



## 2009 BILL

8/26/09

Today

Regen

1 AN ACT to amend 15.155 (5), 227.114 (7m), 227.14 (2g) (intro.), 227.19 (3m),  
2 227.22 (2) (e), 227.24 (3m) (intro.) and 560.03 (9) of the statutes; relating to:  
3 changes to the membership of the Small Business Regulatory Review Board,  
4 notification to the Small Business Regulatory Review Board of bills with an  
5 economic impact on small businesses, and the role of the small business  
6 ombudsman clearinghouse in the 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

**BILL**

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. The bill increases the number of representatives of small businesses on the board to seven. 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

**BILL**

have an economic impact on 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           **SECTION 1.** 15.155 (5) of the statutes is amended to read:
- 2           15.155 (5) **SMALL BUSINESS REGULATORY REVIEW BOARD.** There is created a small
- 3 business regulatory review board, attached to the department of commerce under s.
- 4 15.03. The board shall consist of ~~a representative of the department of~~
- 5 ~~administration; a representative of the department of agriculture, trade and~~
- 6 ~~consumer protection; a representative of the department of children and families; a~~
- 7 ~~representative of the department of commerce; a representative of the department~~

**BILL**

1 of health services; a representative of the department of natural resources; a  
 2 representative of the department of regulation and licensing; a representative of the  
 3 department of revenue; a representative of the department of workforce  
 4 development; ~~6~~ 7 representatives of small businesses, as defined in s. 227.114 (1),  
 5 who shall be appointed for 3-year terms; ~~and the chairpersons of one~~ <sup>plain</sup> member of the  
 6 majority party and one member of the minority party of one senate committee  
 7 concerned with small businesses; and one member of the majority party and one  
 8 member of the minority party of one assembly committee concerned with small  
 9 businesses, appointed as are members of standing committees. The representatives  
 10 of the departments shall be selected by the secretary of that department.

**SECTION 2.** 227.114 (7m) of the statutes is amended to read:

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

**SECTION 3.** 227.14 (2g) (intro.) of the statutes is amended to read:

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

**BILL**

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

14 **SECTION 4.** 227.19 (3m) of the statutes is amended to read:

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

19 **SECTION 5.** 227.22 (2) (e) of the statutes is amended to read:

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

24 **SECTION 6.** 227.24 (3m) (intro.) of the statutes is amended to read:

**BILL****SECTION 6**

1           227.24 (3m) REVIEW BY THE SMALL BUSINESS REGULATORY REVIEW BOARD. (intro.)

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

13           **SECTION 7.** 560.03 (9) of the statutes is amended to read:

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

**BILL**

1 small business regulatory coordinator designated by each agency under s. 227.114  
2 (7m) to accomplish the objectives of this subsection, as appropriate.

3 **SECTION 8. Initial applicability.**

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

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

11

(END)

**Kuczenski, Tracy**

---

**From:** Hurlburt1, Waylon  
**Sent:** Wednesday, September 02, 2009 8:50 AM  
**To:** Kuczenski, Tracy  
**Subject:** Modifications to LRB-3122/2  
**Attachments:** 09-31222.pdf

Tracy,

Can we delete "Office of the National Ombudsman in the U.S. Small Business Administration and" on lines 17 and 18 of page 6 and insert "best practices of both state and federal small business advocate organizations, shall take a proactive role to maintain and economically grow small businesses, and shall have the goal of creating jobs and a healthy small business sector. The small business ombudsman clearinghouse"

Thanks,

Waylon

---

**From:** Kuczenski, Tracy  
**Sent:** Wednesday, August 26, 2009 12:52 PM  
**To:** Hurlburt1, Waylon  
**Subject:** RE: Modifications to LRB-3122/1

Sure thing.

*Tracy K. Kuczenski*  
*Legislative Attorney*  
*Wisconsin Legislative Reference Bureau*  
*(608) 266-9867*  
*[Tracy.Kuczenski@legis.wisconsin.gov](mailto:Tracy.Kuczenski@legis.wisconsin.gov)*

---

**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

9/2/2009



**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*

*40<sup>th</sup> Assembly District*

*P.O. Box 8953*

*Madison, WI 53708*

*(608) 266-3794*

*(888) 947-0040*

*Fax: (608) 282-3640*



**2009 BILL**

9/3/09

soon

x Regen

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

**BILL**

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 and increases the number of representatives of small businesses on the board to seven.

***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 small businesses, and not just a significant economic impact. A rule promulgated by an agency that has an economic impact on small

**BILL**

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:***

**SECTION 1.** 15.155 (5) of the statutes is amended to read:

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; a~~

best practices of state and federal small business advocate organizations, to take a proactive role in maintaining and helping small businesses to grow, and to have the goal of creating jobs and a healthy small business sector

2  
3  
4  
5  
6  
7  
8

**BILL****SECTION 1**

1 ~~representative of the department of regulation and licensing; a representative of the~~  
2 ~~department of revenue; a representative of the department of workforce~~  
3 ~~development; 6~~ 7 representatives of small businesses, as defined in s. 227.114 (1),  
4 who shall be appointed for 3-year terms; and the chairpersons of one senate and one  
5 assembly committee concerned with small businesses, appointed as are members of  
6 standing committees. ~~The representatives of the departments shall be selected by~~  
7 ~~the secretary of that department.~~

8 **SECTION 2.** 227.114 (7m) of the statutes is amended to read:

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

16 **SECTION 3.** 227.14 (2g) (intro.) of the statutes is amended to read:

17 227.14 (2g) REVIEW BY THE SMALL BUSINESS REGULATORY REVIEW BOARD. (intro.)  
18 On the same day that an agency submits to the legislative council staff under s.  
19 227.15 a proposed rule that may have ~~a significant~~ an economic impact on small  
20 businesses, the agency shall submit the proposed rule, the analysis required under  
21 sub. (2), and a description of its actions taken to comply with s. 227.114 (2) and (3)  
22 to the small business regulatory review board. The board may use cost-benefit  
23 analysis to determine the fiscal effect of the rule on small businesses and shall  
24 determine whether the agency has complied with subs. (2) and (2m) and s. 227.114  
25 (2) and (3). Except as provided in subs. (1m) and (1s), each proposed rule shall

**BILL**

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

11 **SECTION 4.** 227.19 (3m) of the statutes is amended to read:

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

16 **SECTION 5.** 227.22 (2) (e) of the statutes is amended to read:

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

21 **SECTION 6.** 227.24 (3m) (intro.) of the statutes is amended to read:

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

**BILL**

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

9 **SECTION 7.** 560.03 (9) of the statutes is amended to read:

10 560.03 (9) Establish and operate a small business ombudsman clearinghouse  
 11 for business and industry to facilitate the flow of information from other state and  
 12 federal agencies, to assist state agencies in establishing methods to encourage the  
 13 participation of small businesses in rule making under s. 227.114 (4), and to serve  
 14 as ombudsman for small business stationary sources, as defined in s. 285.79 (1), in  
 15 connection with the implementation of the federal clean air act, 42 USC 7401 to  
 16 7671q. The small business ombudsman clearinghouse under this subsection shall  
 17 be modeled on the Office of the National Ombudsman in the U. S. Small Business  
 18 Administration and shall be staffed by at least one full-time employee of the  
 19 department who has no responsibilities other than the responsibilities under this  
 20 subsection. The staff of the small business ombudsman clearinghouse shall serve as  
 21 staff to the small business regulatory review board and shall cooperate with the  
 22 small business regulatory coordinator designated by each agency under s. 227.114  
 23 (7m) to accomplish the objectives of this subsection, as appropriate.

1  
 INSERT 4-17

24 **SECTION 8. Initial applicability.**

**BILL**

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)**



2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3122/2ins  
TKK:jld:rs

1

**INSERT 6-17**

2

best practices of <sup>✓</sup>both state and federal small business advocate organizations, shall

3

take a proactive role in maintaining and helping small businesses grow economically,

4

and <sup>✓</sup>shall have the goal of creating jobs and a healthy small business sector. The

5

small business ombudsman clearing house

AS

**Kuczenski, Tracy**

---

**From:** Hurlburt, waylon  
**Sent:** Tuesday, September 15, 2009 2:35 PM  
**To:** Kuczenski, Tracy  
**Subject:** LRB 09-3122/3 change

Tracy,

Can we get deleted from LRB 3122/3 on page 6 line 22 "~~who has no responsibilities other than the responsibilities under this subsection.~~"

That should be the last of the changes.

Thanks,

**Waylon Hurlburt**

*Legislative Aide*

*Office of Representative Kevin Petersen*

*40<sup>th</sup> Assembly District*

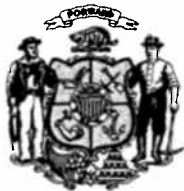
*P.O. Box 8953*

*Madison, WI 53708*

*(608) 266-3794*

*(888) 947-0040*

*Fax: (608) 282-3640*



RMA12

## 2009 BILL

9/15/09

soon

X  
Regen

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

**BILL**

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 and increases the number of representatives of small businesses on the board to seven.

***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 small businesses, and not just a significant economic impact. A rule promulgated by an agency that has an economic impact on small

**BILL**

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 best practices of state and federal small business advocate organizations, to take a proactive role in maintaining and helping small businesses to grow, and to have the goal of creating jobs and a healthy small business sector.

✓ to serve × 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           **SECTION 1.** 15.155 (5) of the statutes is amended to read:
- 2           15.155 (5) **SMALL BUSINESS REGULATORY REVIEW BOARD.** There is created a small
- 3           business regulatory review board, attached to the department of commerce under s.
- 4           15.03. The board shall consist of ~~a representative of the department of~~
- 5           ~~administration; a representative of the department of agriculture, trade and~~
- 6           ~~consumer protection; a representative of the department of children and families; a~~
- 7           ~~representative of the department of commerce; a representative of the department~~

**BILL****SECTION 1**

1 of health services; a representative of the department of natural resources; a  
2 representative of the department of regulation and licensing; a representative of the  
3 department of revenue; a representative of the department of workforce  
4 development; 6 7 representatives of small businesses, as defined in s. 227.114 (1),  
5 who shall be appointed for 3-year terms; and the chairpersons of one senate and one  
6 assembly committee concerned with small businesses, appointed as are members of  
7 standing committees. ~~The representatives of the departments shall be selected by~~  
8 ~~the secretary of that department.~~

9 **SECTION 2.** 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 3.** 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

**BILL**

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 4.** 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 5.** 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 6.** 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

## BILL

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 7. 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 best practices of both state and federal small business advocate  
19 organizations, shall take a proactive role in maintaining and helping small  
20 businesses grow economically, and shall have the goal of creating jobs and a healthy  
21 small business sector. The small business ombudsman clearinghouse shall be staffed  
22 by at least one full-time employee of the department who has no responsibilities  
23 other than the responsibilities under this subsection. The staff of the small business  
24 ombudsman clearinghouse shall serve as staff to the small business regulatory  
25 review board and shall cooperate with the small business regulatory coordinator



**BILL**

1 designated by each agency under s. 227.114 (7m) to accomplish the objectives of this  
2 subsection, as appropriate.

3 **SECTION 8. Initial applicability.**

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

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

11

(END)

**Duerst, Christina**

---

**From:** Hurlburt1, Waylon  
**Sent:** Friday, September 18, 2009 1:48 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-3122/4 Topic: changes to small business regulatory review board

Please Jacket LRB 09-3122/4 for the ASSEMBLY.

**Kuczenski, Tracy**

---

**From:** Hurlburt1, Waylon  
**Sent:** Sunday, January 24, 2010 1:59 PM  
**To:** Kuczenski, Tracy  
**Subject:** RE: New Draft Request for LRB 3122/4

Tracy,

Working on a Sunday? The changes in sections 5 and 6 seem like they accomplish what we intend. As far as what the board will do if the rule has a significant or substantial impact it is our intention that they recommend changes to the agency or object to the rules passage completely. I don't think the board has the authority to stop a rule but by giving them the authority to recommend changes or recommend objection that should carry some weight with lawmakers.

I don't know if we have to add any language for them to have this authority but if we do let me know. Let me know if you have any other questions.

Thanks,

Waylon

---

**From:** Kuczenski, Tracy  
**Sent:** Sun 1/24/2010 11:42 AM  
**To:** Hurlburt1, Waylon  
**Subject:** RE: New Draft Request for LRB 3122/4

Hi Waylon -

I have made the changes you requested below. Regarding item 3., I have one point of clarification and on question:

1. To clarify, item 3 below will result in changes to only two sections of LRB-3122/4:
  - a. Section 3 (on page 4, beginning with line 16). Specifically, on page 4, line 24 after the word determine, I am adding: "whether the proposed rule will have a significant economic impact on a substantial number of small businesses and"
  - b. Section 6 (beginning on page 5 with line 21 and continuing onto page 6). Specifically, on p. 6, line 2 after determine I am adding: "whether the emergency rule will have a significant economic impact on a substantial number of small businesses and"

Is that what you had in mind?

2. The question: What happens if the board determines that the proposed rule or emergency rule will have a significant economic impact on a substantial number of small businesses? Must the board or the agency that proposed the rule or emergency rule take any further action?

Tracy

-----Original Message-----

**From:** Hurlburt1, Waylon  
**Sent:** Fri 1/22/2010 8:02 AM  
**To:** Kuczenski, Tracy  
**Subject:** New Draft Request for LRB 3122/4

1/25/2010

Hello Tracy,

I have the bill jacket for LRB 3122/4 because I thought the draft was ready to go. Now I find out that we have to make a couple changes before introduction. Here are the changes:

1. Delete the term "clearinghouse" after Small Business Ombudsman in the bill draft.
2. Change the term "ombudsman" to "advocate" in the draft.
3. We need to return the phrase "significant economic impact on a substantial number of small businesses" however make this determination the board's and not the agencies. Please call on this one so we can talk it through. I have ideas how to do this but would like to know what you think.

Should I send the LRB 3122/4 jacket back to you as well? Can we put this draft ahead of any of our others as well?

Thanks for all the help on this one.

Waylon Hurlburt

6-2343

**Kuczenski, Tracy**

**From:** Hurlburt1, Waylon  
**Sent:** Friday, January 22, 2010 8:02 AM  
**To:** Kuczenski, Tracy  
**Subject:** New Draft Request for LRB 3122/4  
**Attachments:** 09-31224.pdf

Hello Tracy,

I have the bill jacket for LRB 3122/4 because I thought the draft was ready to go. Now I find out that we have to make a couple changes before introduction. Here are the changes:

1. Delete the term "clearinghouse" after Small Business Ombudsman in the bill draft.
2. Change the term "ombudsman" to "advocate" in the draft.
3. We need to return the phrase "significant economic impact on a substantial number of small businesses" however make this determination the board's and not the agencies. Please call on this one so we can talk it through. I have ideas how to do this but would like to know what you think.

Should I send the LRB 3122/4 jacket back to you as well? Can we put this draft ahead of any of our others as well?

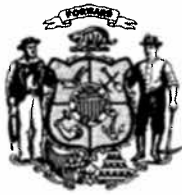
Thanks for all the help on this one.

Waylon Hurlburt  
 6-2343

T. conf. w/ Waylon - impose a two-tier structure? <sup>(1)</sup> Require agency to forward to board if an economic impact,

<sup>(2)</sup> Require board to determine whether the economic impact is significant and substantial?

QP: what happens if the board determines that the economic impact of a proposed or emergency rule will be significant or substantial?



2009 BILL

in 1/25/2010  
DUE by 1/27/2010

X

Regen

1 AN ACT to amend 15.155 (5), 227.114 (7m), 227.14 (2g) (intro.), 227.19 (3m),  
2 227.22 (2) (e), 227.24 (3m) (intro.) and 560.03 (9) of the statutes; relating to:  
3 changes to the membership of the Small Business Regulatory Review Board,  
4 notification to the Small Business Regulatory Review Board of bills with an  
5 economic impact on small businesses, and the role of the <sup>office of the</sup> small business  
6 ombudsman clearinghouse in the Department of Commerce.

advocate

**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

**BILL**

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 and increases the number of representatives of small businesses on the board to seven.

***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 small businesses, and not just a significant economic impact. ~~For rule promulgated by an agency that has an economic impact on small~~

*Handwritten notes:*  
- "Insert analysis" (circled, with arrow pointing to the text above)  
- "a significant" (with checkmark)  
- "board, and not the" (circled, with arrow pointing to "the" in the text above)  
- "a significant" (with checkmark, pointing to "significant" in the text above)  
- "board, and not the" (circled, with arrow pointing to "the" in the text above)

**BILL**

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 best practices of state and federal small business advocate organizations, to take a proactive role in maintaining and helping small businesses to grow, and to have the goal of creating jobs and a healthy small business sector. The bill also requires Commerce to designate at least one full-time employee to serve 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.

BI  
advocate

office of the BI

changes  
changes the name  
of the  
ombudsman  
clearinghouse to  
the office of the  
small business  
advocate

advocate

office of  
the

advocate

advocate

office of  
the

advocate

*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 amended to read:
- 2 15.155 (5) SMALL BUSINESS REGULATORY REVIEW BOARD. There is created a small
- 3 business regulatory review board, attached to the department of commerce under s.
- 4 15.03. The board shall consist of ~~a representative of the department of~~
- 5 ~~administration; a representative of the department of agriculture, trade and~~
- 6 ~~consumer protection; a representative of the department of children and families; a~~
- 7 ~~representative of the department of commerce; a representative of the department~~
- 8 ~~of health services; a representative of the department of natural resources; a~~



**BILL**

1 representative of the department of regulation and licensing; a representative of the  
 2 department of revenue; a representative of the department of workforce  
 3 development; ~~6~~ 7 representatives of small businesses, as defined in s. 227.114 (1),  
 4 who shall be appointed for 3-year terms; and the chairpersons of one senate and one  
 5 assembly committee concerned with small businesses, appointed as are members of  
 6 standing committees. ~~The representatives of the departments shall be selected by~~  
 7 ~~the secretary of that department.~~

Insert 4-8  
 ✓

8 **SECTION 2.** 227.114 (7m) of the statutes is amended to read:

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

16 **SECTION 3.** 227.14 (2g) (intro.) of the statutes is amended to read:

17 227.14 (2g) REVIEW BY THE SMALL BUSINESS REGULATORY REVIEW BOARD. (intro.)  
 18 On the same day that an agency submits to the legislative council staff under s.  
 19 227.15 a proposed rule that may have ~~a significant~~ an economic impact on small  
 20 businesses, the agency shall submit the proposed rule, the analysis required under  
 21 sub. (2), and a description of its actions taken to comply with s. 227.114 (2) and (3)  
 22 to the small business regulatory review board. The board may use cost-benefit  
 23 analysis to determine the fiscal effect of the rule on small businesses and shall  
 24 determine whether the agency has complied with subs. (2) and (2m) and s. 227.114  
 25 (2) and (3). Except as provided in subs. (1m) and (1s), each proposed rule shall

whether the proposed rule will have a significant economic impact on a substantial  
number of small businesses and

**BILL**

1 include provisions detailing how the rule will be enforced. If the board determines  
2 that the rule does not include an enforcement provision or that the agency failed to  
3 comply with sub. (2) or (2m) or s. 227.114 (2) or (3), the board shall notify the agency  
4 of that determination and ask the agency to comply with any of those requirements.

Insert 5-5

5 In addition, the board may submit <sup>other</sup> suggested changes in the proposed rule to the  
6 agency, including proposals to reduce the use of cross-references in the rule. The  
7 board shall send a report of <sup>any suggested changes</sup> these suggestions and of any notice of failure to include  
8 enforcement provisions or to comply with sub. (2) or (2m) or s. 227.114 (2) or (3) to  
9 the legislative council staff. The notification to the agency may include a request that  
10 the agency do any of the following:

11 **SECTION 4.** 227.19 (3m) of the statutes is amended to read:

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

16 **SECTION 5.** 227.22 (2) (e) of the statutes is amended to read:

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

21 **SECTION 6.** 227.24 (3m) (intro.) of the statutes is amended to read:

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

BILL

Insert 6-3

Insert 6-9

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

9 SECTION 7. 560.03 (9) of the statutes is amended to read:

10 560.03 (9) Establish and operate <sup>an office of the</sup> ~~a~~ <sup>strike</sup> ~~small business ombudsman clearinghouse~~  
 11 <sup>advocate</sup> for business and industry to facilitate the flow of information from other state and  
 12 federal agencies, to assist state agencies in establishing methods to encourage the  
 13 participation of small businesses in rule making under s. 227.114 (4), and to serve  
 14 as <sup>an advocate</sup> ~~ombudsman~~ for small business stationary sources, as defined in s. 285.79 (1), in  
 15 connection with the implementation of the federal clean air act, 42 USC 7401 to  
 16 7671q. <sup>office of the</sup> ~~The~~ <sup>advocate</sup> ~~small business ombudsman clearinghouse~~ under this subsection shall  
 17 be modeled on the best practices of both state and federal small business advocate  
 18 organizations, shall take a proactive role in maintaining and helping small  
 19 businesses grow economically, and shall have the goal of creating jobs and a healthy  
 20 small business sector. <sup>office of the</sup> ~~The~~ <sup>advocate</sup> ~~small business ombudsman clearinghouse~~ shall be staffed  
 21 by at least one full-time employee of the department. The staff of the <sup>office of the</sup> ~~small business~~  
 22 ~~ombudsman clearinghouse~~ shall serve as staff to the small business regulatory  
 23 review board and shall cooperate with the small business regulatory coordinator  
 24 designated by each agency under s. 227.114 (7m) to accomplish the objectives of this  
 25 subsection, as appropriate.

Impact  
on a  
substantial  
number  
of  
small  
business  
and

(7)

BILL

→ INSERT 7-1 ←

1

**SECTION 8. Initial applicability.**

②

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

6

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

9

(END)

1 **Insert analysis**

2 ~~§~~ The bill directs the board<sup>✓</sup> to determine whether a proposed<sup>✓</sup> rule or<sup>✓</sup> emergency rule will have a significant economic impact<sup>✓</sup> on a substantial number of small businesses. If the board determines that a proposed rule or emergency rule will have a significant economic impact on a substantial number of small businesses, the board may submit suggested changes in the proposed rule to minimize the economic impact of the proposed rule or emergency rule, or may recommend that the proposed rule, but not the emergency rule, be withdrawn.<sup>✓</sup>

2 **Insert 4-8**

3 **SECTION 1.** 20.143 (1) (kc)<sup>✓</sup> of the statutes is amended to read:

4 20.143 (1) (kc) *Clean air act compliance assistance.* From moneys transferred  
5 from the appropriation account under s. 20.370 (2) (bg), the amounts in the schedule  
6 for assisting the department of natural resources in administering the small  
7 business stationary source technical and environmental compliance assistance  
8 program under s. 285.79 and for expenses related to serving as ombudsman an  
9 advocate<sup>✓</sup> for small business stationary sources as required under s. 560.03 (9).

History: 1979 c. 361; 1981 c. 20, 21, 349; 1983 a. 27, 83, 192, 381; 1985 a. 29 ss. 169 to 204, 3202 (14); 1985 a. 120, 332, 334; 1987 a. 27, 109, 317, 318, 399, 403; 1989 a. 31, 185, 237, 317, 325, 335, 336, 342, 359; 1991 a. 39, 259, 261, 269, 315; 1993 a. 5, 16, 75, 110, 232, 437; 1995 a. 27 ss. 483, 505 to 517, 608s, 609g, 609j, 964, 965, 977, 987, 988, 990 to 993, 1080b, 1085b, 1086b, 9116 (5); 1995 a. 116, 119, 216, 227; 1997 a. 9, 27, 35, 215, 237, 252, 310; 1999 a. 9, 84, 106, 185, 186; 2001 a. 16, 109; 2003 a. 33 ss. 292c to 297m, 593 to 600, 602 to 604; 2003 a. 255, 256; 2005 a. 25 ss. 150m to 156t, 331; 2005 a. 45, 358; 2007 a. 20, 125, 225; 2009 a. 2, 16, 28; s. 13.92 (2) (i).

10 **Insert 5-5**

11 ~~§~~ If the board determines that the proposed rule<sup>✓</sup> will have a<sup>✓</sup> significant economic  
12 impact on a substantial number of small businesses<sup>✓</sup>, the board may submit to the  
13 agency suggested changes in the proposed rule to minimize the economic impact of  
14 the proposed rule<sup>✓</sup>, or may recommend the withdrawal of the proposed rule under sub.  
15 (6).<sup>✓</sup>

16

Insert 6-<sup>✓</sup>

17 ~~§~~ If the board determines that the emergency rule will have a<sup>✓</sup> significant economic  
18 impact on a substantial number of small businesses, the board may submit to the



# INSERT 6-3 cont

1 agency and to the legislative council staff suggested changes in the emergency rule  
2 to minimize the economic impact of the emergency rule. (end ins 6-3)

## Insert 6-9

4 SECTION 2. 285.79 (3) (intro.)<sup>x</sup> of the statutes is amended to read:

5 285.79 (3) ASSISTANCE PROGRAM. (intro.) The department shall, in cooperation  
6 with the office of the small business ~~ombudsman clearinghouse~~ advocate under s.  
7 560.03 (9),<sup>✓</sup> develop and administer a small business stationary source technical and  
8 environmental compliance assistance program. The program shall include all of the  
9 following: (end ins 6-9)

10 History: 1991 a. 302; 1995 a. 227 s. 40<sup>x</sup>; Stats. 1995 s. 285.79<sup>✓</sup>

10 SECTION 3. 560.11 (2) of the statutes is amended to read:

11 560.11 (2) The employees of the department of commerce who staff the office  
12 of the small business ~~ombudsman clearinghouse~~ advocate<sup>✓</sup> under s. 560.03 (9) and the  
13 employees of the department of natural resources who staff the small business  
14 stationary source technical and environmental compliance assistance program  
15 under s. 285.79 shall provide the small business environmental council with the  
16 assistance necessary to comply with sub. (1).

History: 1991 a. 302; 1995 a. 227; 2007 a. 125.

(end ins 7-1)