



[SF 2342](#) – Statutory Construction, Explicit Delegation of Authority (LSB5734SV)
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Fiscal Note Version – New

Description

[Senate File 2342](#) prohibits State agencies from implementing or enforcing any standard, requirement, or threshold without explicit authorization by statute, rule, or regulation. This includes any term or condition of a license issued by an agency, unless the standard, requirement, or threshold is explicitly required or permitted by a State statute, rulemaking adopted pursuant to Iowa Code chapter [17A](#), or federal statute or regulation.

Background

Iowa Code section [17A.23](#), relating to rulemaking construction and delegation of authority, states that a State agency shall only exercise the authority or discretion delegated or conferred upon the agency by law, and shall not expand or enlarge its authority or discretion beyond such delegated or conferred powers. Current law also states that this grant of rulemaking authority shall be construed narrowly, but provides no explicit prohibition on implementing or enforcing a rulemaking without authorization by statute, rule, or regulation.

Assumptions

- Departments are currently constructing rulemakings that assist in the implementation of existing State programs that rely, in whole or in part, on federal funding.
- Due to the broad scope of the proposed legislation and the extensive amount of rulemakings housed in the Iowa Administrative Code, it is not possible to determine the amount of time and cost a State agency may incur as a result of a complete review of the agency's rulemakings, and what effect the implementation of the proposed new legal standard may have on any associated State or federal funding.
- Under the current rulemaking process, State agencies work in cooperation with the Office of the Attorney General to construct individual rulemakings, relying on the Office to assist in matters of legal interpretation and enforcement.

Fiscal Impact

The Department of Agriculture and Land Stewardship (DALs) estimates that it would lose approximately \$1.9 million in federal funding under this Bill due to no longer meeting federal eligibility requirements to run a state program. In order to implement a state meat inspection program, the United States Department of Agriculture's Food Safety and Inspection Service (USDA-FSIS) requires individual states to have enforcement powers "equal to" those of federal regulatory powers. Under [SF 2342](#), such enforcement powers, unless explicitly stated, would be prohibited from implementation, which would result in the loss of federal funding.

Additionally, the DALs would also incur an estimated \$10,000 annually in legal charges from the Office of the Attorney General as a result of legal challenges to enforcement provisions, specifically if penalties were to be charged.

[Senate File 2342](#) may impact federal funding in other State agencies, however, the impact cannot be determined at this time.

Sources

Department of Agriculture and Land Stewardship
Department of Public Safety
Legislative Services Agency

/s/ Holly M. Lyons

March 19, 2018

The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
