



## 1995 ASSEMBLY BILL 264

March 27, 1995 - Introduced by Representatives GROTHMAN, GOETSCH, GREEN, GUNDERSON, HOVEN, JENSEN, KREIBICH, LAZICH, OLSEN, OWENS, PORTER, REYNOLDS, SILBAUGH and SERATTI, cosponsored by Senators A. LASEE and DARLING. Referred to Committee on Government Operations.

1     **AN ACT** *to repeal* 227.16 (2) (a); *to amend* 13.93 (2m) (d) and 35.93 (4); and *to*  
2           *create* 227.135, 227.14 (4m), 227.17 (1) (bm) and 227.17 (2m) of the statutes;  
3           **relating to:** requiring state agencies to provide additional notices at various  
4           stages of the rule-making process.

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### *Analysis by the Legislative Reference Bureau*

Under current law, with exceptions, in order to promulgate a rule, a state agency must prepare a proposed rule and hold a public hearing on the proposed rule. Before holding a hearing, the agency must prepare a written notice of the hearing and send it to the revisor of statutes for publication in the Wisconsin administrative register. Before sending the notice of hearing to the revisor of statutes, the agency must submit the proposed rule to the joint legislative council staff for review.

This bill requires a state agency to prepare a statement of the scope of any rule that it proposes to promulgate. Until the individual or body with policy-making powers for the agency approves the statement of the scope for a proposed rule, a state employe or official may not do any work on the proposed rule except what is needed to prepare the statement. The bill provides that if the individual or body with policy-making powers does not disapprove the statement of the scope of the proposed rule within 30 days, then the statement is considered approved. The bill requires the agency to publish the statement of the scope of a proposed rule in the Wisconsin administrative register before the individual or body with policy-making powers for the agency approves the statement.

This bill requires a state agency to prepare a written notice of submittal to joint legislative council staff when it submits a proposed rule to the joint legislative council staff for review. Under the bill, this notice must be approved by the individual or body with policy-making powers for the agency, must identify the subject matter of the proposed rule and the organizational unit within the agency that has primary responsibility for promulgation of the rule, and must be sent to the revisor of statutes

for publication in the Wisconsin administrative register. On the same day that the agency sends the notice to the revisor of statutes, the agency must send a copy of the notice to the secretary of administration. The bill also requires a state agency's notice of hearing to be approved by the individual or body with policy-making powers for the agency, and requires the agency to send a copy of the notice of hearing to the secretary of administration on the same day that the notice is sent to the revisor of statutes.

Finally, this bill eliminates the provision that notice and public hearings are not required when the proposed rules are procedural, rather than substantive.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 13.93 (2m) (d) of the statutes is amended to read:

2           13.93 **(2m)** (d) Sections 227.114, 227.116, 227.135 and 227.14 to 227.24 do not  
3 apply to any change made by the revisor of statutes bureau under par. (b).

4           **SECTION 2.** 35.93 (4) of the statutes is amended to read:

5           35.93 **(4)** Each issue of the Wisconsin administrative register shall contain a  
6 notice section in which shall be printed the notices of hearings on rule making which  
7 agencies have transmitted to the revisor for that purpose, statements of scope of  
8 proposed rules under s. 227.135, notices of submittal to joint legislative council staff  
9 under s. 227.14 (4m), notices of intent to promulgate rules without a public hearing  
10 under s. 227.16 (2) (e), notices of referrals of proposed rules to presiding officers  
11 under s. 227.19 (2), notices of emergency rules in effect, fiscal estimates for  
12 rule-making orders under s. 227.14 (4) and such other notices as may be required  
13 by law or determined by the revisor to be appropriate.

14           **SECTION 3.** 227.135 of the statutes is created to read:

1           **227.135 Statements of scope of proposed rules.** (1) An agency shall  
2       prepare a statement of the scope of any rule that it plans to promulgate. The  
3       statement shall include all of the following:

4           (a) A description of the objective of the rule.

5           (b) A description of existing policies relevant to the rule and of new policies  
6       proposed to be included in the rule and an analysis of policy alternatives.

7           (c) The statutory authority for the rule.

8           (d) Estimates of the amount of time that state employes will spend to develop  
9       the rule and of other resources necessary to develop the rule.

10          (2) Until the individual or body with policy-making powers over the subject  
11       matter of a proposed rule approves a statement of the scope of the proposed rule, a  
12       state employe or official may not perform any activity in connection with developing  
13       the proposed rule except for an activity necessary to prepare the statement of the  
14       scope of the proposed rule. If the individual or body with policy-making powers over  
15       the subject matter of a proposed rule does not disapprove the statement of the scope  
16       of the proposed rule within 30 days after the statement is presented to the individual  
17       or body, the statement is considered to be approved.

18          (3) The agency shall send the statement of the scope of a proposed rule to the  
19       revisor for publication in the register. On the same day that the agency sends the  
20       statement to the revisor, the agency shall send a copy of the statement to the  
21       secretary of administration. The individual or body with policy-making powers over  
22       the subject matter of a proposed rule may not take action on a statement of the scope  
23       of the proposed rule until at least 10 days after publication of the statement in the  
24       register.

25          (4) This section does not apply to emergency rules.

1           **SECTION 4.** 227.14 (4m) of the statutes is created to read:

2           227.14 (4m) NOTICE OF SUBMITTAL TO JOINT LEGISLATIVE COUNCIL STAFF. On the  
3 same day that an agency submits a proposed rule to the joint legislative council staff  
4 under s. 227.15, the agency shall prepare a written notice of the agency's submittal  
5 to the joint legislative council staff. The notice shall include a statement of the date  
6 on which the proposed rule has been submitted to the joint legislative council staff  
7 for review, of the subject matter of the proposed rule and of whether a public hearing  
8 on the proposed rule is required, and shall identify the organizational unit within the  
9 agency that is primarily responsible for the promulgation of the rule. The notice  
10 shall be approved by the individual or body with policy-making powers over the  
11 subject matter of the proposed rule. The agency shall send the notice to the revisor  
12 for publication in the register. On the same day that the agency sends the notice to  
13 the revisor, the agency shall send a copy of the notice to the secretary of  
14 administration.

15           **SECTION 5.** 227.16 (2) (a) of the statutes is repealed.

16           **SECTION 6.** 227.17 (1) (bm) of the statutes is created to read:

17           227.17 (1) (bm) Send written notice of the hearing to the secretary of  
18 administration on the same day that the notice is sent to the revisor under par. (a).

19           **SECTION 7.** 227.17 (2m) of the statutes is created to read:

20           227.17 (2m) The notice under sub. (1) shall be approved by the individual or  
21 body with policy-making powers over the subject matter of the proposed rule.

22           **SECTION 8. Initial applicability.**

23           (1) The treatment of section 227.135 of the statutes first applies to proposed  
24 rules that an agency begins to prepare under section 227.14 of the statutes on the  
25 first day of the 4th month beginning after the effective date of this subsection.

