

Fiscal Estimate Narratives

DNR 6/6/2025

LRB Number	25-2512/1	Introduction Number	SB-0276	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 in an action for declaratory judgment or in certain other judicial proceedings when material therein. This bill requires a court, if the court declares a rule invalid, to award the party asserting the invalidity of the rule reasonable attorney fees and costs. The bill adds these attorney fees to the sum sufficient appropriations for judgments and legal expenses, including from the appropriate program revenue or program revenue service accounts.

A. Assumptions

1. The Department will need to respond to actions challenging the validity of an administrative rule.
2. The Department will incur costs related to actions challenging the validity of an administrative rule regardless of the outcome of the legal proceedings.
3. The Department anticipates a potential increase in legal actions filed against the state because of the potential for mandatory attorney fees if the case is successful.
4. The Department estimates that this bill would increase staff time for positions across the department including leadership, attorneys, paralegals, rule coordinators, and subject matter experts (program and policy analysts, program managers, engineers, etc.).

B. One-Time Costs: The Department estimates that it would incur one-time staffing costs to respond to legal challenges, which includes:

1. Staff time to assess legal claims and prepare the record, affidavits, and other information for legal counsel.
2. Staff time to review legal filings, coordinate with legal counsel, and participate in legal proceedings.

C. Ongoing Costs: The Department estimates that it would need to divert, or reallocate, ongoing staff time to manage an overall increase in litigation-related workload. This will divert staff time away from the core mission of the agency and away from other Department litigation, including enforcement and other actions referred to the Wisconsin Department of Justice.

D. Overall Cost Estimate: Given the unknowns about the number of legal challenges that may be filed, it is impossible to quantify a specific cost estimate; therefore, the Department considers the fiscal impact of the bill to be indeterminate.

Long-Range Fiscal Implications