

Fiscal Estimate - 2021 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 21-4468/1	Introduction Number SB-894
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Description
 peer review of administrative rules, comments to proposed statements of scope, and review of proposed groundwater enforcement standards

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget
<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Increase Existing Appropriations	<input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Decrease Existing Appropriations		

Local:

<input type="checkbox"/> No Local Government Costs	5. Types of Local Government Units Affected	
<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
1. <input type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Fund Sources Affected	Affected Ch. 20 Appropriations
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input checked="" type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	20.505 (1) (kr)

Agency/Prepared By DOA/ Jake Griffith (608) 555-1212	Authorized Signature Robin Malicki (608) 264-9576	Date 2/10/2022
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Fiscal Estimate Narratives

DOA 2/10/2022

LRB Number	21-4468/1	Introduction Number	SB-894	Estimate Type	Original
Description peer review of administrative rules, comments to proposed statements of scope, and review of proposed groundwater enforcement standards					

Assumptions Used in Arriving at Fiscal Estimate

The proposed Senate Bill 894 (SB 894) makes changes to provisions regarding the rulemaking process for State agencies. SB 894 creates an external peer review process for proposed and existing administrative rules that rely on scientific studies, scientific or technical data, scientific methods, or other similar information. Under the proposed, any person who may be regulated under the rule, or the Joint Committee for Review of Administrative Rules, may submit a request for review of any scientific studies, scientific or technical data, scientific methods, or other similar information used in the creation of the rule. Upon receipt of a valid request, the rulemaking agency would be required to pause promulgation of the rule until a review could be completed, up to 12 months. The rulemaking agency would be required to contract with an external group of scientists to commission a review of any scientific studies, scientific or technical data, scientific methods, or other similar information used in the creation of the rule. If aspects of the rule are found to be not scientifically defensible the rulemaking agency would be required to modify the proposed rule to align with the scientific findings of the review.

Under the proposed legislation, the Department of Administration, or Department, would be responsible for paying for the cost of this review for any rule promulgated by the Department that was found to not be scientifically defensible. It is not known how frequently the Department would receive valid requests for peer review or the number of rules eligible for review under the proposed, nor is it possible to quantify the cost associated per review as it could vary greatly between reviews and the vendor selected to conduct the reviews. The contractor selected for each review would be required to meet the criteria as defined under the proposed, and to be selected following the State Bureau of Procurement's enterprise vendor selection and procurement policies and procedures. Although the Department is not able to determine peer review study costs it would responsible for, nor under which appropriation(s) those costs would be authorized to be incurred, the Department anticipates that these costs may not be able to be absorbed under existing budget or expenditure authority.

Further, if the vendor would be required to be paid in part or full prior to the finalization of the determination of scientific defensibility, it is not identified whether the agency or requesting party would be responsible for initial payment. If the Department would be responsible for making initial payment and it was subsequently determined that the rule was scientifically defensible in the following fiscal year, it would result in the Department's loss of prior year budget or expenditure authority.

SB 894 would also impact the Department's role in approving statements of scope for all rulemaking State agencies. Under current law, the Department's Division of Legal Services (DLS) reviews the statement of scope for proposed rules as outlined in s. 227.135 (2), Wis. Stats. The proposed requires that rulemaking agencies solicit feedback on their statements of scope and incorporate any comments that are scientifically valid and supported by relevant industries, and to recommend changes to ensure accuracy and objectivity consistent with the data used to promulgate the rule. DLS would be required to verify that feedback was solicited and incorporated into the statements of scope in order to complete its determination. This work would require additional staff time, however the extent and scope of which is currently indeterminate. The Department anticipates that the workload may be able to be absorbed into existing DLS existing expenditure and position authority under s. 20.505 (1) (kr), Wis. Stats., however the fiscal impact is not determinable at this time.

Long-Range Fiscal Implications