

MEMORANDUM

TO: The Honorable John Barker
House Committee on Federal and State Affairs

FROM: Adam Proffitt, Director of the Budget 

DATE: Monday, February 1, 2021

SUBJECT: Testimony for HB 2087

Chairman Barker, and members of the committee – I submit this testimony to you as a proponent of HB 2087, which seeks to refine the role of the Director of the Budget in the process of approving agency Rules and Regulations.

Passage of this bill would accomplish two objectives – it would preserve the analytic review that agencies are required to undertake to ensure that the regulations they are enacting are not placing undue burden on the state, and it would eliminate an unnecessary layer of bureaucracy from the process. Current statute requires that the Director of the Budget review every regulation that is being proposed by a state agency, and that s/he determines whether to approve of every regulation, regardless of the cost associated with the regulation. This bill would set a threshold of \$3mil (over the course of two years), before the Director of the Budget would be required to approve the proposed regulation.

Over the course of the past two years, the Division of Budget has received, reviewed, analyzed, and approved 1,043 regulations. The vast majority of these regulations had a negligible economic impact; in fact, only 11 of those regulations had an economic impact of greater than \$3mil. Regardless, all 1,043 of these proposed regulations required a secondary analysis of the economic impact by the Division of Budget staff and the Director. Under the new process outlined in HB 2087, the 1,032 regulations that did not have an economic impact of greater than \$3mil would still be required to have an analysis conducted by the agency, and it would still be sent to the Division of the Budget for their records. However, those regulations would be automatically forwarded to the next step in the process, as opposed to waiting for an approval stamp from the Director of the Budget, thereby expediting the process for implementation. For any regulations that have an impact of at least \$3mil, the Division of the Budget would then engage in a rigorous review of the

proposed regulation, and would either validate the agency's review, or would send it back to the agency to gather additional information.

From a purely budgeting perspective, the most critical components of the rules and regulations process remain intact with HB 2087; a deep and thorough analysis of statewide impact is still required by the proposing agencies, and the Director of the Budget still serves as a secondary reviewer and checkpoint for the most economically cumbersome regulations. From a procedural perspective, this bill does not diminish the scope or importance of any of the other reviewers required for implementation. These regulations still must pass technical, legal, and Legislative challenges from the Department of Administration, the Attorney General's Office, and the Joint Committee on Administrative Rules and Regulations, respectively.

This bill is a wonderful example of how the Legislature can improve an existing process, while maintaining the and integrity and original intent of the process. I appreciate the committee's attention on this matter, and I respectfully request that you pass this bill out of committee favorably.