

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

Original    Updated    Corrected

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2. Administrative Rule Chapter, Title and Number

ETH 26 – Settlement Offer Schedule

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3. Subject

Settlement offer schedules for violations of Chs. 11, 13, and 19.

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4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

5. Chapter 20, Stats. Appropriations Affected

N/A

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6. Fiscal Effect of Implementing the Rule

No Fiscal Effect    Increase Existing Revenues    Increase Costs  
 Indeterminate    Decrease Existing Revenues    Could Absorb Within Agency's Budget  
 Decrease Cost

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7. The Rule Will Impact the Following (Check All That Apply)

State's Economy    Specific Businesses/Sectors  
 Local Government Units    Public Utility Rate Payers  
 Small Businesses **(if checked, complete Attachment A)**

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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes    No

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9. Policy Problem Addressed by the Rule

The Commission proposes a rule to comply with the requirement of WIS. STAT. § 19.49(2)(b)10. This statute requires the Commission to prescribe, by rule, categories of civil offenses which the Commission will agree to compromise and settle without a formal investigation upon payment of specified amounts by the alleged offender. The Ethics Commission seeks to add two more categories of civil offenses to this rule: (1) unauthorized lobbying, and (2) late payment of lobbying fees. The rule also clarifies the use of the word "days" throughout the current rule to specify either calendar or business days.

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10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

N/A

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11. Identify the local governmental units that participated in the development of this EIA.

N/A

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12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The Commission finds that the proposed rule will have no economic impact on small businesses.

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13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Promulgating the rule would provide certainty to the regulated community as to the potential amounts sought for potential violations of the laws the Commission administers. It would also permit the Commission to authorize the Commission Administrator to settle the specified alleged offenses on its behalf if the alleged offenses in aggregate do not involve payment of more than \$2,500, which could accelerate the speed with which potential violations could be resolved.

The alternative would be to not create such a rule, but instead continue to rely on the Commission's established settlement schedule. Such inaction could lead to confusion among the regulated community as to what potential violations the Commission would settle and the amounts to be paid for various offenses as these have varied over time

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and between the predecessor agencies and the Ethics Commission. Lack of a rule would also limit the ability of the Commission to delegate settlement authority to the Commission Administrator, which could significantly delay resolution of complaints and audit findings.

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### 14. Long Range Implications of Implementing the Rule

Promulgating the rule would permit the Commission to increase the efficiency of resolving potential violations of the laws the Commission administers.

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### 15. Compare With Approaches Being Used by Federal Government

The Lobbying Disclosure Act requires the employer of lobbyists (in-house or lobbying firms) to register the client for which the registrant has an employee that meets the federal definition of a lobbyist, provided they have exceeded the de minimis requirements for registration. The registration is filed with the Secretary of the Senate and the Clerk of the House of Representatives within forty-five days after a lobbyist makes a first contact, or is retained to do so, whichever is earlier. 2 U.S.C. § 1603(a)(1). There are no fees associated with registration. Whoever knowingly fails to (1) correct a defective filing within 60 days after notice of defect by Secretary of the Senate or Clerk of the House; or (2) to comply with any other provision of the Lobbying Disclosure Act, may be subject to a civil fine of not more than \$200,000. Whoever knowingly and corruptly fails to comply with the Act may be imprisoned for not more than five years or fined, or both. 2 U.S.C. § 1606.

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### 16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

#### **Illinois**

Both lobbyists and entities that employ lobbyists must register with the Secretary of State prior to engaging in any lobbying activity, or within two working days of an agreement to conduct any lobbying activity. 25 ILL. COMP. STAT. §§ 170/3 (a). There is a \$300 registration fee due annually. 25 ILL. COMP. STAT. §§ 170/5 (f). Any person who violates the Lobbyist Registration Act shall be fined not more than \$10,000 for each violation, with every day that a report or registration is late counting as a separate violation. 25 ILL. COMP. STAT. §§ 170/10 (a). Additionally, any person convicted of violating the Lobbyist Registration Act is prohibited from lobbying for three years from the date of conviction. 25 ILL. COMP. STAT. §§ 170/10 (b).

#### **Iowa**

Iowa only requires registration of lobbyists that will be lobbying the executive branch. All executive branch lobbyists, regardless of compensation, must register with the chief clerk of the house of representatives or the secretary of the senate prior to any lobbying activity. IOWA ADMIN. CODE. r. 351—8.7(1). There are no required registration fees. Failure to register timely may result in up to a \$500 civil penalty. IOWA ADMIN. CODE. r. 351—9.4(7).

#### **Michigan**

Lobbyists must register with the secretary of state's office no more than fifteen days after becoming a lobbyist. MICH. COMP. LAWS § 4.417(1). Persons that meet the definition of a lobbyist agent must register within three calendar days of becoming a lobbyist agent. MICH. COMP. LAWS § 4.417(2). There are no fees for registering as a lobbyist or lobbyist agent in Michigan. A lobbyist or lobbyist agent that fails to register timely shall pay a late registration fee of \$10 for each day the person is not registered and remains in violation, not to exceed \$300. A person that fails to register within thirty days is guilty of a misdemeanor, and shall be fined not more than \$1,000. MICH. COMP. LAWS § 4.417(3).

#### **Minnesota**

There are no registration fees for registering as a lobbyist in Minnesota. Lobbyists must register with the Minnesota Campaign Finance and Public Disclosure Board within five days of meeting the definition of a lobbyist, or being

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engaged by a new individual, association, political subdivision, or public higher education system. MINN. STAT. § 10A.03, subd. 1. Lobbyists accrue a late fee of \$25 per day the registration is late (\$1,000 maximum). The Board must send a certified mail notice within ten business days after the registration was due. A lobbyist that fails to file a registration within seven days of the certified mail notice being sent is subject to a civil penalty of up to \$1,000. MINN. STAT. § 10A.03, subd. 5.

17. Contact Name David P. Buerger	18. Contact Phone Number (608) 267-0951
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**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
  - Less Stringent Schedules or Deadlines for Compliance or Reporting
  - Consolidation or Simplification of Reporting Requirements
  - Establishment of performance standards in lieu of Design or Operational Standards
  - Exemption of Small Businesses from some or all requirements
  - Other, describe:
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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
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