

Wisconsin's Green Fire: Statement on Extraordinary Session Senate Substitute Amendment 1 to SB 884 legislation will hurt state agency performance and increase costs

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Madison, WI – Provisions in Senate Bill 884 (SB 884) would significantly impact the work of executive agencies throughout state government. Wisconsin's Green Fire, an organization comprised of many former and active state employees, understands that some of these provisions will create serious consequences for the day to day work of state government.

The new law contains procedures to finalize "guidance documents" in state agencies. These documents guide the day to day administration of laws and programs. New guidance documents would be published by the Legislative Reference Bureau in the administrative register for public comment. In fact, it is already standard practice at most state agencies to publish draft guidance for public comment when developing new guidance. However, under SB 884, all existing guidance documents must be published and revised within 6 months or they will be rescinded. There are thousands of these documents across state agencies.

In the Department of Natural Resources (DNR), guidance documents lay out procedures for fish rearing, timber management, grants, air and water sampling, wastewater permits, wetland determinations, issuing permits for development, among many other activities. For example, the program that reimburses people for wildlife damages uses multiple guidance manuals governing damage claims, field appraisals, and crop pricing.

In the Department of Natural Resources, scientific research and public participation, as well as participation from regulated industries and other stakeholders, have been crucial in the development of guidance documents. Many programs at the DNR have over a hundred guidance documents that have been adopted over time. The great majority of these guidance documents are working effectively and without controversy. If these guidance documents are rescinded the agencies will be precluded from using them under threat of litigation, leading to inconsistencies and inefficiency.

It would be nearly impossible to meet the standards established in SB 884 for all existing guidance documents in the next six months. Attempting to do so would require removing expert staff from other critical work and would cause delays for permit applications and the public. A fiscal analysis for this workload has not been done, to our knowledge. There is no question the costs of compliance with this provision would be significant and are likely to cause disruptions of state government operations.

Wisconsin's Green Fire was at the table recently with other interested stakeholders when guidance documents were developed to address the administration of 2017 Act 183, which deals with wetland exemptions and which went into effect in July, 2018. This process was effective and was consistent with long standing practices to develop guidance through a public process to assist the agency and applicants in the administration of such a program.

Wisconsin's Green Fire strongly believe that existing guidance documents should NOT be rescinded en masse in 6 months. This action would disrupt government services affecting the citizens our agencies are supposed to serve.