

2009 DRAFTING REQUEST

Bill

Received: **07/14/2009**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **John Nygren (608) 266-2343**

By/Representing: **Waylon Hurlburt**

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

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

Subject: **Econ. Development - bus. dev.
Econ. Development - misc.**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Nygren@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

changes to small business regulatory review board

Instructions:

See attached

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/5			rschluet 01/26/2010	_____	mbarman 01/26/2010	mbarman 01/26/2010	

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at intro
3/4/10

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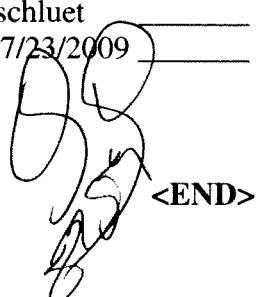
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/?	tkuczens						
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PI 7/23 kd

JK
7/23/09

<END>
1/13

FE Sent For:

Kuczenski, Tracy

From: Nelson, Robert P.
Sent: Monday, July 13, 2009 1:47 PM
To: Kuczenski, Tracy
Subject: FW: Bill Draft Request

Attachments: Bill Draft Request.pdf; Statutory Changes.doc

From: Hurlburt1, Waylon
Sent: Monday, July 13, 2009 10:56 AM
To: Nelson, Robert P.
Subject: Bill Draft Request

Hello Mr. Nelson,

Call with any questions. The intent of this bill is to give the review board more of a small business representation and to make it less likely for agencies to play loose with the "significant economic impact" language. Regulation and Licensing is the only agency on the board because they have the most contact with small businesses and have been working well on the board. As well, to ensure there is a position in the Commerce Department to work with small businesses and other agencies to help small businesses navigate through rules and regulations and get assistance in a timely fashion.



Bill Draft

equest.pdf (61 KB)



Statutory

changes.doc (60 KB)

Thanks,

Waylon Hurlburt
Legislative Aide
Office of Representative John Nygren
89th Assembly District
(608)266-2344

Bill Request Form

Legislative Reference Bureau
One East Main Street, Suite 200
Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 7-13-09

Legislator, agency, or other person requesting this draft Rep. Nygren

Person submitting request (name and phone number) Waylon Hurlburt 266-2343

Persons to contact for questions about this draft (names and phone numbers) Waylon Hurlburt 266-2343

Describe the problem, including any helpful examples. How do you want to solve the problem?

The Small Business Regulatory Reform Board is too large and composed of too many non-business members. Also, it is having its power circumvented by "significant economic" language and by not giving proper authority to the small business ombudsman. For solutions please refer to the attachment.

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2005 LRB-2345/1 or 2003 AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes: Anyone who asks? YES NO
 Any legislator? YES NO

Only the following persons _____

Do you consider this request urgent? YES NO If yes, please indicate why Would like to introduce soon.

Should we give this request priority over any pending request of this legislator, agency, or person? YES NO

15.155 (5) Small business regulatory review board. There is created a small business regulatory review board, attached to the department of commerce under s. 15.03. The board shall consist of ~~a representative of the department of administration; a representative of the department of agriculture, trade and consumer protection; a representative of the department of children and families;~~ a representative of the department of commerce; a representative of the department of health services; a representative of the department of natural resources; ~~the~~ a representative of the department of regulation and licensing; a representative of the department of revenue; a representative of the department of workforce development; 6 8 representatives of small businesses to include one representative from the National Federation of Independent Business, one from the Wisconsin Independent Business Association of Wisconsin, one from the Wisconsin Restaurant Association, one from the Wisconsin Builders Association, one from the Wisconsin Agribusiness Council, and the other three small business members chosen as defined in s. 227.114 (1), who shall be appointed for 3-year terms; and one member of the majority party and one member of the minority party of one senate and one assembly committee concerned with small businesses, appointed as are members of standing committees. The representatives of the departments shall be selected by the secretary of that department.

227.22(2) (e) The rule has an significant economic impact on small businesses, as defined in s. 227.114 (1), in which case the rule applies to small businesses no earlier than the first day of the 3rd month commencing after the date of publication of the rule.

227.14(2g) Review by the small business regulatory review board. On the same day that an agency submits to the legislative council staff under s. 227.15 a proposed rule that may have an significant economic impact on small businesses, the agency shall submit the proposed rule, the analysis required under sub. (2), and a description of its actions taken to comply with s. 227.114 (2) and (3) to the small business regulatory review board. The board may use cost-benefit analysis to determine the fiscal effect of the rule on small businesses and shall determine whether the agency has complied with subs. (2) and (2m) and s. 227.114 (2) and (3). Except as provided in subs. (1m) and (1s), each proposed rule shall include provisions detailing how the rule will be enforced. If the board determines that the rule does not include an enforcement provision or that the agency failed to comply with sub. (2) or (2m) or s. 227.114 (2) or (3), the board shall notify the agency of that determination and ask the agency to comply with any of those requirements. In addition, the board may submit suggested changes in the

NO plain?

No: Staffed by only demand provided under s. 560.03 (9)

proposed rule to the agency, including proposals to reduce the use of cross-references in the rule. The board shall send a report of those suggestions and of any notice of failure to include enforcement provisions or to comply with sub. (2) or (2m) or s. 227.114 (2) or (3) to the legislative council staff. The notification to the agency may include a request that the agency do any of the following:

560.03 (9) Establish and operate a small business ombudsman clearinghouse to be staffed by no fewer than one employee and to be modeled after the United States Small Business Association National Ombudsman for business and industry to facilitate the flow of information from other state and federal agencies, to assist state agencies in establishing methods to encourage the participation of small businesses in rule making under s. 227.114 (4) and to serve as ombudsman for small business stationary sources, as defined in s. 285.79 (1), in connection with the implementation of the federal clean air act, 42 USC 7401 to 7671q. Each state agency shall designate no fewer than one employee to cooperate with the small business ombudsman in compliance with s. 560.03 (9) and the agency business regulatory coordinator under s. 227.114 (7m).

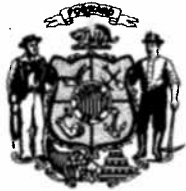
position authorization required?

currently Carol Dunn @ Commerce

16.505

→ full time? part time? > without explicit instruction, can
X-hours/wk or mo or year
 no other responsibilities?





State of Wisconsin
2009 - 2010 LEGISLATURE

PI
LRB-31222
TKK: F... Jld
RMEUN

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

7/20/09
soon

X Gen

1 AN ACT ...; relating to: changes to the membership of the Small Business
2 Regulatory Review Board, notification to the Small Business Regulatory
3 Review Board of bills with an economic impact on small businesses, and the role
4 of the small business ombudsman clearinghouse in the Department of
5 Commerce.

(board)
Analysis by the Legislative Reference Bureau

This bill makes the following changes to the membership of the Small Business Regulatory Review Board, the considerations to be made for small businesses by agencies engaging in administrative rulemaking, the responsibilities of small business regulatory coordinators in each agency, and the structure and functions of the small business ombudsman clearinghouse in the Department of Commerce.

Small Business Regulatory Review Board

Currently, the membership of the Small Business Regulatory Review Board in the Department of Commerce consists of six representatives of small businesses, the chairpersons of the senate and assembly committees concerned with small businesses, and one representative each from the departments of Administration; Agriculture, Trade and Consumer Protection; Children and Families; Commerce; Health Services; Natural Resources; Regulation and Licensing; Revenue; and Workforce Development. Current law defines "small business" as a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employs 25 or fewer full-time employees or which has gross annual sales of less than \$5,000,000.

sub sub

(Comments)

The board serves small businesses by reviewing administrative rules proposed by and emergency rules promulgated by agencies to determine the fiscal effect of the rules on small businesses. The board also reviews whether an agency has prepared an analysis for each proposed rule and emergency rule, sufficiently considered the effect of a proposed rule on small businesses, and complied with certain other procedural and substantive requirements as it prepared the proposed rule or emergency rule.

This bill eliminates from the board the representatives of all departments except the Department of Regulation and Licensing. The bill decreases the number of representatives of small businesses on the board to three and adds to the membership of the board one representative from each of the following organizations: the National Federation of Independent Business, the Independent Business Association of Wisconsin, the Wisconsin Restaurant Association, the Wisconsin Builders Association, and the Wisconsin Agribusiness Council. The bill also requires representation on the board by one member of the majority party and one member of the minority party of both the senate and assembly committees concerned with small businesses.

* L.S. → **Rulesmaking: considerations for small businesses** ← subsub

Under current law, each state agency must submit proposed administrative rules to the Legislative Council for review, prepare an analysis of the proposed rule, and, with certain exceptions, provide notice of and a public hearing regarding the proposed rule. If an agency determines that a proposed administrative rule may have a significant economic impact on small businesses, the agency must forward a copy of the proposed rule to the board.

Under current law, for each proposed rule that will have an effect on small businesses, an agency must prepare a final regulatory flexibility analysis that includes certain information, including a summary of issues raised by small businesses and any changes made to the proposed rule as a result of information and provided by small businesses. A final regulatory flexibility analysis is not required if the agency determines that the rule will not have a significant economic impact on a substantial number of small businesses.

* Under certain circumstances, an agency may promulgate an emergency rule without complying with the notice and public hearing requirements. An agency must file a promulgated emergency rule with the Legislative Reference Bureau. If the emergency rule may have a significant economic impact on small businesses, the agency must submit a copy of the rule to the board on the same day it files the rule with the Legislative Reference Bureau.

(LRB)

* With certain exceptions, a rule promulgated by an agency takes effect on the first day of the month commencing after the day the rule is promulgated. Generally, an emergency rule takes effect upon publication. A rule that has a significant economic impact on small businesses applies to small businesses no earlier than the first day of the third month beginning after the date of publication.

LRB on which

* This bill requires an agency to forward a copy of a proposed administrative rule or an emergency rule to the board if the rule may have an economic impact on small businesses, and not just a significant economic impact. A final regulatory flexibility

administrati

analysis is not required under the bill if the agency determines that the rule will not have an economic impact on a substantial number of small businesses, and not just a significant economic impact. A rule promulgated by an agency that has an economic impact on small businesses, and not just a significant economic impact, applies to those businesses on the first day of the third month beginning after the date of publication of the rule.

* **§. → Small business regulatory coordinators and the small business ombudsman clearinghouse** ← **subsub**

Under current law, each agency must designate a small business regulatory coordinator to act as a point of contact within the agency for regulatory issues involving small businesses. Current law defines "agency" to mean a board, commission, committee, department, or officer in the state government, except the governor, a district attorney, or a military or judicial officer. Also under current law, Commerce must establish and operate a small business ombudsman clearinghouse to facilitate communication between state agencies and small businesses.

This bill requires each agency to designate one employee to serve as the agency's small business regulatory coordinator and clarifies that the small business regulatory coordinator must work with the small business ombudsman clearinghouse to facilitate communication between small businesses and state agencies.

The bill requires Commerce to model the small business ombudsman clearinghouse on the Office of the National Ombudsman in the U.S. Small Business Administration. The bill also requires Commerce to designate at least one full-time employee whose only responsibilities consist of serving as staff to the small business ombudsman clearinghouse. The staff of the small business ombudsman clearinghouse must, in turn, serve as staff on the board and work together with the small business regulatory coordinator of each agency.

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.** 15.155 (5) of the statutes is renumbered 15.155 (5) (intro.) and
2 amended to read:

3 **15.155 (5) SMALL BUSINESS REGULATORY REVIEW BOARD.** (intro.) There is created
4 a small business regulatory review board, attached to the department of commerce
5 under s. 15.03. The board shall consist of a representative of the department of
6 ~~administration; a representative of the department of agriculture, trade and~~

SECTION 1

1 consumer protection; a representative of the department of children and families; a
 2 representative of the department of commerce; a representative of the department
 3 of health services; a representative of the department of natural resources; a
 4 representative of the department of regulation and licensing; a representative of the
 5 department of revenue; a representative of the department of workforce
 6 development; 6 representatives of small businesses, as defined in s. 227.114 (1), who
 7 shall be appointed for 3-year terms; and the chairpersons of who shall be selected
 8 by the secretary of the department; one member of the majority party and one
 9 member of the minority party of one senate committee concerned with small
 10 businesses, and one member of the majority party and one member of the minority
 11 party of one assembly committee concerned with small businesses, appointed as are
 12 members of standing committees. The representatives of the departments shall be
 13 selected by the secretary of that department; and the following members appointed
 14 for 3-year terms:

History: 1983 a. 27; 1985 a. 29; 1987 a. 27, 399; 1989 a. 31, 325; 1991 a. 39; 1993 a. 399; 1995 a. 27 ss. 112b, 112c, 112d, 112h, 127, 220g, 9116 (5), 9130 (4); 1995 a. 227 s. 10; 1997 a. 3, 27; 1999 a. 9; 2003 a. 33, 145; 2005 a. 441, 457; 2007 a. 20 ss. 37e to 38, 9121 (6) (a).

15 **SECTION 2.** 15.155 (5) (a) of the statutes is created to read:

16 15.155 (5) (a) One representative of the National Federation of Independent
 17 Business.

18 **SECTION 3.** 15.155 (5) (b) of the statutes is created to read:

19 15.155 (5) (b) One representative of the Independent Business Association of
 20 Wisconsin.

21 **SECTION 4.** 15.155 (5) (c) of the statutes is created to read:

22 15.155 (5) (c) One representative of the Wisconsin Restaurant Association.

23 **SECTION 5.** 15.155 (5) (d) of the statutes is created to read:

24 15.155 (5) (d) One representative of the Wisconsin Builders Association.

1 **SECTION 6.** 15.155 (5) (e) of the statutes is created to read:

2 15.155 (5) (e) One representative of the Wisconsin Agribusiness Council. ✓

3 **SECTION 7.** 15.155 (5) (f) of the statutes is created to read:

4 15.155 (5) (f) Three ✓ representatives of small businesses, as defined in s. 227.114

5 (1). ✓

6 **SECTION 8.** 227.114 (7m) of the statutes is amended to read:

7 227.114 (7m) The Each agency shall designate ~~a~~ at least one ✓ employee to serve
8 as the small business regulatory coordinator to for the agency, and shall publicize
9 that employee's electronic mail address and telephone number. ✓ The small business
10 regulatory coordinator ✓ shall act as a contact person for small business regulatory
11 issues and shall ~~publicize that person's electronic mail address and telephone~~
12 number cooperate with the staff of the small business ombudsman clearinghouse
13 under s. 560.03 (9) to accomplish the objectives of this subsection and s. 560.03 (9). ✓

History: 1985 a. 182; 1995 a. 27 s. 9116 (5); 1999 a. 9; 2003 a. 145; 2005 a. 29; 2007 a. 20.

14 **SECTION 9.** 227.14 (2g) (intro.) of the statutes is amended to read:

15 227.14 (2g) (intro.) REVIEW BY THE SMALL BUSINESS REGULATORY REVIEW BOARD. ✓

16 On the same day that an agency submits to the legislative council staff under s.

17 227.15 a proposed rule that may have ~~a~~ significant ✓ an economic impact on small

18 businesses, the agency shall submit the proposed rule, the analysis required under

19 sub. (2), and a description of its actions taken to comply with s. 227.114 (2) and (3)

20 to the small business regulatory review board. The board may use cost-benefit

21 analysis to determine the fiscal effect of the rule on small businesses and shall

22 determine whether the agency has complied with subs. (2) and (2m) and s. 227.114

23 (2) and (3). Except as provided in subs. (1m) and (1s), each proposed rule shall

24 include provisions detailing how the rule will be enforced. If the board determines

1 that the rule does not include an enforcement provision or that the agency failed to
 2 comply with sub. (2) or (2m) or s. 227.114 (2) or (3), the board shall notify the agency
 3 of that determination and ask the agency to comply with any of those requirements.
 4 In addition, the board may submit suggested changes in the proposed rule to the
 5 agency, including proposals to reduce the use of cross-references in the rule. The
 6 board shall send a report of those suggestions and of any notice of failure to include
 7 enforcement provisions or to comply with sub. (2) or (2m) or s. 227.114 (2) or (3) to
 8 the legislative council staff. The notification to the agency may include a request that
 9 the agency do any of the following:

10 **History:** 1985 a. 182; 1987 a. 22, 253; 1993 a. 399; 1995 a. 106; ~~1999~~ a. 9; 2003 a. 118, 145; 2005 a. 249; 2007 a. 20 ss. 2997de to 2997fr, 9121 (6) (a).

SECTION 10. 227.19 (3m) of the statutes is amended to read:

11 227.19 (3m) ANALYSIS NOT REQUIRED. The final regulatory flexibility analysis
 12 specified under sub. (3) (e) is not required for any rule if the agency, after complying
 13 with s. 227.114 (1) to (5), determines that the rule will not have ~~a significant~~ an
 14 economic impact on a substantial number of small businesses.

15 **History:** 1985 a. 182; 1987 a. 253; 1987 a. 403 s. 256; 1989 a. 175; ~~2001~~ a. 87; 2003 a. 118, 277; 2005 a. 249; 2007 a. 20, 180.

SECTION 11. 227.22 (2) (e) of the statutes is amended to read:

16 227.22 (2) (e) The rule has ~~a significant~~ an economic impact on small
 17 businesses, as defined in s. 227.114 (1), in which case the rule applies to small
 18 businesses no earlier than the first day of the 3rd month commencing after the date
 19 of publication of the rule.

20 **History:** 1985 a. 182; 1985 a. 332 s. 253; 2003 a. 145; 2005 a. 249; 2007 a. 20. ~~X~~

SECTION 12. 227.24 (3m) (intro.) of the statutes is amended to read:

21 227.24 (3m) REVIEW BY THE SMALL BUSINESS REGULATORY REVIEW BOARD. ^(intro.) On the
 22 same day that the agency files a rule under sub. (3) that may have ~~a significant~~ an
 23 economic impact on small businesses, as defined in s. 227.114 (1), the agency shall
 24 submit a copy of the rule to the small business regulatory review board. The board

1 may use cost-benefit analysis to determine the fiscal effect of the emergency rule on
 2 small businesses and shall determine whether the agency complied with ss. 227.114
 3 (2) and (3) and 227.14 (2m). If the board determines that the agency failed to comply
 4 with s. 227.114 (2) or (3) or 227.14 (2m), the board shall notify the agency of that
 5 determination and ask the agency to comply with any of those provisions. In
 6 addition, the board may submit suggested changes in the proposed rule to the agency
 7 and may include a request that the agency do any of the following:

8 **History:** 1985 a. 182 ss. 6, 46, 55 (1), 57; 1985 a. 332 s. 253; 1987 a. 403; 1989 a. 31; 1995 a. 151; 1997 a. 185; 2003 a. 145; 2005 a. 249; 2007 a. 20.

8 **SECTION 13.** 560.03 (9) of the statutes is amended to read:

9 560.03 (9) Establish and operate a small business ombudsman clearinghouse
 10 for business and industry to facilitate the flow of information from other state and
 11 federal agencies, to assist state agencies in establishing methods to encourage the
 12 participation of small businesses in rule making under s. 227.114 (4), and to serve
 13 as ombudsman for small business stationary sources, as defined in s. 285.79 (1), in
 14 connection with the implementation of the federal clean air act, 42 USC 7401 to
 15 7671q. The small business ombudsman clearinghouse under this subsection shall
 16 be modeled on the Office of the National Ombudsman in the U. S. Small Business
 17 Administration and shall be staffed by at least one full-time employee of the
 18 department who has no responsibilities other than the responsibilities under this
 19 subsection. The staff of the small business ombudsman clearinghouse shall serve as
 20 staff to the small business regulatory review board and shall cooperate with the
 21 small business regulatory coordinator designated by each agency under s. 227.114
 22 (7m) to accomplish the objectives of this subsection, as appropriate.

History: 1971 c. 211 s. 126; 1971 c. 321 ss. 10, 16; Stats. 1971 s. 560.03; 1979 c. 34; 1979 c. 361 ss. 45, 87 to 96; 1979 c. 362; 1983 a. 27, 83, 86, 90, 91, 192; 1985 a. 182 s. 57; 1985 a. 299; 1987 a. 27, 186; 1987 a. 399 s. 433; 1989 a. 317; 1991 a. 39, 302; 1993 a. 399; 1995 a. 27, 227; 1997 a. 27; 1999 a. 150 s. 672; 2001 a. 104; 2003 a. 255; 2007 a. 125.

23 **SECTION 14. Initial applicability.**

SECTION 14

1 (1) The treatment of sections 227.14 (2g) (intro.)[✓] and[✓] 227.22 (2) (e) of the
2 statutes first applies to a proposed administrative rule submitted by an agency to the
3 legislative council staff[✓] under section 227.15[✓] of the statutes on the effective date of
4 this subsection.[✓]

5 (2) The treatment of section 227.24 (3m)[✓] of the statutes first applies to an
6 emergency rule filed with the legislative reference bureau on the effective date of this
7 subsection.[✓]

(END)

Kuczenski, Tracy

From: Hurlburt, waylon
Sent: Tuesday, August 25, 2009 12:43 PM
To: Kuczenski, Tracy
Subject: Modifications to LRB-3122/P1

Hello Tracy,

Can I get these changes made to LRB-3122 which relates to the Small Business Regulatory Review Board?

1. Change the membership of the board to 7 small business owner members and keep the legislative members who are chairs of small business related committees. There would be no agency members or specific interest group members.
2. Eliminate the "substantial" on page 6 line 16 so as to be perfectly clear that agencies can't skirt this law by being loose with the definition of "substantial."

Can I get these changes made ASAP?

Thanks Tracy,

Waylon Hurlburt

Legislative Aide

Office of Representative Kevin Petersen

40th Assembly District

P.O. Box 8953

Madison, WI 53708

(608) 266-3794

(888) 947-0040

Fax: (608) 282-3640



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3122/PT 1

TKK:jld:rs

RMN12

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

in 8/25/09

by 8/27/09

4

Regen

1 AN ACT *to renumber and amend* 15.155 (5); *to amend* 227.114 (7m), 227.14
2 (2g) (intro.), 227.19 (3m), 227.22 (2) (e), 227.24 (3m) (intro.) and 560.03 (9); and
3 *to create* 15.155 (5) (a), 15.155 (5) (b), 15.155 (5) (c), 15.155 (5) (d), 15.155 (5)
4 (e) and 15.155 (5) (f) of the statutes; **relating to:** changes to the membership
5 of the Small Business Regulatory Review Board, notification to the Small
6 Business Regulatory Review Board[✓] of bills with an economic impact on small
7 businesses, and the role of the small business ombudsman clearinghouse in the
8 Department of Commerce.[✓]

Analysis by the Legislative Reference Bureau

This bill makes the following changes to the membership of the Small Business Regulatory Review Board (board), the considerations to be made for small businesses by agencies engaging in administrative rule making, the responsibilities of small business regulatory coordinators in each agency, and the structure and functions of the small business ombudsman clearinghouse in the Department of Commerce (Commerce):

Small Business Regulatory Review Board

Currently, the membership of the board in Commerce consists of six representatives of small businesses, the chairpersons of the senate and assembly

committees concerned with small businesses, and one representative each from the departments of Administration; Agriculture, Trade and Consumer Protection; Children and Families; Commerce; Health Services; Natural Resources; Regulation and Licensing; Revenue; and Workforce Development. Current law defines "small business" as a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employs 25 or fewer full-time employees or which has gross annual sales of less than \$5,000,000.

The board serves small businesses by reviewing administrative rules proposed by and emergency rules promulgated by agencies to determine the fiscal effect of the rules on small businesses. The board also reviews whether an agency has prepared an analysis for each proposed rule and emergency rule, sufficiently considered the effect of a proposed rule on small businesses, and complied with certain other procedural and substantive requirements as it prepared the proposed rule or emergency rule.

This bill eliminates from the board the representatives of all departments except the Department of Regulation and Licensing. The bill ^{increases} ~~decreases~~ the number of representatives of small businesses on the board to ^{seven} ~~three~~ and adds to the membership of the board one representative from each of the following organizations: the National Federation of Independent Business, the Independent Business Association of Wisconsin, the Wisconsin Restaurant Association, the Wisconsin Builders Association, and the Wisconsin Agribusiness Council. The bill also requires representation on the board by one member of the majority party and one member of the minority party of both the senate and assembly committees concerned with small businesses.

Rule making: considerations for small businesses

Under current law, each state agency must submit proposed administrative rules to the Legislative Council for review, prepare an analysis of the proposed rule, and, with certain exceptions, provide notice of and a public hearing regarding the proposed rule. If an agency determines that a proposed administrative rule may have a significant economic impact on small businesses, the agency must forward a copy of the proposed rule to the board.

Under current law, for each proposed rule that will have an effect on small businesses, an agency must prepare a final regulatory flexibility analysis that includes certain information, including a summary of issues raised by small businesses and any changes made to the proposed rule as a result of information and provided by small businesses. A final regulatory flexibility analysis is not required if the agency determines that the rule will not have a significant economic impact on a substantial number of small businesses.

Under certain circumstances, an agency may promulgate an emergency rule without complying with the notice and public hearing requirements. An agency must file a promulgated emergency rule with the Legislative Reference Bureau (LRB). If the emergency rule may have a significant economic impact on small businesses, the agency must submit a copy of the rule to the board on the same day it files the rule with the LRB.

With certain exceptions, a rule promulgated by an agency takes effect on the first day of the month commencing after the day on which the rule is promulgated. Generally, an emergency rule takes effect upon publication. A rule that has a significant economic impact on small businesses applies to small businesses no earlier than the first day of the third month beginning after the date of publication.

This bill requires an agency to forward a copy of a proposed administrative rule or an emergency rule to the board if the rule may have an economic impact on small businesses, and not just a significant economic impact. A final regulatory flexibility analysis is not required under the bill if the agency determines that the rule will not have an economic impact on ~~a substantial number of~~ small businesses, and not just a significant economic impact. A rule promulgated by an agency that has an economic impact on small businesses, and not just a significant economic impact, applies to those businesses on the first day of the third month beginning after the date of publication of the rule.

Small business regulatory coordinators and the small business ombudsman clearinghouse

Under current law, each agency must designate a small business regulatory coordinator to act as a point of contact within the agency for regulatory issues involving small businesses. Current law defines "agency" to mean a board, commission, committee, department, or officer in the state government, except the governor, a district attorney, or a military or judicial officer. Also under current law, Commerce must establish and operate a small business ombudsman clearinghouse to facilitate communication between state agencies and small businesses.

This bill requires each agency to designate one employee to serve as the agency's small business regulatory coordinator and clarifies that the small business regulatory coordinator must work with the small business ombudsman clearinghouse to facilitate communication between small businesses and state agencies.

The bill requires Commerce to model the small business ombudsman clearinghouse on the Office of the National Ombudsman in the U.S. Small Business Administration. The bill also requires Commerce to designate at least one full-time employee whose only responsibilities consist of serving as staff to the small business ombudsman clearinghouse. The staff of the small business ombudsman clearinghouse must, in turn, serve as staff to the board and work together with the small business regulatory coordinator of each agency.

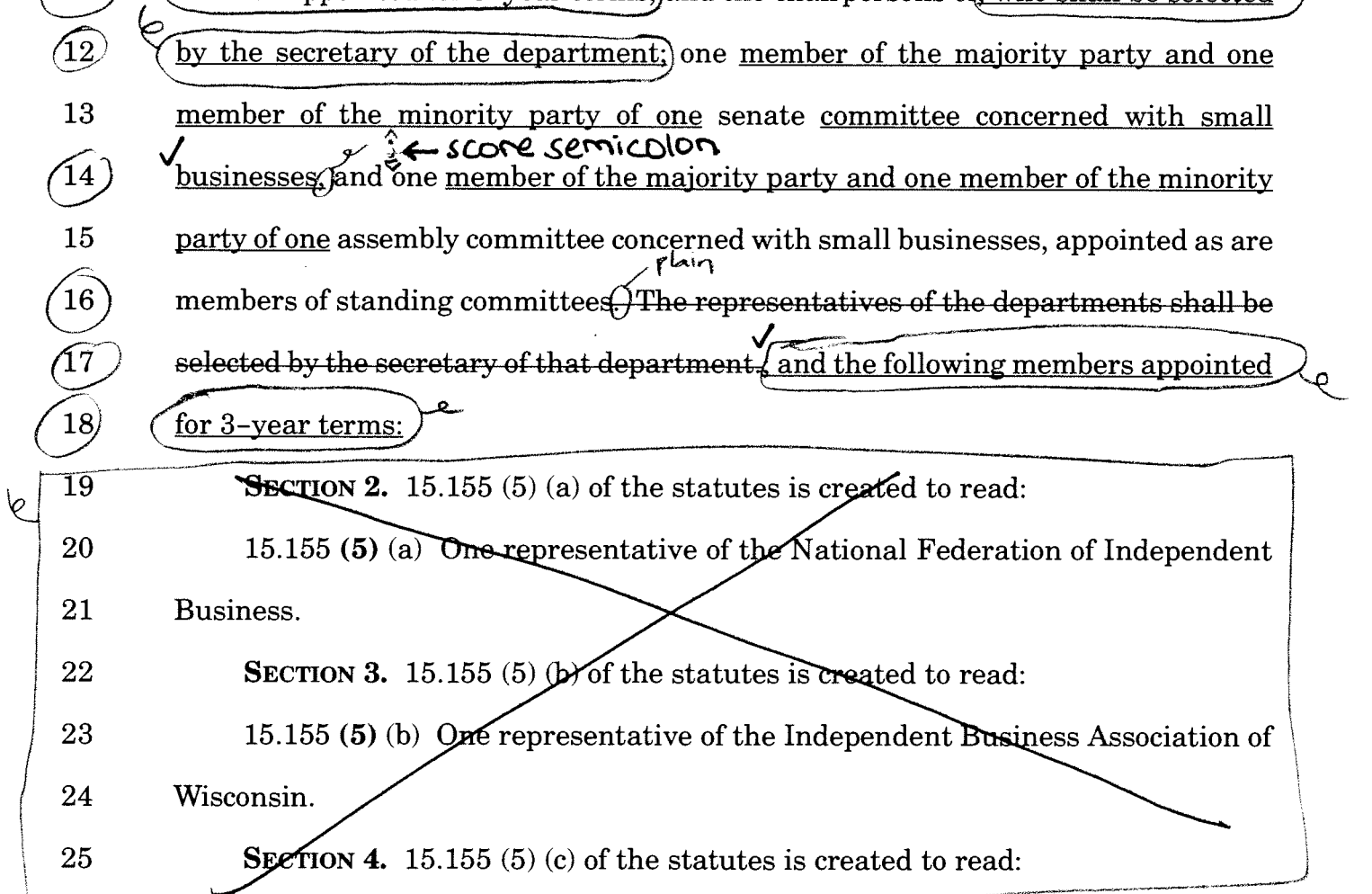
For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 *Fix component*
SECTION 1. 15.155 (5) of the statutes is *renumbered* 15.155 (5) (intro.) and
2 amended to read:

1 15.155 (5) SMALL BUSINESS REGULATORY REVIEW BOARD. (intro.) There is created
 2 a small business regulatory review board, attached to the department of commerce
 3 under s. 15.03. The board shall consist of ~~a representative of the department of~~
 4 ~~administration; a representative of the department of agriculture, trade and~~
 5 ~~consumer protection; a representative of the department of children and families; a~~
 6 ~~representative of the department of commerce; a representative of the department~~
 7 ~~of health services; a representative of the department of natural resources; a~~
 8 ~~representative of the department of regulation and licensing; a representative of the~~
 9 ~~department of revenue; a representative of the department of workforce~~
 10 ~~development; 6 representatives of small businesses, as defined in s. 227.114 (1), who~~
 11 ~~shall be appointed for 3-year terms; and the chairpersons of, who shall be selected~~
 12 ~~by the secretary of the department; one member of the majority party and one~~
 13 ~~member of the minority party of one senate committee concerned with small~~
 14 ~~businesses; and one member of the majority party and one member of the minority~~
 15 ~~party of one assembly committee concerned with small businesses, appointed as are~~
 16 ~~members of standing committees. The representatives of the departments shall be~~
 17 ~~selected by the secretary of that department, and the following members appointed~~
 18 ~~for 3-year terms:~~

19 ~~SECTION 2. 15.155 (5) (a) of the statutes is created to read:~~
 20 ~~15.155 (5) (a) One representative of the National Federation of Independent~~
 21 ~~Business.~~
 22 ~~SECTION 3. 15.155 (5) (b) of the statutes is created to read:~~
 23 ~~15.155 (5) (b) One representative of the Independent Business Association of~~
 24 ~~Wisconsin.~~
 25 ~~SECTION 4. 15.155 (5) (c) of the statutes is created to read:~~



1 ~~15.155 (5) (c) One representative of the Wisconsin Restaurant Association.~~

2 ~~SECTION 5. 15.155 (5) (d) of the statutes is created to read:~~

3 ~~15.155 (5) (d) One representative of the Wisconsin Builders Association.~~

4 ~~SECTION 6. 15.155 (5) (e) of the statutes is created to read:~~

5 ~~15.155 (5) (e) One representative of the Wisconsin Agribusiness Council.~~

6 ~~SECTION 7. 15.155 (5) (f) of the statutes is created to read:~~

7 ~~15.155 (5) (f) Three representatives of small businesses, as defined in s. 227.114~~

8 (1)

9 SECTION 8. 227.114 (7m) of the statutes is amended to read:

10 227.114 (7m) The Each agency shall designate a at least one employee to serve
11 as the small business regulatory coordinator to for the agency, and shall publicize
12 that employee's electronic mail address and telephone number. The small business
13 regulatory coordinator shall act as a contact person for small business regulatory
14 issues and shall publicize that person's electronic mail address and telephone
15 number cooperate with the staff of the small business ombudsman clearinghouse
16 under s. 560.03 (9) to accomplish the objectives of this subsection and s. 560.03 (9).

17 SECTION 9. 227.14 (2g) (intro.) of the statutes is amended to read:

18 227.14 (2g) REVIEW BY THE SMALL BUSINESS REGULATORY REVIEW BOARD. (intro.)
19 On the same day that an agency submits to the legislative council staff under s.
20 227.15 a proposed rule that may have ~~a significant~~ an economic impact on small
21 businesses, the agency shall submit the proposed rule, the analysis required under
22 sub. (2), and a description of its actions taken to comply with s. 227.114 (2) and (3)
23 to the small business regulatory review board. The board may use cost-benefit
24 analysis to determine the fiscal effect of the rule on small businesses and shall
25 determine whether the agency has complied with subs. (2) and (2m) and s. 227.114

1 (2) and (3). Except as provided in subs. (1m) and (1s), each proposed rule shall
2 include provisions detailing how the rule will be enforced. If the board determines
3 that the rule does not include an enforcement provision or that the agency failed to
4 comply with sub. (2) or (2m) or s. 227.114 (2) or (3), the board shall notify the agency
5 of that determination and ask the agency to comply with any of those requirements.
6 In addition, the board may submit suggested changes in the proposed rule to the
7 agency, including proposals to reduce the use of cross-references in the rule. The
8 board shall send a report of those suggestions and of any notice of failure to include
9 enforcement provisions or to comply with sub. (2) or (2m) or s. 227.114 (2) or (3) to
10 the legislative council staff. The notification to the agency may include a request that
11 the agency do any of the following:

12 **SECTION 10.** 227.19 (3m) of the statutes is amended to read:

13 227.19 (3m) ANALYSIS NOT REQUIRED. The final regulatory flexibility analysis
14 specified under sub. (3) (e) is not required for any rule if the agency, after complying
15 with s. 227.114 (1) to (5), determines that the rule will not have ~~a significant~~ an
16 economic impact on ~~a substantial number of~~ small businesses. ✓

17 **SECTION 11.** 227.22 (2) (e) of the statutes is amended to read:

18 227.22 (2) (e) The rule has ~~a significant~~ an economic impact on small
19 businesses, as defined in s. 227.114 (1), in which case the rule applies to small
20 businesses no earlier than the first day of the 3rd month commencing after the date
21 of publication of the rule.

22 **SECTION 12.** 227.24 (3m) (intro.) of the statutes is amended to read:

23 227.24 (3m) REVIEW BY THE SMALL BUSINESS REGULATORY REVIEW BOARD. (intro.)
24 On the same day that the agency files a rule under sub. (3) that may have ~~a~~
25 ~~significant~~ an economic impact on small businesses, as defined in s. 227.114 (1), the

1 agency shall submit a copy of the rule to the small business regulatory review board.
2 The board may use cost-benefit analysis to determine the fiscal effect of the
3 emergency rule on small businesses and shall determine whether the agency
4 complied with ss. 227.114 (2) and (3) and 227.14 (2m). If the board determines that
5 the agency failed to comply with s. 227.114 (2) or (3) or 227.14 (2m), the board shall
6 notify the agency of that determination and ask the agency to comply with any of
7 those provisions. In addition, the board may submit suggested changes in the
8 proposed rule to the agency and may include a request that the agency do any of the
9 following:

10 **SECTION 13.** 560.03 (9) of the statutes is amended to read:

11 560.03 (9) Establish and operate a small business ombudsman clearinghouse
12 for business and industry to facilitate the flow of information from other state and
13 federal agencies, to assist state agencies in establishing methods to encourage the
14 participation of small businesses in rule making under s. 227.114 (4), and to serve
15 as ombudsman for small business stationary sources, as defined in s. 285.79 (1), in
16 connection with the implementation of the federal clean air act, 42 USC 7401 to
17 7671q. The small business ombudsman clearinghouse under this subsection shall
18 be modeled on the Office of the National Ombudsman in the U. S. Small Business
19 Administration and shall be staffed by at least one full-time employee of the
20 department who has no responsibilities other than the responsibilities under this
21 subsection. The staff of the small business ombudsman clearinghouse shall serve as
22 staff to the small business regulatory review board and shall cooperate with the
23 small business regulatory coordinator designated by each agency under s. 227.114
24 (7m) to accomplish the objectives of this subsection, as appropriate.

25 **SECTION 14. Initial applicability.**

1 (1) The treatment of sections 227.14 (2g) (intro.) and 227.22 (2) (e) of the
 2 statutes first applies to a proposed administrative rule submitted by an agency to the
 3 legislative council staff under section 227.15 of the statutes on the effective date of
 4 this subsection.

5 (2) The treatment of section 227.24 (3m) (intro.) of the statutes first applies to
 6 an emergency rule filed with the legislative reference bureau on the effective date
 7 of this subsection.

8 (END)

Kuczenski, Tracy

From: Hurlburt1, Waylon
Sent: Wednesday, August 26, 2009 11:54 AM
To: Kuczenski, Tracy
Subject: Modifications to LRB-3122/1

Tracy,

Can we leave the chairpersons of the senate and assembly committees concerned with small businesses that is in current law? Eliminate the minority/majority party member portion of the draft. This would make the membership of the board 9, not 11.

Seen on page 4, lines 5-9.

Thanks,

Waylon

From: Hurlburt, waylon
Sent: Tuesday, August 25, 2009 12:43 PM
To: Kuczenski, Tracy
Subject: Modifications to LRB-3122/P1

Hello Tracy,

Can I get these changes made to LRB-3122 which relates to the Small Business Regulatory Review Board?

1. Change the membership of the board to 7 small business owner members and keep the legislative members who are chairs of small business related committees. There would be no agency members or specific interest group members.
2. Eliminate the "substantial" on page 6 line 16 so as to be perfectly clear that agencies can't skirt this law by being loose with the definition of "substantial."

Can I get these changes made ASAP?

Thanks Tracy,

Waylon Hurlburt
Legislative Aide
Office of Representative Kevin Petersen
40th Assembly District
P.O. Box 8953
Madison, WI 53708
(608) 266-3794
(888) 947-0040
Fax: (608) 282-3640

8/26/2009