

Fiscal Estimate Narratives

DPI 6/2/2025

LRB Number	25-2507/1	Introduction Number	AB-0275	Estimate Type	Original
Description challenges to the validity of administrative rules and making an appropriation					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, the validity of an administrative rule may be challenged through a declaratory judgment action or in other judicial proceedings. SB-0276 modifies this framework by requiring courts to award reasonable attorney fees and costs to a party that successfully challenges the validity of a rule.

SB-0276 would significantly raise the financial exposure of state agencies when engaging in administrative rulemaking. By mandating that courts award attorney fees and costs to successful challengers of agency rules, the bill introduces a direct fiscal liability that state agencies do not currently face under existing statute.

For DPI, this provision would shift financial risk onto the department and could discourage the agency from pursuing well-intentioned regulatory efforts that involve interpreting broad, vague, or evolving statutory mandates. In situations where legislative direction is general in nature or where policy challenges are emerging, DPI may need to exercise discretion in developing the appropriate rule changes. However, the prospect of being held financially liable for attorney fees if a rule is later invalidated may deter the department from advancing such initiatives.

In practical terms, the bill may have a chilling effect on DPI's rulemaking activity in complex policy areas where legal standards are still developing or where there is a heightened risk of legal scrutiny, such as teacher licensure, school district standards, or other crucial policy topics. These areas often require thoughtful, proactive regulatory action to respond to changing educational needs. The added fiscal liability introduced by the bill may constrain DPI's ability to move forward confidently with necessary rule development in these areas.

Should DPI proceed with a rule that is later invalidated, the department would face not only reputational and operational consequences but also the direct cost of the opposing party's legal fees. Depending on the complexity and duration of litigation, such costs could be significant—ranging from tens of thousands to potentially hundreds of thousands of dollars per case, depending on court rulings and fee schedules. It is uncertain whether these costs may be absorbed within existing department resources.

In conclusion, the enactment of SB-0276 would impose new and potentially substantial fiscal risks on DPI's regulatory functions. While the exact fiscal impact is indeterminate and would depend on the number and nature of legal challenges filed, the financial burden associated with reimbursing attorney fees could materially affect DPI's resources and decision-making processes. Furthermore, the policy environment may become more risk-averse, potentially slowing educational innovation, delaying necessary rule changes, and reducing the department's responsiveness to emerging challenges in Wisconsin's public education system.

Long-Range Fiscal Implications