
8 statement together with its response. In the response, the head of the state  
9 governmental unit shall fully address the objections made in the statement and shall  
10 indicate whether remedial action should be taken to correct the situation that gave  
11 rise to the objections.

12           3. The joint committee shall hold a public hearing on the statement where all  
13 parties are afforded an opportunity to present information unless remedial action  
14 agreed to be taken by the state governmental unit is acceptable to the person  
15 submitting the statement and to the joint committee. The hearing shall be held  
16 within 30 days after receipt of the response under subd. 2. unless the committee  
17 determines that additional time is needed for negotiations between the state  
18 governmental unit and the person submitting the statement.

19           4. Within 30 days after any public hearing under subd. 3., the joint committee  
20 shall make a recommendation with respect to the matter addressed in the statement  
21 and provide a copy to the person submitting the statement and to the head of the  
22 state governmental unit.

23           (5) FORMS. The joint committee shall prescribe forms for the preparation of  
24 competitive impact statements as defined in s. 131.01 (2).



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1           **(6) LEGISLATION; RULE CHANGES.** The joint committee may recommend proposed  
2 legislation to the legislature or may recommend changes in administrative rules to  
3 any agency, as defined in s. 227.01 (1), which the committee considers appropriate  
4 to carry out its functions.

5           **(7) REFERRAL.** Either house may refer proposed legislation to the joint  
6 committee.

7           **(8) PARTNERSHIPS FOR CONTRACTUAL SERVICE PROCUREMENTS.** The joint committee  
8 shall examine the possibility of creating additional partnerships between state  
9 governmental units and for-profit or nonprofit private enterprises for the purpose  
10 of procurement of services from such enterprises on behalf of the state when such  
11 action is appropriate. When examining the possibility of creating such partnerships,  
12 the committee shall consider competitive impact statements submitted to it by state  
13 governmental units. As a part of its examination, the committee shall also review  
14 the impact of any such proposed partnerships on collective bargaining agreements  
15 under subch. I or V of ch. 111 to ensure that state governmental units remain in  
16 compliance with the agreements.

17           **(9) PERFORMANCE REVIEW.** When a public-private partnership is created to  
18 provide a service, the joint committee shall periodically review the performance of  
19 the private sector enterprise in providing the service to ensure that the enterprise  
20 is successfully and competently completing the obligations agreed to in the contract  
21 between the state and the enterprise.

22           **(10) ADVICE.** The joint committee shall advise state agencies in the executive  
23 branch concerning issues relating to public-private partnership.

24           **(11) STAFF.** The cochairpersons of the joint committee may direct any legislative  
25 service agency, as defined in s. 13.90 (1m), to provide staff assistance to the

**ASSEMBLY BILL 745**

1 committee. The committee shall pay any employee who is assigned to provide  
2 assistance to the committee from the appropriation under s. 20.765 (2) (c).

3 **SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
4 the following amounts for the purposes indicated:

5 1997-98      1998-99

6 **20.765 Legislature**

7 (2) **SPECIAL STUDY GROUPS**

8 (c) **Joint committee on public-pri-**

9 **vate partnership**

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10 **SECTION 3.** 20.765 (2) (c) of the statutes is created to read:

11 *20.765 (2) (c) Joint committee on public-private partnership.* For the joint  
12 committee on public-private partnership, biennially, the amounts in the schedule to  
13 carry out the functions of the committee under s. 13.59.

14 **SECTION 4.** Chapter 131 of the statutes is created to read:

15 **CHAPTER 131**

16 **UNFAIR COMPETITION**

17 **131.01 Definitions.** In this chapter, unless the context otherwise requires:

18 (1) "Commercial activity" means providing goods or performing services which  
19 can practically, in a cost-effective manner and consistently with rules of the  
20 department of administration promulgated under s. 16.705 (5) and applicable  
21 collective bargaining agreements under subch. I or V of ch. 111, be obtained from a  
22 for-profit or nonprofit private enterprise, including the manufacturing, processing,  
23 managing, sale, offering for sale, rental, leasing, delivering, dispensing, distributing  
24 or advertising of any goods or services.

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1           (2) “Competitive impact statement” means a cost analysis using uniform  
2 accounting principles to determine:

3           (a) The total cost of a commercial activity.

4           (b) The availability of the goods or services resulting from the commercial  
5 activity from any for-profit or nonprofit private enterprise.

6           (c) If a state governmental unit is authorized under existing law or under a bill  
7 to engage in the commercial activity, the competitive impact upon for-profit and  
8 nonprofit private enterprises if the commercial activity is contracted by the state to  
9 a single for-profit or nonprofit private enterprise.

10           (d) The effect that the creation of a public-private partnership may have upon  
11 employes of a state governmental unit who currently perform any service associated  
12 with the commercial activity.

13           (3) “Institution of higher education” means an institution of the University of  
14 Wisconsin System.

15           (4) “Invited guest” means any individual who enters onto a campus of an  
16 institution of higher education for an educational, research, or public service activity  
17 and not primarily to purchase or receive goods and services not related to the  
18 educational, research, or public service activity.

19           (5) “Organization” means every person other than an individual and every  
20 combination of 2 or more individuals.

21           (6) “Private enterprise” means a private person engaging in the  
22 manufacturing, processing, sale, offering for sale, rental, leasing, delivery,  
23 dispensing, distributing, or advertising of goods or services on a for-profit or  
24 nonprofit basis.

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1           (7) “Public service” means an activity normally and generally associated with  
2 colleges and universities and other educational institutions in this state, a purpose  
3 or significant result of which is not to engage in competition with any for-profit or  
4 nonprofit private enterprise.

5           (8) “State governmental unit” means this state, and every subunit or  
6 instrumentality of this state, including any institution or authority, regardless of  
7 whether moneys are appropriated to the unit.

8           (9) “Student” means a person seeking a degree or a certificate from an  
9 institution of higher education.

10           (10) “Uniform accounting standards” means a system of accounting for costs  
11 and expenses which applies accepted accounting practices and customs, including  
12 those limited to specific industries, to provide a fair and complete total of the direct  
13 and indirect costs and expenses of or reasonably allocable to any activity, including:

14           (a) Direct and indirect labor costs and compensatory benefits.

15           (b) Direct materials costs.

16           (c) Other allocable indirect costs, including indirect manufacturing or  
17 operational costs such as costs of utilities, parts and supplies, insurance and  
18 depreciation on plant and equipment.

19           (d) Selling, general and administrative expenses.

20           (e) The imputed cost that represents the fair and complete total of the federal,  
21 state and local tax obligations, from which the activity is exempt in whole or in part,  
22 to the extent of such exemption.

23           **131.02 Competition by state governmental units with for-profit or**  
24 **nonprofit private enterprises restricted; exceptions.** (1) Except as permitted  
25 in sub. (2) and s. 131.03, no state governmental unit may engage in any commercial

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## SECTION 4

1 activity for its own use, for the use of any other state governmental unit or for public  
2 use if the goods or services provided as a result of that activity can be procured from  
3 any for-profit or nonprofit private enterprise through ordinary business channels.

4 (2) A state governmental unit may engage in a commercial activity if any of the  
5 following applies:

6 (a) The commercial activity is specifically authorized by law.

7 (b) The commercial activity is not available from any for-profit or nonprofit  
8 private enterprise.

9 (c) The commercial activity is inherently related to the state's defense.

10 (d) The state governmental unit can provide the goods or services resulting  
11 from the commercial activity to other state governmental units at a lower total cost  
12 than if goods or services were obtained from a for-profit or nonprofit private  
13 enterprise, using uniform accounting standards to make the cost comparison.

14 (e) Use of a for-profit or nonprofit private enterprise to engage in the activity  
15 would cause an unbearable delay or disruption of an essential program.

16 (f) Use of a for-profit or nonprofit private enterprise would impede the ability  
17 of the state governmental unit to fully comply with any collective bargaining  
18 agreement under subch. I or V of ch. 111.

19 (g) The joint committee on public-private partnership, taking into account any  
20 applicable competitive impact statement, and the views of private enterprises, state  
21 governmental units, and other affected persons, determines that the interests of the  
22 public are best served by maintaining existing practices used by the state  
23 governmental unit to obtain certain essential goods and services.

24 (3) Unless otherwise required by law, if a state governmental unit is authorized  
25 by law to engage in a commercial activity, the state governmental unit shall impose

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1 and collect a fee for that activity which shall include all costs related to engaging in  
2 the activity by the state governmental unit.

3 (4) (a) Except as provided in par. (b), if the joint committee on public-private  
4 partnership determines that a specific program administered by a state  
5 governmental unit constitutes a restricted commercial activity, the state  
6 governmental unit shall, upon request of a majority of the membership of the  
7 committee, submit to the committee a competitive impact statement concerning such  
8 activity.

9 (b) If a state governmental unit implements a new program under which it  
10 proposes to engage in a commercial activity, the state governmental unit and the  
11 department of administration shall jointly, upon request of a majority of the  
12 membership of the joint committee on public-private partnership, submit a  
13 competitive impact statement for the program under par. (a).

14 (5) Whenever any bill for which a fiscal estimate is required under s. 13.093  
15 (2) (a) or any executive budget bill under s. 16.47 (1) is introduced, the legislative  
16 reference bureau shall promptly send a copy of the bill to the department of  
17 administration. The department shall then determine whether the bill proposes to  
18 authorize or require any state governmental unit to engage in a commercial activity.  
19 If the bill so proposes, the department shall prepare or direct one or more appropriate  
20 state governmental units to prepare, and submit to the joint committee on  
21 public-private partnership, the competitive impact statement concerning such  
22 activity. The statement shall be printed with the fiscal estimate, if any, or in the case  
23 of the executive budget bill, shall be printed as an appendix to the bill in the same  
24 manner as amendments to the bill are printed.

1           **131.03 Competition by institutions of higher education with for-profit**  
2 **or nonprofit private enterprises restricted; exceptions. (1)** No institution of  
3 higher education may, unless specifically authorized by law:

4           (a) Engage in any commercial activity for students, faculty, staff, invited guests  
5 or the general public that can be procured from any for-profit or nonprofit private  
6 enterprise through ordinary business channels, unless the commercial activity:

7           1. Is authorized under s. 131.02 (2);

8           2. Requires the participation of students as part of an educational program in  
9 order to obtain a degree or certificate;

10           3. Is a recognized and integral part of a teaching, educational or research  
11 program leading to a degree or certificate;

12           4. Is considered by the joint committee on public-private partnership to be  
13 essential to providing affordable education to the students of the institution; or

14           5. Consists of on-campus activities, including any of the following:

15           a. Food service.

16           b. Student housing.

17           c. Sponsoring cultural and athletic events.

18           d. Providing facilities for recreation to students, faculty and staff.

19           e. Sales of course books and course-related supplies, excluding electronic  
20 equipment or devices and peripherals and software.

21           f. Sale of personal items bearing the institution's insignia that are incidental  
22 to the sale of textbooks and other items permitted in this subdivision.

23           (b) Engage in any commercial activity for or through another institution of  
24 higher education or state governmental unit.

**ASSEMBLY BILL 745**

1 (c) Provide for the disposal by sale of goods or services that are part of research  
2 or instruction conducted by students and faculty of the institution of higher  
3 education and leading to a student degree or certificate unless all of the following  
4 apply:

- 5 1. The sale is an integral part of the research or instruction.
- 6 2. There is no other practical way of disposing of the goods.
- 7 3. The goods or services are sold at their market value utilizing uniform  
8 accounting standards.

9 (2) In determining whether a commercial activity is directly related to a  
10 teaching, educational or research program leading to a degree or certificate, an  
11 institution of higher education shall consider the following:

12 (a) Whether the activity is necessary for the student to pursue a degree or  
13 certificate or for faculty or staff to engage in research or teaching.

14 (b) Whether the commercial activity is not generally available to the public.

15 (c) Whether the fee charged for the commercial activity reflects the direct and  
16 indirect costs and overhead costs of the activity and the price in the private  
17 marketplace.

18 (d) Whether measures have been taken to ensure that the commercial activity  
19 is available only to students, faculty, staff or invited guests of the institution and not  
20 to the general public.

21 **SECTION 5. Nonstatutory provisions; initial terms.**

22 (1) Notwithstanding section 13.59 (1) (c) of the statutes, as created by this act,  
23 the members of the joint committee on public-private partnership who are initially



**ASSEMBLY BILL 745**

1 appointed to serve under section 13.59 (1) (c) of the statutes, as created by this act,  
2 shall serve for terms expiring on December 31, 1998.

3 (END)

-4722/P

~~Resolves~~

2001 BILL

Each majority leader and  
minority leader is  
authorized to request or  
submit a statement on a  
bill proposed each  
year.

LPS: This entire note  
becomes the analysis;  
move a part change components.

AN ACT to amend 13.0992 (2) (c) and (6), and to create 13.0992 of the statutes;

relating to: preparation of tribal impact statements for bills that would have  
a direct economic impact on tribal governments or American Indians.

Gen. Cat.

economic

the private sector

Analysis by the Legislative Reference Bureau

This bill is explained in the PREFATORY NOTE provided by the joint legislative council in the bill.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill

by bills or proposed rules

direct economic

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

the private sector

PREFATORY NOTE. This bill was recommended by the joint legislative council's special committee on state-tribal relations. It requires the preparation of statements describing the impact of legislation on tribal governments and American Indians. It applies to bills that apply specifically to tribal governments or American Indians or that affect tribal governments or American Indians differently than other governments or entities or other individuals. The requirements of the bill are designed to parallel the current requirements contained in the statutes and the joint rules of the legislature for the preparation of statements describing the fiscal impact of legislation.

The bill directs the legislative reference bureau to identify bills for which tribal impact statements are required and authorizes either house of the legislature to request one. In addition, the chairperson or either cochairperson of the special committee on

XXXX

businesses

and proposed rules

a business

BILL

*authority*

*preparation of*

*end of analysis; move.*

~~state-tribal relations may request a tribal impact statement. If the Wisconsin tribal-state council is created, as is proposed in separate legislation recommended by the special committee on state-tribal relations, the bill permits either cochair person or the executive director of the council to request a tribal impact statement. It directs the department of administration to assign the task of preparing a statement to the appropriate agency or agencies. It establishes a deadline for the preparation of a statement and requirements for its distribution. The bill states that a standing committee may not hold a public hearing on, or report a bill for which a tribal impact statement is required, before receipt of the statement.~~

*an economic*

*or proposed rule making order*

SECTION 1. 13.0992 of the statutes is created to read:

**13.0992 <sup>Economic</sup> Tribal impact statements.** (1) In this section:

(a) "Agency" ~~except in par. (d)~~ means an office, department, agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority.

(b) "Authority" means a body created under ch. 231, 232, 233, 234, or 235.

(c) "Have <sup>a direct</sup> an impact on ~~tribal governments or American Indians,~~" when referring to a bill, means to do any of the following:

1. Apply directly and specifically to ~~tribal governments or American Indian~~ *the private sector*

2. Affect a ~~tribal government~~ differently than other governments or other entities. *businesses*

3. Affect individual ~~American Indians~~ differently than other ~~individuals~~. *businesses*

(d) "Tribal government" means the government of a federally recognized American Indian tribe or band in this state or any unit, agency, subdivision, or corporation of that government.

(2) (a) ~~Whenever a bill is introduced in either house of the legislature that would have an impact on tribal governments or American Indians, the legislative~~ *a direct the private sector*

*the private sector*

*the private sector*

*the private sector*

*businesses*

*businesses*

✓

*Each year sends leader, and the assembly minority leader*

reference bureau shall promptly transmit a copy of the bill to the department of administration.

*The majority leader, the senate minority leader, the assembly majority leader, each*  
with either house of the legislature may, under rules of that house or joint rules

of the legislature, request the department of administration to order the preparation of a tribal impact statement with respect to any bill before that house, either in its original form or as affected by one or more amendments. If a house so requests, the chief clerk of that house shall thereupon request the legislative reference bureau to transmit a copy of that bill and any affected amendments to the department of administration.

*one or more economic or any proposed rule-making order*  
*if it is a bill, keep*  
*majority or minority leader*

transmit a copy of that bill and any affected amendments to the department of administration.

*for the legislative council staff to transmit a copy of the proposed rule-making order*  
(c) The chairperson or either cochairperson of the special committee on state-tribal relations may request the department of administration to order the preparation of a tribal impact statement with respect to any bill that has an impact on tribal governments or American Indians and that has not been transmitted to the department of administration under par. (a) or (b). In making a request under this paragraph, the chairperson or cochairperson shall request the legislative reference bureau to transmit a copy of the bill and any affected amendments to the department of administration and shall notify the chief clerk of the house in which the bill is currently pending.

*or rule-making order*  
(3) Upon receipt of a bill under sub. (2), the department of administration shall direct one or more agencies or authorities to prepare a tribal impact statement with respect to the bill. Each tribal impact statement shall describe the impact on tribal governments or American Indians that would result from enactment of the bill.

*an economic*  
*or order*  
*the private sector*  
*direct*  
*or promulgation*  
(4) Each agency or authority that is directed to prepare a tribal impact statement under sub. (3) shall provide the statement to the department of administration within 10 working days after the date on which it receives the

*an economic*  
*the agency or authority*  
the statement.

**BILL**

1 direction, but the department of administration, on a limited basis only and upon an  
2 agency's request received before the end of the 5-day period and applicable to only  
3 one ~~tribal~~ <sup>economic</sup> impact statement, may extend the period for the specified ~~tribal~~ <sup>economic</sup> impact  
4 statement to not more than 20 working days if the statement necessitates extended

5 research. Whenever the extension is granted, the department of administration  
6 shall immediately notify <sup>if it is on a bill, or the legislative council</sup> the legislative reference bureau.

7 (5) Upon receiving <sup>an economic</sup> a tribal impact statement under sub. (4), the department  
8 of administration shall transmit it to the legislative reference bureau, which shall  
9 transmit one copy to the principal author of the bill, and one copy to the chief clerk  
10 of the house of the legislature in which the bill originated. <sup>Staff if it is a proposed rule-making order</sup> The tribal impact  
11 statement shall be reproduced and distributed as are amendments. <sup>In case of bills, the</sup>

12 (6) Whenever <sup>an economic</sup> a tribal impact statement is required under sub. (2) (a) for a bill,  
13 the legislative reference bureau shall include a notation to that effect on the jacket  
14 of the bill when the jacket is prepared. If the preparation of a tribal impact statement  
15 is requested by a house of the legislature or the chairperson or cochairperson of the  
16 special committee on state-tribal relations, the chief clerk of that house shall include  
17 a notation to that effect on the jacket of the bill.

18 (6) <sup>an economic</sup> Whenever a tribal impact statement for a bill is <sup>to the house</sup> requested under  
19 this section, a standing committee to which the bill is referred may not hold a public  
20 hearing on the bill or report the bill until the statement is received by the chief clerk  
21 of the house in which the bill originated. <sup>or proposed rule-making order</sup>

22 SECTION 2. 13.0992 (2) (c) and (6) of the statutes, as created by 2001 Wisconsin  
23 Act .... (this act), are amended to read:

24 13.0992 (2) (c) The chairperson or either cochairperson of the special committee  
25 on state-tribal relations or of the Wisconsin tribal-state council or the executive

**BILL**

1 director of the Wisconsin tribal-state council may request the department of  
2 administration to order the preparation of a tribal impact statement with respect to  
3 any bill that has an impact on tribal governments or American Indians and that has  
4 not been transmitted to the department of administration under par. (a) or (b). In  
5 making a request under this paragraph, the chairperson ~~or~~ cochairperson, or  
6 executive director shall request the legislative reference bureau to transmit a copy  
7 of the bill and any affected amendments to the department of administration and  
8 shall notify the chief clerk of the house in which the bill is currently pending.

9 (6) Whenever a tribal impact statement is required under sub. (2) (a) for a bill,  
10 the legislative reference bureau shall include a notation to that effect on the jacket  
11 of the bill when the jacket is prepared. If the preparation of a tribal impact statement  
12 is requested by a house of the legislature or the chairperson or cochairperson of the  
13 special committee on ~~state-tribal relations~~ or of the Wisconsin tribal-state council  
14 or the executive director of the Wisconsin tribal-state council, the chief clerk of that  
15 house shall include a notation to that effect ~~on the jacket of the bill.~~

**SECTION 3. Nonstatutory provisions.**

16  
17 (1) RECONCILIATION PROVISION. The amendment of section 13.0992 (2) (c) and (6)  
18 of the statutes, as created by this act, is void unless 2001 Wisconsin Act .... (Senate  
19 Bill/Assembly Bill ....) (LRB-4265) creates a Wisconsin tribal-state council and  
20 authorizes the council to appoint an executive director and the act is enacted into law  
21 before August 1, 2002.

**SECTION 4. Effective date.**

22  
23 (1) This act takes effect on January 1, 2003.

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

4722/pl  
LRB 4266/P2dn

PJD: /:....  
mg

November 20, 2001

The language of proposed s. 13.0992 ~~11~~, to the effect that a bill for which a ~~tribal~~ impact statement is ~~required~~ or requested may not be heard or reported by a standing committee to which the bill is referred until the statement is received, creates a rule of procedure under article IV, section 8, of the constitution. The supreme court has held that the remedy for noncompliance with this type of provision lies exclusively within the legislative branch. See (State ex rel. La Follette v. Stitt), 114 Wis. 2d 358, 363-369 (1983). In other words, while this type of provision may be effective to govern internal legislative procedure, the courts will not enforce this type of provision and it does not affect the validity of any enactment resulting from a procedure that may be viewed as contravening the provision.

Atty. Peter J. Dykman  
General Counsel  
Phone: (608) 266-7098  
E-mail: peter.dykman@legis.state.wi.us



Today - 11/11/01

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to create* 13.0992 of the statutes; **relating to:** preparation of economic  
2 impact statements for bills that would have a direct economic impact on the  
3 private sector.

---

*Analysis by the Legislative Reference Bureau*

This bill requires the preparation of statements describing the direct economic impact by bills or proposed rules on the private sector. Each majority leader and each minority leader is authorized to request a statement on one bill or proposed rule each year. It applies to bills and proposed rules that apply specifically to a business or that affect businesses differently than governments or other entities. The requirements of the bill are designed to parallel the current requirements contained in the statutes and the joint rules of the legislature for the preparation of statements describing the fiscal impact of legislation.

~~to identify bills for which tribal impact statements are required and authorizes either house of the legislature to request one.~~ It directs the department of administration to assign the preparation of a statement to the appropriate agency or authority. It establishes a deadline for the preparation of a statement and requirements for its distribution. The bill states that a standing committee may not hold a public hearing on, or report a bill <sup>as</sup> proposed rule-making order for which an economic impact statement is required, before receipt of the statement.

↓  
a?



For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 13.0992 of the statutes is created to read:

2           **13.0992 Economic impact statements.** (1) In this section:

3           (a) "Agency" means an office, department, agency, institution of higher  
4 education, association, society, or other body in state government created or  
5 authorized to be created by the constitution or any law, which is entitled to expend  
6 moneys appropriated by law, including the legislature and the courts, but not  
7 including an authority.

8           (b) "Authority" means a body created under ch. 231, 232, 233, 234, or 235.

9           (c) "Have a direct impact on the private sector," when referring to a bill, means  
10 to do any of the following:

- 11           1. Apply directly and specifically to the private sector.  
12           2. Affect the private sector differently than governments or other entities.  
13           3. Affect individual businesses differently than other businesses.

14           Each year, the senate majority leader, the senate minority leader, the assembly  
15 majority leader, and the assembly minority leader may each, ~~under~~ <sup>subject to the</sup> rules of that  
16 house or joint rules of the legislature, request the department of administration to  
17 order the preparation of one economic impact statement with respect to any bill or <sup>any</sup>  
18 proposed rule-making order before that house, either in its original form or, if it is  
19 a bill, as affected by one or more amendments. If a majority or minority leader so  
20 requests, the chief clerk of that house shall thereupon request the legislative  
21 reference bureau to transmit a copy of that bill and any affected amendments, or the

1 legislative council staff to transmit a copy of the proposed rule-making order, to the  
2 department of administration.

3 (3) Upon receipt of a bill or rule-making order under sub. (2), the department  
4 of administration shall direct one or more agencies or authorities to prepare an  
5 economic impact statement with respect to the bill or order. Each statement shall  
6 describe the direct impact on the private sector that would result from enactment of  
7 the bill or promulgation of the rule.

8 (4) Each agency or authority that is directed to prepare an economic impact  
9 statement under sub. (3) shall provide the statement to the department of  
10 administration within 10 working days after the date on which the agency or  
11 authority receives the direction, but the department of administration, on a limited  
12 basis only and upon an agency's or authority's request received before the end of the  
13 10-day period and applicable to only one economic impact statement, may extend the  
14 period for the specified economic impact statement to not more than 20 working days  
15 if the statement necessitates extended research. Whenever the extension is granted,  
16 the department of administration shall immediately notify the legislative reference  
17 bureau, if it is on a bill, or the legislative council staff if it is a proposed rule-making  
18 order.

19 (5) Upon receiving an economic impact statement under sub. (4), the  
20 department of administration shall transmit it to the legislative reference bureau,  
21 which shall transmit one copy to the leader requesting the statement, one copy to the  
22 principal author of the bill, and one copy to the chief clerk of the house of the  
23 legislature in which the bill originated, ~~or to the house which is~~ <sup>not that</sup> considering the  
24 proposed rule. In case of bills, the statement shall be reproduced and distributed as  
25 are amendments.

1           (6) Whenever an economic impact statement for a bill or proposed rule-making  
2 order is requested under this section, a standing committee to which the bill or  
3 proposed rule-making order is referred may not hold a public hearing on the bill or  
4 rule or report the bill or order until the statement is received by the chief clerk of the  
5 house in which the bill originated to the house or which is considering the proposed  
6 rule.

*copy of [unclear]*

*[Handwritten signature]*

(END)

7

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4722/PJdn  
PJD:kmg:pg

2

January 29, 2002

The language of proposed s. 13.0992 (6), to the effect that a bill or proposed rule-making order for which an economic impact statement is requested may not be heard or reported by a standing committee to which the bill or order is referred until the statement is received, creates a rule of procedure under article IV, section 8, of the constitution. The supreme court has held that the remedy for noncompliance with this type of provision lies exclusively within the legislative branch. See *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). In other words, while this type of provision may be effective to govern internal legislative procedure, the courts will not enforce this type of provision and it does not affect the validity of any enactment resulting from a procedure that may be viewed as contravening the provision.

Atty. Peter J. Dykman  
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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4722/P2dn  
PJD:kmg:pg

January 29, 2002

The language of proposed s. 13.0992 (6), to the effect that a bill or proposed rule-making order for which an economic impact statement is requested may not be heard or reported by a standing committee to which the bill or order is referred until the statement is received, creates a rule of procedure under article IV, section 8, of the constitution. The supreme court has held that the remedy for noncompliance with this type of provision lies exclusively within the legislative branch. See *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). In other words, while this type of provision may be effective to govern internal legislative procedure, the courts will not enforce this type of provision and it does not affect the validity of any enactment resulting from a procedure that may be viewed as contravening the provision.

Atty. Peter J. Dykman  
General Counsel  
Phone: (608) 266-7098  
E-mail: peter.dykman@legis.state.wi.us

## Basford, Sarah

---

**From:** Basford, Sarah  
**Sent:** Monday, February 04, 2002 2:32 PM  
**To:** Becher, Scott  
**Subject:** LRB -4722/P2 (attached)



01-4722/P2

### **Sarah Basford**

Program Assistant  
State of Wisconsin  
Legislative Reference Bureau  
PH: (608) 266-3561/FAX: (608) 264-6948  
[sarah.basford@legis.state.wi.us](mailto:sarah.basford@legis.state.wi.us)

---

# Memo

To: Rep. Wieckert (The Draft's Requestor)

Per your request ... the attached is a fiscal estimate was prepared for your un-introduced 2001 draft.

LRB Number: LRB - 4722

Version: "1/02"

Entered In Computer And Copy Sent To Requestor Via E-Mail: 02 / 05 / 2002

Fiscal Estimate Prepared By: (agency abbr.) DOA

If you have questions about the attached fiscal estimate, you may contact the agency/ individual who prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

\* \* \* \* \*

To: LRB – Legal Section PA's

Subject: Fiscal Estimate Received For A Un-Introduced Draft

- If this draft is **re-drafted** ... please insert this early fiscal estimate into the drafting file ... after the draft's old version (the version this fiscal estimate was based on), and before mark-up of the draft on the updated version.
- If this draft is **introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this early fiscal estimate into the drafting file ... after the draft's old version (the version this fiscal estimate was based on), and before mark-up of the draft on the updated version.  
Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.
- If this draft is **introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the drafts intro. number below and give this fiscal estimate to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2001 \_\_\_\_\_

**Emery, Lynn**

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**From:** Emery, Lynn  
**Sent:** Tuesday, February 05, 2002 12:56 PM  
**To:** Rep.Wieckert  
**Subject:** LRB-4722/P1 (FE by DOA-attached-for your review)



FE\_Wieckert.pdf

FE\_Wieckert.pdf





**Fiscal Estimate Narratives**

**DOA 02/05/2002**

LRB Number <b>01-4722/P2</b>	Introduction Number	Estimate Type <b>Original</b>
<b>Subject</b> Pilot program for economic impact statements		

**Assumptions Used in Arriving at Fiscal Estimate**

This bill allows legislative leaders to request agencies to prepare no more than 4 economic impact statements annually. DOA's State Budget Office is given responsibility for assigning preparation to affected agencies.

The proposed activity level will not add significantly to the department's workload, and consequently there is no financial impact.

**Long-Range Fiscal Implications**

If this pilot program is extended in the future, an electronic process similar to the current fiscal estimate system will need to be developed. The cost of developing and maintaining this system cannot be determined at this time.

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

good

and proposed  
proposed  
administrative  
rules

1 AN ACT to create 13.0992 of the statutes; relating to: preparation of economic  
2 impact statements for bills that would have a direct economic impact on the  
3 private sector.

**Analysis by the Legislative Reference Bureau**

This bill requires the preparation of statements describing the direct economic impact by bills or proposed rules on the private sector. Each majority leader and each minority leader is authorized to request a statement on one bill or proposed rule each year. It applies to bills and proposed rules that apply specifically to a business or that affect businesses differently than governments or other entities. The requirements of the bill are designed to parallel the current requirements contained in the statutes and the joint rules of the legislature for the preparation of statements describing the fiscal impact of legislation.

It directs the department of administration to assign the preparation of a statement to the appropriate agency or authority. It establishes a deadline for the preparation of a statement and requirements for its distribution. The bill states that a standing committee may not hold a public hearing on, or report a bill as proposed rule-making order for which an economic impact statement is required, before receipt of the statement.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           SECTION 1. 13.0992 of the statutes is created to read:

2           **13.0992 Economic impact statements.** (1) In this section:

3           (a) “Agency” means an office, department, agency, institution of higher  
4 education, association, society, or other body in state government created or  
5 authorized to be created by the constitution or any law, which is entitled to expend  
6 moneys appropriated by law, including the legislature and the courts, but not  
7 including an authority.

8           (b) “Authority” means a body created under ch. 231, 232, 233, 234, or 235.

9           (c) “Have a direct impact on the private sector,” when referring to a bill, means  
10 to do any of the following:

- 11           1. Apply directly and specifically to the private sector.
- 12           2. Affect the private sector differently than governments or other entities.
- 13           3. Affect individual businesses differently than other businesses.

14           (2) Each year, the senate majority leader, the senate minority leader, the  
15 assembly majority leader, and the assembly minority leader may each, subject to the  
16 rules of that house or joint rules of the legislature, request the department of  
17 administration to order the preparation of one economic impact statement with  
18 respect to any bill or any proposed rule-making order before that house, either in its  
19 original form or, if it is a bill, as affected by one or more amendments. If a majority  
20 or minority leader so requests, the chief clerk of that house shall thereupon request  
21 the legislative reference bureau to transmit a copy of that bill and any affected

1 amendments, or the legislative council staff to transmit a copy of the proposed  
2 rule-making order, to the department of administration.

3 (3) Upon receipt of a bill or rule-making order under sub. (2), the department  
4 of administration shall direct one or more agencies or authorities to prepare an  
5 economic impact statement with respect to the bill or order. Each statement shall  
6 describe the direct impact on the private sector that would result from enactment of  
7 the bill or promulgation of the rule.

8 (4) Each agency or authority that is directed to prepare an economic impact  
9 statement under sub. (3) shall provide the statement to the department of  
10 administration within 10 working days after the date on which the agency or  
11 authority receives the direction, but the department of administration, on a limited  
12 basis only and upon an agency's or authority's request received before the end of the  
13 10-day period and applicable to only one economic impact statement, may extend the  
14 period for the specified economic impact statement to not more than 20 working days  
15 if the statement necessitates extended research. Whenever the extension is granted,  
16 the department of administration shall immediately notify the legislative reference  
17 bureau, if it is on a bill, or the legislative council staff, if it is on a proposed  
18 rule-making order.

19 (5) Upon receiving an economic impact statement under sub. (4), the  
20 department of administration shall transmit it to the legislative reference bureau,  
21 which shall transmit one copy to the leader requesting the statement, one copy to the  
22 principal author of the bill, and one copy to the chief clerk of the house of the  
23 legislature in which the bill originated or of the house that is considering the  
24 proposed rule. In case of bills, the statement shall be reproduced and distributed as  
25 are amendments.



**Emery, Lynn**

---

**From:** Emery, Lynn  
**Sent:** Friday, February 08, 2002 11:35 AM  
**To:** Rep.Wieckert  
**Subject:** LRB-4722/1 (attached as requested)

Lynn Emery

Program Asst. (PH. 608-266-3561)  
(E-Mail: [lynn.emery@legis.state.wi.us](mailto:lynn.emery@legis.state.wi.us))

Legislative Reference Bureau - Legal Section - Front Office  
100 N. Hamilton Street - 5th Floor  
Madison, WI 53703

2/8/2002