

To: Legislative Colleagues

From: Representative Amy Loudenbeck and Representative Janis Ringhand

Date: November 14, 2013

Re: Co-sponsorship of LRB 3570/1, relating to rule-making procedures and repealing various rules promulgated by the Department of Workforce Development

Deadline: 4 PM on Wednesday, November 20th

We are introducing two workforce development bills (LRB 3571/1 and LRB 3570/1) as part of the “Right the Rules” process this session. This legislation is a step toward bringing our Administrative Code up-to-date and making it easier to understand for businesses and citizens in the state.

The Assembly Committee on Workforce Development held two hearings to review rules that the Department of Workforce Development (DWD) has identified as needing modification or repeal. The committee had the opportunity to review the recommendations from DWD and hear from stakeholders who may be affected by specific rule changes.

LRB 3570/1 is an omnibus bill which repeals 6 Workforce Development rules that have been identified as obsolete by the DWD because they are no longer authorized by statute. We have attached a document from the DWD explaining why each rule is no longer needed.

The rules repealed are:

- DWD 82 Mining Damage Claims
- DWD 805 Allowable costs under the Job Training Partnership Act
- DWD 811 Performance-based contracting
- DWD 816 Dislocated worker program
- DWD 820 Employment and training assistance for dislocated workers
- DWD 830 Wisconsin job opportunity business subsidy program

The analysis by the Legislative Reference Bureau is below and the bill draft is attached.

Analysis by the Legislative Reference Bureau

STATUTORY TREATMENTS

Rule-making procedures

Current law sets forth a procedure for the promulgation of administrative rules (rules). Generally, that procedure consists of the following steps:

1. The agency planning to promulgate the rule prepares a statement of the scope of the proposed rule, which the governor and the agency head must approve before any state employee or official may perform any activity in connection with the drafting of the proposed rule.

2. The agency drafts the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council Staff for review.

3. Subject to certain exceptions, a public hearing is held on the proposed rule.

4. The final draft of the proposed rule is submitted to the governor for approval.

5. The final draft of the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, are submitted to the legislature for review by one standing committee in each house and by the Joint Committee for Review of Administrative Rules.

6. The proposed rule is filed with the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Code (code) and the Wisconsin Administrative Register (register), and, subject to certain exceptions, the rule becomes effective on the first day of the first month beginning after publication.

Under this bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule-making procedures under current law do not apply. Instead, the LRB must publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

TREATMENTS OF ADMINISTRATIVE RULES

Under current law, the Department of Workforce Development (DWD) has promulgated various rules governing the administration in this state of the federal Job Training Partnership Act of 1982 (JTPA). Those rules govern: 1) allowable costs under the JTPA; 2) performance-based contracting by agencies receiving funds under the JTPA; 3) administration of the Dislocated Worker Program under the JTPA; and 4) administration of certain other employment and training programs under the JTPA. The JTPA was replaced by the federal Workforce Investment Act of 1998. This bill repeals those rules.

Under current law, DWD has promulgated rules governing the Wisconsin Job Opportunity Business Subsidy (WISJOBS) Program. Statutory authority for the awarding of grants under the WISJOBS Program expired on June 30, 1993. This bill repeals those rules.

Under current law, DWD has promulgated rules governing the filing and hearing of mining damage claims. Statutory responsibility for the hearing of such claims was transferred to the Department of Commerce in 1996 and, subsequently, to the Department of Safety and Professional Services in 2011. This bill repeals those rules.
