



Wisconsin Independent Businesses Inc.
The voice of independent business in state government

June 2, 2015

TO: Members
Senate Committee on Government Operations and Consumer Protection

FR: Brian Dake
Legislative Director
Wisconsin Independent Businesses

RE: 2015 Assembly Bill (AB) 80 relating to review by state agencies of administrative rules and enactments and an expedited process for repealing rules an agency no longer has the authority to promulgate

Chairman Stroebel and committee members, thank you for the opportunity to testify in support of 2015 Assembly Bill 80.

By way of background, Wisconsin Independent Businesses was formed nearly forty years ago to provide small, independent businesses with a voice in the legislative and administrative activities of state government. Today, we have more than 4,000 members – the vast majority of whom own and operate businesses with fewer than 25 employees and/or annual gross revenues of less than \$5 million.

For small, independent businesses, compliance with state government rules and regulations is time-consuming and costly. In fact, according to a September, 2010 report by the federal Small Business Administration entitled: “The Impact of Regulatory Costs on Small Firms,” small businesses with fewer than 20 employees, spend more than \$10,500 per employee every year to comply with government regulations.

Reducing the regulatory burden on small employers has been, and continues to be, an ongoing legislative priority for WIB. The challenges we must overcome are well understood.

Today, there are over 11,000 pages of existing administrative rules divided amongst more than 1,700 chapters of Wisconsin's Administrative Code. Many of these rules have not been modified since they were originally put in place despite changes in the marketplace, customary practices or circumstances.

State agencies instinctively focus more attention on implementing new laws and new regulations. Removing obsolete and unnecessary administrative rules are often at the bottom of the state agency "to do" list.

Addressing these institutional challenges requires structural reform of the administrative rule-making process – reforms which are included in 2015 Assembly Bill 80.

Under this legislation, state agencies must submit a biennial report to the State Legislature identifying administrative rules that are obsolete, duplicative or no longer applicable. Upon the enactment of a new law, AB 80 directs the Wisconsin Department of Administration to conduct an agency-wide review to determine if the new law conflicts with existing administrative rules. If conflicts are found, this legislation provides an expedited process to resolve the issue.

With this critical information from state agencies, legislators have clear guidance to follow – guidance that we hope legislators will use to eliminate obsolete, duplicative and unnecessary administrative rules that place an undue burden on small, independent businesses.



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AB 80: Review by state agencies of administrative rules and enactments and an expedited process for repealing rules an agency no longer has the authority to promulgate.

Testimony of State Representative Joan Ballweg
Senate Committee on Government Operations and Consumer Protection
June 2, 2015

Thank you, Chair Stroebel and members of the Government Operations and Consumer Protection Committee for holding a public hearing on Assembly Bill 80.

Assembly Bill 80 is an essential part of this session's Red Tape Review. Red Tape Review is a multi-session initiative aimed at reviewing current administrative code to ensure the rules we have are not obstructive to business or people's everyday lives. Last session, the Assembly initiated a full review of Wisconsin Administrative Code. Of the 1,768 chapters, 20% were reviewed by standing committees, and of those chapters reviewed, 25% of rules were repealed or modified by statute. This project will continue this term, but we believe the review needs to be continuous to keep our code up-to-date. Included in our discussions on moving forward were Scott Grosz, JCRAR Legislative Council attorney; Mike Duchek, Reference Bureau draft attorney; and Bruce Hoesly, Editor of the Administrative Code.

This legislation will create a standard, continuous review of Wisconsin's Administrative Code. We accomplish this in three ways:

1. Create an "off-ramp" expedited process by which agencies may petition the Joint Committee on Review of Administrative Rules to remove a rule that is unauthorized, or is no longer enforceable by statute. This suggestion was also made by the Governor's 2013 Wisconsin Regulatory Review Report.
2. Require agencies at the beginning of each biennium to report to the Joint Committee on Review of Administrative Rules any rules that are outdated, in conflict, or no longer have statutory authority. As Co-Chair of JCRAR this term, I've sent a letter to all agencies asking they report this very information. Rep. LeMahieu, as chair last session, did the same. With this information, JCRAR will be able to advise and work with agencies to introduce legislation or ask for a revised rule. This would be a way to catch rules that have been affected by federal changes.
3. Establish a continuous review process by asking agencies to review every enacted law for any conflicts or provisions that render the current rule obsolete. If current rules are thoroughly researched and evaluated at the time new rules are to be written or new statute enacted, agencies will be able to keep their administrative rules clean.

Through these measures, Wisconsin's Administrative Code will be maintained at regular intervals throughout our legislative session. It's prudent and good practice to operationalize the rules review process, relieving the need for any future "clean-up" projects. It warrants repeating that no changes can be made to administrative code without legislative review and action. This bill will help streamline and expedite the current process, as well as add additional points at which both the agencies and the legislature can identify rules that need to be addressed.

Thank you for your time and I'm happy to answer any questions you have.



AB 80 Administrative Code Clean Up & Simplification
Testimony of Senator Steve Nass
Senate Committee on Government Operations & Consumer Protection
June 2, 2015 • 300 Southeast, State Capitol

Thank you Chairman Stroebel for holding a hearing and allowing me to provide written testimony on Assembly Bill 80. This bill creates a more streamlined and efficient process to review and clean up the state's administrative code by eliminating old rules that are no longer enforceable because their statutory backing has been changed or repealed.

Currently, in order for an agency to repeal an old rule that is no longer in effect because it's statutory authority has been revoked or changed, they must follow the same process for promulgating a new rule, which is very time consuming.

This bill provides an alternative, expedited procedure an agency can use to repeal a rule that it no longer has the authority to promulgate because of the repeal or amendment of the law that previously authorized its creation.

Under the bill, an agency could petition the Joint Committee for Review of Administrative Rules (JCRAR) to repeal an unauthorized rule through the following expedited procedure:

- 1) The agency submits a petition to repeal the unauthorized or outdated rule to Legislative Council for review.
- 2) Legislative Council staff will review the petition and provide a written report to the JCRAR committee with their determination of whether the proposed repeal is an unauthorized rule.
- 3) JCRAR could approve the agency's petition to repeal the outdated or unauthorized rule; deny the petition; or request the agency make changes and resubmit the request.

"In God We Trust"

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AB 80 also requires agencies to report to JCRAR at the beginning of each biennium any rules that are outdated, unnecessary, in conflict with another rule, or that they no longer have statutory authority to enforce. The report must include a description of the agency's actions to address each rule listed in the report, the status of each rule listed in the previous year's report, or a statement that the agency has determined there are no such rules to list under their department's jurisdiction.

It further requires agencies to review newly enacted laws for conflicts or provisions that make an existing rule obsolete or unnecessary. If an agency determines that any such consequence results from a new act, they must begin action to alter or repeal the rule in question within 60 days after the act's effective date.

This legislation will help simplify Wisconsin's administrative code by keeping it up-to-date, making it easier to understand and navigate for Wisconsin citizens and businesses.

It is supported by the National Federation of Independent Business, Wisconsin Builders Association, Wisconsin Independent Businesses Inc., Aggregate Producers of Wisconsin, Wisconsin Grocers Association, Wisconsin Realtors Association, the Water Quality Association of Wisconsin, Wisconsin Credit Union League, Wisconsin Manufacturers & Commerce, and others.

Thank you again for the opportunity to provide testimony in support of AB 80. If any committee members have further questions, please don't hesitate to contact me.