



State of Wisconsin
Department of Employee Trust Funds
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Correspondence Memorandum

Date: August 25, 2017

To: Employee Trust Funds Board
Teachers Retirement Board
Wisconsin Retirement Board

From: David H. Nispel, General Counsel
Dan Hayes, Attorney

Subject: Administrative Rules Update

This memo is for informational purposes only. No Board action is required.

Each quarter the Office of Legal Services provides a memo to inform board members about the status of administrative rules being promulgated by the Department of Employee Trust Funds (ETF) that require approval by one or more of the Boards. There are no such status updates to provide at this time. This memorandum provides information about legislation that was recently signed into law by the Governor and affects the administrative rulemaking process.

Commonly known as the Regulations from the Executive in Need of Scrutiny (REINS) Act, the legislation makes several changes to the process state agencies use to promulgate rules. Major features include:

- State agencies could not promulgate rules projected to cost businesses or local governments more than \$10 million; the Legislature and Governor would have to enact a law, instead.
- Prior to gubernatorial approval, either a co-chair of the Joint Committee for Review of Administrative Rules (JCRAR) or the JCRAR itself (during the JCRAR review period) could contract for an independent Economic Impact Statement (EIA) paid for by the Legislature if the result varies by less than 15% from the agency's EIA, and paid by the agency if the result varies by more than 15%.

Reviewed and approved by Robert J. Conlin, Secretary

Electronically Signed 9/7/17

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- Review of an agency's scope statement begins with the Department of Administration (DOA) for a determination of whether the agency has explicit authority to promulgate the rule. Then the DOA would report its finding to the Governor, who may then approve or reject the scope statement.
- A process would be created for preliminary public comment and a hearing on a scope statement.
- As an alternative to the temporary objection process under current law, the bill allows JCRAR to indefinitely object to any proposed rule. An agency would not be able to promulgate a rule following indefinite objection unless the legislature enacted a law allowing such promulgation.

The Governor signed the legislation into law on August 9, 2017.

Staff will be available at the Board meeting to answer questions.