

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Bill creates an ‘interim’ committee to oversee changes to the NMAC by agencies

FISCAL IMPLICATIONS

Bill would increase the costs of rule changes, in terms of both time and money.

SIGNIFICANT ISSUES

Significant issues include:

- It is called an “Interim Committee’ but does not indicate when it will cease to operate.
- The timeline seems aspirational at best. The Committee will get a copy of the proposed rule changes from the LFC after the Notice of Proposed Rulemaking is published (at least) 30 days prior to the rulemaking hearing and must provide its report at least two weeks before the rulemaking hearing; that leaves approximately two weeks for the Committee to do its work, if the LFC delivers it immediately upon receipt. However, the Committee staff must provide an analysis of the proposed changes at least ten days before the Committee meets to discuss the proposed changes, so staff would have a maximum of four days to do their work if those four days do not contain a weekend. Furthermore, the Committee is only required to meet once a month. If a Notice of Proposed Rulemaking is published 30 days prior to the rulemaking hearing, the Committee will be hard-pressed to meet these deadlines. If they invoke their right to request a fiscal impact statement after receiving the rule, it will be next to impossible. If the analysis cannot be provided before the rulemaking hearing, the hearing would have to be re-noticed, which would mean additional costs to the agency.
- It is not clear when a fiscal impact statement is required, who is qualified to prepare it, or how to calculate the fiscal impact of a rule.
- There is no method to enforce the Committee’s recommendations. After all is said and done, the Committee’s recommendations will be a public comment to be considered (and possibly ignored) by the agency when conducting a rulemaking hearing.

PERFORMANCE IMPLICATIONS

Staff does not foresee any performance implications as a result of the bill’s proposed changes. The PELRB would still be able to perform its duties, but the costs of any rulemaking would increase.

ADMINISTRATIVE IMPLICATIONS

As stated above, any rulemaking by the PELRB would become more difficult and costly.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

As stated above, the bill would effectively increase the required notice for rulemaking currently

defined in the State Rules Act.

TECHNICAL ISSUES

Staff does not foresee any technical issues as a result of the bill's proposed changes.

OTHER SUBSTANTIVE ISSUES

If the Committee exerts too much influence on the rulemaking process, it could raise separation of powers (i.e. constitutional) issues.

ALTERNATIVES

The goal seems to be to require consideration of the fiscal impact of proposed rules (but only if that impact would exceed one million dollars). An analysis of fiscal impact is necessary to determine if the fiscal impact is greater than one million dollars, so, in practice, the amendment requires a fiscal impact analysis for every rule change. An alternative would be to amend the State Rules Act to require agencies to obtain a fiscal impact statement for proposed rules prior to publishing Notice (and include that statement in the Notice) and create a committee to determine the fiscal impact of rules and prepare those statements.

A committee to determine the fiscal impact of all proposed rules prior to publication of the Notice of Proposed Rulemaking would be more helpful than a committee to reflect on fiscal impacts already determined. Many agencies are not staffed with individuals qualified to do that analysis, and it would allow agencies to budget more appropriately before making changes. It would also allow the public to be notified of the fiscal impact of all rules (regardless of the size of the impact) before offering public comments to the agency about the proposed rules.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Maintenance of the status quo.

AMENDMENTS