

Fiscal Estimate Narratives

PSC 7/3/2017

LRB Number	17-2593/2	Introduction Number	SB-295	Estimate Type	Original
Description the expiration of administrative rules					

Assumptions Used in Arriving at Fiscal Estimate

This bill provides that each chapter of the code expires seven years after a rule that creates, or repeals and recreates, the chapter takes effect or after the chapter is readopted. The bill requires JCRAR to establish a schedule for the expiration of all existing code chapters that are in effect on the effective date of the bill. Under the bill, in the year before a code chapter is set to expire, an agency may send a re-adoption notice to JCRAR and the appropriate standing committees proposing to readopt the chapter. If no member of JCRAR or the standing committees objects to the re-adoption notice, the chapter is considered readopted without further action. If any member of JCRAR or either standing committee objects to re-adoption of the chapter, the chapter expires on its expiration date unless the agency promulgates a rule to readopt the chapter using the standard rule-making process. Under the bill, JCRAR may extend the effective date of the chapter that is set to expire for up to one year to accommodate readoption of the chapter through the standard rule-making process. The bill also requires agencies to avoid the use in rules of words and phrases that are outdated or that are now understood to be derogatory or offensive.

Currently, the Commission designates legal counsel for the purpose of working with program staff to promulgate administrative rules. Rules are drafted in accordance with changes in statutes and/or practice. It takes a significant amount of staff hours to promulgate a rule, depending on the type of rule and subject matter, in accordance with a process that currently takes about nine months to a year to complete. Rules are often revisited as the underlying statutes affecting the rule's subject matter change on a regular basis.

Under the bill, each chapter of the Commission's administrative code is set to expire after seven years, unless the chapter is readopted by the agency through the readoption process established under the bill. The ultimate effect of this bill is that it will require the Commission to increase its workload in order to either: 1) prepare the appropriate documentation requesting readoption of rules that it has already promulgated, or 2) pursue the standard rule-making process to readopt any rule chapter that is objected to by any member of JCRAR or either standing committee. Under the bill, JCRAR is required to establish a schedule for the expiration of all existing code chapters that are in effect on the effective date of the bill. It is uncertain what such schedule may look like for administrative rules governed by the Commission, but because 44 rule chapters are currently in effect in the PSC administrative code, it can be assumed that the bill will require constant, additional rulemaking by the Commission for every rule chapter in seven-year intervals. This does not include any time the Commission pursues rule-making to update its chapters in accordance with regular changes to underlying statutes.

JCRAR may extend the effective date of the chapter that is set to expire for up to one year to accommodate readoption of the chapter through the standard rule-making process; however, in the event rules are not readopted by JCRAR, by either standing committee, or by the Commission, agency practice and legislative intent with regard to implementation of the statutes may be inconsistent.

It is unlikely such a provisions would result in a net savings in terms of resources and staff time necessary to conduct rulemaking. Rather, compliance with the provisions in the bill are likely to cause additional work to be performed. Because each rule varies in size and scope, it is not possible to determine the additional number of work hours that would be spent on compliance with provisions on the bill; thus, the fiscal impact to the state (and directly on the Commission) as a result of this bill is indeterminate.

Long-Range Fiscal Implications

indeterminate