



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2015 Senate Bill 168

**Senate
Amendment 1**

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2015 SENATE BILL 168

2015 Senate Bill 168 modifies various authorities and procedures relating to the promulgation of administrative rules. Among other changes, the bill: creates a new preliminary hearing requirement; creates new roles for the Office of Business Development (OBD) and the Department of Revenue (DOR); authorizes the preparation of independent economic impact analyses; and requires agencies to stop work on proposed rules if an economic impact analysis estimates that \$10 million or more in implementation and compliance costs are reasonably expected to be incurred or passed to businesses, local governmental units, and individuals over any two-year period as a result of the proposed rule.

SENATE AMENDMENT 1

Independent Economic Analysis

Current law, retained under **the bill**, requires an agency to prepare an economic impact analysis for a proposed administrative rule. [s. 227.137 (2), Stats.] In addition, **the bill** authorizes the Secretary of Revenue, the Joint Committee for Review of Administrative Rules (JCRAR), or either co-chair of JCRAR to request an independent economic impact analysis to be prepared for a proposed rule. The bill directs the Department of Administration (DOA) (if the Secretary of Revenue makes the request) or JCRAR or a JCRAR co-chair (if the committee or a co-chair is the requestor) to negotiate a contract for preparation of the independent analysis. The person chosen to conduct the independent analysis must not be a state agency.

If the request is made by the Secretary of Revenue, the bill requires an independent analysis to be paid for by the agency promulgating the rule. If the request is made by JCRAR

or a JCRAR co-chair, then the bill requires the independent analysis to be paid for from the Assembly's and Senate's general operations appropriations.

Senate Amendment 1 requires an economic development analysis prepared by an agency to include an estimate of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local government units, and individuals as a result of a proposed rule.

Under the amendment, if an agency's estimate varies by 15% or more from the estimate determined in an independent economic impact analysis that is requested by JCRAR or a JCRAR co-chair, then the agency must pay the cost of the independent analysis. If the agency's estimate does not vary from the independent estimate by 15% or more, then the independent analysis must be paid for from the Assembly's and Senate's general operations appropriations.

Departmental Responsibilities

The bill creates a new role for the Secretary of Revenue. Under the bill, the Secretary of Revenue receives certain reports of administrative rule promulgations and is authorized (and, except with respect to independent economic impact analyses, required) to do all of the following:

- Review and approve each initial economic impact analysis, and recommend modifications and direct the agency to make modifications to that analysis.
- Request an independent economic impact analysis for a proposed rule.
- Provide training to agencies on appropriate data collection and methods of analysis for purposes of preparing economic impact analyses.
- Attend JCRAR hearings and present testimony on proposed rules that are estimated to have an economic impact.

Senate Amendment 1 removes all responsibilities given to the Secretary of Revenue under the bill and gives those responsibilities to the Secretary of Administration instead.

Small Business Regulatory Review Board

The bill requires proposed administrative rules to be submitted to the Small Business Regulatory Review Board (SBRRB) for analysis if the OBD determines that a rule will have an economic impact on small businesses.

Senate Amendment 1 also authorizes the SBRRB to conduct such analyses on its own initiative.

Effective Date and Initial Applicability

As introduced, all provisions of **the bill** would take effect on the day after the enacted legislation is published. **Senate Amendment 1** delays the effective date of the bill until January 1, 2017. The amendment also specifies that the provisions of the bill first apply to a proposed

rule or emergency rule whose statement of scope is presented for approval on the effective date of the bill.

BILL HISTORY

Senator LeMahieu offered Senate Amendment 1 on February 15, 2016. On February 17, 2016, the Senate Committee on Administrative Rules recommended adoption of Senate Amendment 1 and passage of Senate Bill 168 on consecutive votes of Ayes, 3; Noes, 2.

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