

Fiscal Estimate Narratives

DOT 10/19/2011

LRB Number	11-1583/4	Introduction Number	SB-218	Estimate Type	Original
Description Legislative authorization of proposed administrative rules					

Assumptions Used in Arriving at Fiscal Estimate

This bill causes no change to costs, but could result in lost revenues.

This bill could delay or prevent the promulgation of administrative rules by requiring affirmative acts of the legislature and governor to complete the rulemaking process. A delay or inability to promulgate administrative rules could impair the receipt or use of federal funds by impeding Wisconsin's compliance with federal law or regulations that require conformity as a condition of receiving federal funds or crediting those funds to particular activities. For example, the Federal Commercial Motor Carrier Safety Act requires states to conform to federal regulations. Changes to federal regulations occasionally require changes to Wisconsin's administrative rules as a condition of receiving federal highway funds or to prevent the transfer of those funds to highway safety activities.

A delay or inability to promulgate some administrative rules could impair Wisconsin's compliance with interstate compacts established under federal law through which Wisconsin receives significant revenues. For example, the International Registration Plan (IRP) authorized under s. 341.405, stats., requires compliance with program guidelines established by the IRP clearinghouse that administers that program. The IRP clearinghouse recently changed audit regulations, effective in 2013. If Wisconsin cannot modify its regulations to conform to these changes, the IRP could withhold transmittal of apportioned commercial motor vehicle registration fees owed to the state until Wisconsin regained conformity. Wisconsin received \$34.7 million through IRP in fiscal year 2011, \$20.7 million in 2010 and \$21.3 million in 2009. Although any withheld sums would be payable upon Wisconsin regaining compliance, the IRP agreement specifies that IRP cannot pay interest on sums withheld due to noncompliance.

Similarly, Wisconsin receives apportioned motor fuel taxes from other states through the International Fuel Tax Agreement (IFTA) established under s. 341.45, stats. Recently, the IFTA clearinghouse changed the program's legal rate of interest chargeable to commercial motor carriers, but Wisconsin's administrative code specifies the older, higher rate. If Wisconsin cannot timely amend its administrative rules, it would violate IFTA program guidelines and be subject to withholding of motor fuel taxes payable to Wisconsin. Wisconsin received \$9.9 million through IFTA in fiscal year 2011, \$3.3 million in 2010 and \$5 million in 2009. Although any withheld sums would be payable upon Wisconsin regaining compliance, the IFTA agreement specifies that no interest shall be payable on sums withheld due to noncompliance.

Additionally, Wisconsin receives \$2.2 million annually through the interstate Unified Carrier Registration (UCR) program under s. 194.407, stats. Wisconsin promulgates registration fees as administrative rules in response to fees set by the governing board under federal law. Were Wisconsin unable to timely amend its administrative rules to reflect UCR program changes, Wisconsin would forever lose its ability to participate in the UCR, resulting in lost revenues of \$2.2 million annually. The Department of Transportation may participate in other programs similar to IRP, IFTA and UCR that rely on administrative rules.

Potential revenue losses are speculative and indeterminate.

Long-Range Fiscal Implications

Potential revenue losses are speculative and indeterminate.