

**2011 Jr1 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB8)**

Received: 01/21/2011

Received By: gmalaise

Wanted: 01/24/2011

Companion to LRB:

For: Jeff Fitzgerald (608) 266-2540

By/Representing: Jason Bauknecht

May Contact:

Drafter: gmalaise

Subject: Administrative Law  
Courts - civil procedure

Addl. Drafters: phurley

Extra Copies:

Submit via email: YES

Requester's email: Rep.Fitzgerald@legis.wisconsin.gov

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Administrative rules; agency authority to promulgate; gubernatorial and legislative approval of; economic impact of; venue in action challenging validity of

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 01/21/2011	wjackson 01/24/2011		_____			
/1			mduchek 01/24/2011	_____	sbasford 01/24/2011	sbasford 01/24/2011	

FE Sent For:

<END>

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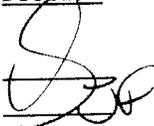
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**Instructions:**

See attached

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/?	gmalaise	1 WLj 1/23					

FE Sent For:

<END>

## Malaise, Gordon

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**From:** Bauknecht, Jason  
**Sent:** Thursday, January 20, 2011 6:57 PM  
**To:** Malaise, Gordon  
**Subject:** FW: Administrative rules draft

Gordon, could we please have this substitute amendment for SS AB 8 as soon as possible please. I understand that you are busy but there are many people waiting on this. If it is possible, could you give me a timeline of when I could expect the draft so I have something to tell interested parties? Thank you for your help.

Jason Bauknecht  
Office of Speaker Fitzgerald  
266-2540

-----Original Message-----

**From:** Konopacki, Larry  
**Sent:** Thursday, January 20, 2011 6:40 PM  
**To:** Bauknecht, Jason  
**Cc:** Karls-Ruplinger, Jessica  
**Subject:** FW: Administrative rules draft

Jason, per our discussion earlier today about the admin rules draft, see the following drafting instructions. Please let me know if they accomplish your intent:

Gordon, please draft the following changes to SSAB8 into a substitute amendment to SSAB8 for Rep. Fitzgerald to accomplish the following:

- 1) Remove the requirement that an economic impact analysis be prepared before a proposed emergency rule is filed with the LRB.
- 2) Change s. 227.19 (2) as provided in LRB 1060/1 except replace "July 1" with "the final day of the last general-business floor period in the biennial session as established in the joint resolution required under s. 13.02 (3)" and remove the passage requiring initial referral to JCRAR. Notes below will refer to the session days prior to this date as the "regular session" and the rest of the session as "the interim."
- 3) Include other provisions in LRB 1060/1 providing for an "active" review by standing committees for rules submitted to the Legislature during the interim and referred to standing committees under s. 227.19 (2) as modified under #2 above.
- 4) Provide JCRAR with jurisdiction over all proposed administrative rules beginning upon the expiration of the standing committee's review period that is first to end and initially extending until 30 days after the expiration of the review period of the second standing committee. Allow extension of the JCRAR review period for an additional 30 days as provided under current law. During JCRAR's review period, authorize it to request modification to a rule, object to a rule in whole or in part, or waive its jurisdiction over the rule in whole or in part. Continue the current-law requirement that JCRAR meet in executive session to take action on any standing committee objections for rules submitted to the legislature during the regular session, and allow JCRAR to take action with respect to parts of a rule not objected to by a standing committee.
- 5) For rules submitted to the Legislature during the interim, do not require any JCRAR action during the interim (i.e. the review for JCRAR is also "active"). If JCRAR chooses to take executive action on a rule for which a standing committee made an objection, require that executive session to address the standing committee objection. If JCRAR takes no action on a rule submitted to the Legislature during the interim, the rule would be re-referred to JCRAR by the new Legislature for a new review period. If JCRAR objects to a portion of a rule submitted to the Legislature during the interim and does not waive

its jurisdiction over the remainder of the rule, the remainder would be re-referred to JCRAR by the new Legislature for a new review period.

~~9)~~ Upon objection to a rule or part of a rule by JCRAR, apply the process in Section 45 of LRB 1060/1 (Governor's review of JCRAR objections).

~~7)~~ Remove the following text from page 14, line 13 of SSAB8: ", modify,"

✓ (Gordon, note that because the above instructions are for changes to SSAB8, this substitute amendment should INCLUDE the governor's second review of proposed rules, just prior to Legislative review, which was removed from LRB 1060/1)

Thanks,

Larry

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Larry A. Konopacki  
Wisconsin Legislative Council  
(608) 267-0683  
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State of Wisconsin  
2011 - 2012 LEGISLATURE

January 2011 Special Session

IN 1121



LRBs00347

GMM&PJH.....

all

ASSEMBLY SUBSTITUTE AMENDMENT,  
TO ASSEMBLY BILL 8

Wanted Mon 1/24

Gen Cat

1 AN ACT ...; relating to: the authority of a state agency to promulgate rules  
2 interpreting the provisions of a statute enforced or administered by the agency  
3 and to implement or enforce any standard, requirement, or threshold as a term  
4 or condition of a license issued by the state agency; gubernatorial approval of  
5 proposed administrative rules; economic impact analyses of proposed rules and  
6 emergency rules; legislative review of proposal rules; and venue in a  
7 declaratory judgment action seeking judicial review of the validity of an  
8 administrative rule and in an action in which the sole defendant is the state.

*Analysis by the Legislative Reference Bureau*

**Introduction**

This substitute amendment makes various changes relating to: 1) the authority of a state agency (agency) to promulgate administrative rules (rules) interpreting the provisions of a statute enforced or administered by the agency and to implement or enforce any standard, requirement, or threshold as a term or condition of a license issued by the agency; 2) gubernatorial approval of proposed

rules; 3) economic impact analyses for proposed rules; 4) legislative review of proposed rules; and 5) venue in declaratory judgment actions seeking judicial review of the validity of a rule and in actions in which the sole defendant is the state.

***Agency authority to promulgate rules and implement standards***

Under current law, an agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, except that a rule is not valid if the rule exceeds the bounds of correct interpretation.

This substitute amendment provides that all of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is expressly conferred on the agency by the legislature.

2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is expressly conferred on the agency by the legislature.

3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

The substitute amendment also prohibits an agency from implementing or enforcing any standard, requirement, or threshold as a term or condition of any license issued by the agency unless such implementation and enforcement is expressly required or permitted by statute or by a rule that has been promulgated in accordance with statutory rule-making procedures. In addition, the substitute amendment permits the governor, by executive order, to prescribe standards to ensure that rules are promulgated in compliance with the subchapter of the statutes governing rule making.

***Gubernatorial approval of proposed rules***

Current law requires an agency that is planning to promulgate a rule to prepare a statement of the scope of the proposed rule (statement of scope), present the statement of scope to the individual or body with policy-making powers over the subject matter of the proposed rule (policy-making individual or body) for approval, and send the statement of scope to the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Register (register). Currently, the policy-making individual or body may not approve a statement of scope until at least tenth days after publication of the statement of scope in the register. Current law also provides that if the policy-making individual or body does not disapprove the statement of scope within 30 days after it is presented to that individual or body, or by the eleventh day after its publication in the register, whichever is later, the statement is considered to be approved. Finally, current law prohibits a state

employee or official from performing any activity in connection with the drafting of a proposed rule, except for an activity necessary to prepare the statement of scope, until the policy-making individual or body approves the statement of scope.

This substitute amendment makes the following changes with respect to statements of scope:

1. Requires a statement of scope to be approved by the governor as well as by the policy-making individual or body before the statement of scope may be sent to the LRB for publication in the register and prohibits a state employee or official from performing any activity in connection with the drafting of a proposed rule, except for an activity necessary to prepare the statement of scope, until the governor as well as the policy-making individual or body approves the statement of scope.

2. Eliminates automatic approval of a statement of scope if the policy-making individual or body does not disapprove the statement of scope within 30 days after it is presented to that individual or body, or by the eleventh day after its publication in the register, whichever is later.

3. Requires an agency to prepare and obtain approval of a revised statement of scope if after a statement of scope is approved the agency changes the scope of the proposed rule in any meaningful or measurable way.

4. Requires an agency to prepare and obtain approval of a statement of scope for a proposed emergency rule in the same manner as a statement of scope is prepared and approved for a nonemergency rule. A statement of scope for a proposed emergency rule must be published at the same time that the emergency rule is published. If the agency changes the scope of a proposed emergency rule, the agency must prepare and obtain approval of a revised statement of scope for the proposed emergency rule in the same manner as a revised statement of scope is prepared and approved for a nonemergency rule.

In addition, the substitute amendment requires an agency to submit a proposed rule in final draft form to the governor for approval before the rule may be submitted to the legislature for review or filed with the LRB for publication and submit a proposed emergency rule in final draft form to the governor for approval before the emergency rule may be filed with the LRB for publication. ✓ to

### ***Economic impact analyses for proposed rules***

Under current law, before the Department of Agriculture, Trade and Consumer Protection (DATCP), the Department of Commerce (Commerce), the Department of Natural Resources (DNR), the Department of Transportation (DOT), or the Department of Workforce Development (DWD) may submit a proposed rule to the legislature for review, a municipality, an association that represents a farm, labor, business, or professional group, or five or more persons that would be affected by the proposed rule may submit a petition to the Department of Administration (DOA) requesting the secretary of administration (secretary) to direct DATCP, Commerce, DNR, DOT, or DWD to prepare an economic impact report for the proposed rule. The secretary may direct the preparation of an economic impact report in any case and must direct the preparation of such a report if: 1) the proposed rule would cost affected persons \$20,000,000 or more during each of the first five years after the rule's implementation to comply with the rule; or 2) the rule would adversely affect

in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. An economic impact report, however, is not required for an emergency rule.

An economic impact report must contain information on the effect of the proposed rule on specific businesses, business sectors, and the state's economy and must include all of the following: 1) an analysis and quantification of the problem, including any risks to public health or the environment, that the rule is intending to address; 2) an analysis and quantification of the economic impact of the rule, including costs reasonably expected to be incurred by the state, governmental units, associations, businesses, and affected individuals; and 3) an analysis of benefits of the rule, including how the rule reduces the risks and addresses the problems that the rule is intended to address. The agency must submit the economic impact report to the legislative council staff and DOA and may not submit the proposed rule to the legislature until DOA has issued a report on the proposed rule and the secretary has approved the proposed rule.

This substitute amendment requires *any* state agency to prepare an economic impact *analysis*, rather than a *report*, before the agency may submit *any* proposed rule to the *legislative council staff* for review, which must be done before a public hearing is held on the proposed rule or, if no public hearing is held, before the proposed rule is submitted to the legislature for review.

The substitute amendment also requires certain additional information to be included in an economic impact analysis. Specifically, in addition to the information that must be included in an economic impact report under current law, an economic impact analysis must also include:

1. Information on the effect of a proposed rule on public utility ratepayers.
2. An analysis of alternative to the proposed rule, including the alternative of not promulgating the rule.
3. A determination made in consultation with the businesses and individuals that may be affected by the proposed rule as to whether the proposed rule would adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of this state.
4. Comparisons with the approaches used by the federal government and by Illinois, Iowa, Michigan, and Minnesota to address the policy problem that the proposed rule is intending to address and, if the approach chosen by the agency to address that policy problem is different from those approaches, a statement as to why the agency chose a different approach.
5. An assessment of how effective the proposed rule will be in addressing the policy problem that the rule is intended to address.

In addition, the substitute amendment requires all of the following:

1. An agency to submit an economic impact statement not only to the legislative council staff and DOA as under current law but also to the governor and to the chief clerk of each house of the legislature for distribution to the presiding officers of each house, the chairpersons of the appropriate standing committees of each house, and

the cochairpersons of the Joint Committee for Review of Administrative Rules (JCRAR).

2. DOA to issue a report on a proposed rule, and the secretary to approve a proposed rule, if the economic impact analysis indicates that a total of \$20,000,000 or more in implementation and compliance costs are reasonably expected to be incurred by or passed along to businesses and individuals as a result of the proposed rule.

3. An agency to prepare a revised economic impact analysis if a proposed rule is modified after the original economic impact analysis is submitted so as to significantly change the economic impact of the proposed rule.

4. The legislative council staff to provide on its Internet site an economic impact analysis submitted to the legislative council staff or a link to that analysis.

5. A notice of a public hearing on a proposed rule to include the economic impact analysis for the proposed rule and any report on the proposed rule prepared by DOA, or a summary of that analysis and report and a description of how the full analysis and report may be obtained from the agency at no charge.

6. An agency to prepare an economic impact analysis for a proposed emergency rule and to submit that analysis to DOA, to the governor, and to the chief clerks of each house of the legislature for distribution to the presiding officers of each house, to the chairpersons of the appropriate standing committees of each house, and to the cochairpersons of JCRAR. If the economic impact analysis indicates that a total of \$20,000,000 or more in implementation and compliance costs are reasonably expected to be incurred by or passed along to businesses and individuals as a result of the proposed emergency rule, DOA must review the proposed rule and issue a report, and the agency may not file the proposed emergency rule with the LRB until the agency receives a copy of that report and the approval of the secretary.

### ***Legislative review of proposed rules***

Under current law, when a proposed rule is in final form, the agency must notify the legislature as to that fact and the presiding officer of each house of the legislature must then direct the proposed rule to be referred to one standing committee of his or her house. If that notice is received on or after September 1 of an even-numbered year, the notice is considered received on the first day of the next regular session of the legislature, which means that legislative review of the proposed rule is deferred to the next legislature. A standing committee to which a proposed rule is referred then has 30 days after referral within which to review the proposed rule (committee review period). During the committee review period, a standing committee may request modifications to the proposed rule, waive its jurisdiction over the proposed rule, or object to the proposed rule.

If a standing committee objects to a proposed rule, the proposed rule and objection are referred to JCRAR, which also has a 30-day committee review period within which JCRAR must meet in executive session to take action on the standing committee's objections, which actions include requesting modifications to the proposed rule, nonconcurring in the standing committee's objection to the proposed rule, or objecting to the proposed rule. If JCRAR nonconcurr in the standing committee's objection, the agency may promulgate the rule. If JCRAR objects to the

proposed rule, JCRAR must introduce bills in each house of the legislature to prevent promulgation of the rule and the agency may not promulgate the rule until those bills fail to be enacted.

This substitute amendment changes the date by which a proposed rule must be submitted to the legislature in order for the proposed rule to be reviewed by the current legislature, from September 1 of an even-numbered year to the last day of the legislature's final general-business floorperiod of the biennial session. The substitute amendment, however, permits the presiding officers of both houses of the legislature to refer a proposed rule submitted to the legislature after that date for review by the standing committees and JCRAR of the current legislature. For a proposed rule referred for review after that date, the committee review period extends to the day on which the next legislature convenes. Also, for such a proposed rule, the substitute amendment *permits* JCRAR to meet and take action in executive session. Under the substitute amendment, if JCRAR does meet in executive session with respect to a proposed rule or a part of a proposed rule to which a standing committee has objected, JCRAR *must* take action with respect to the standing committees objections.

In addition, the substitute amendment requires *all* proposed rules reviewed by a standing committee to be referred to JCRAR for review, regardless of whether a standing committee has objected to the proposed rule or <sup>e</sup>a part of the proposed rule. The substitute amendment also provides that the committee review period for JCRAR extends for 30 days after the *last* referral of a proposed rule to JCRAR. In addition, the substitute amendment *permits* JCRAR to meet and take action in executive session with respect to a rule or a part of a rule to which no standing committee has objected. Moreover, the substitute amendment permits JCRAR to request modifications to a proposed rule, nonconcur in a standing committee's objection to a proposed rule, concur in a standing committee's approval of a proposed rule, otherwise approve a proposed rule, waive its jurisdiction over a proposed rule, or object to a proposed rule *in whole or in part*.

a 7 Also, under the substitute amendment, if JCRAR objects to a proposed rule or part of a proposed rule, JCRAR must report the proposed rule or part of the proposed rule and objection to the governor and, within 30 days after that report, the governor must review the proposed rule or part of the proposed rule and objection and may either sustain, nonconcur in, or not act on the objection. If the governor sustains or does not act on the objection, an agency may not promulgate the proposed rule or part of the proposed rule objected to. If the governor nonconcur in the objection, an agency may not promulgate the proposed rule or part of the proposed rule objected to until a bill introduced by JCRAR to prevent promulgation of the proposed rule fails to be enacted.

### ***Venue in judicial review actions and in actions against state***

Under current law, subject to certain exceptions, the exclusive means of judicial review of the validity of a rule is by an action for declaratory judgment as to the validity of the rule brought in the circuit court for Dane County. This substitute amendment permits a declaratory judgment action seeking judicial review of the

validity of a rule to be brought in the county where the party asserting the invalidity of the rule resides or has its principal place of business.

Under current law, any civil action or special proceeding in which the state, a state board or commission, or a state officer, employee, or agent acting in his or her official capacity is the sole defendant, is venued in Dane County. Under the substitute amendment, those actions are venued in the county where the plaintiff resides unless a different venue is specifically authorized by law. Under the substitute amendment, if a plaintiff is not a resident of the state or is not a natural person, the action is venued in the county where the dispute arose.

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

1           **SECTION 1.** 227.10 (2m) of the statutes is created to read:

2           227.10 (2m) No agency may implement or enforce any standard, requirement,  
3 or threshold as a term or condition of any license issued by the agency unless such  
4 implementation and enforcement is expressly required or permitted by statute or by  
5 a rule that has been promulgated in accordance with this subchapter. The governor,  
6 by executive order, may prescribe standards to ensure that rules are promulgated in  
7 compliance with this subchapter.

8           **SECTION 2.** 227.11 (2) (a) of the statutes is renumbered 227.11 (2) (a) (intro.) and  
9 amended to read:

10           227.11 (2) (a) (intro.) Each agency may promulgate rules interpreting the  
11 provisions of any statute enforced or administered by ~~it~~ the agency, if the agency  
12 considers it necessary to effectuate the purpose of the statute, but a rule is not valid  
13 if ~~it~~ the rule exceeds the bounds of correct interpretation. All of the following apply  
14 to the promulgation of a rule interpreting the provisions of a statute enforced or  
15 administered by an agency:

16           **SECTION 3.** 227.11 (2) (a) 1. to 3. of the statutes are created to read:

1           227.11 (2) (a) 1. A statutory or nonstatutory provision containing a statement  
2 or declaration of legislative intent, purpose, findings, or policy does not confer  
3 rule-making authority on the agency or augment the agency's rule-making  
4 authority beyond the rule-making authority that is expressly conferred on the  
5 agency by the legislature.

6           2. A statutory provision describing the agency's general powers or duties does  
7 not confer rule-making authority on the agency or augment the agency's  
8 rule-making authority beyond the rule-making authority that is expressly  
9 conferred on the agency by the legislature.

10          3. A statutory provision containing a specific standard, requirement, or  
11 threshold does not confer on the agency the authority to promulgate, enforce, or  
12 administer a rule that contains a standard, requirement, or threshold that is more  
13 restrictive than the standard, requirement, or threshold contained in the statutory  
14 provision.

15           **SECTION 4.** 227.135 (2) of the statutes is amended to read:

16           227.135 (2) Until An agency that has prepared a statement of the scope of the  
17 proposed rule shall present the statement to the governor and to the individual or  
18 body with policy-making powers over the subject matter of -a- the proposed rule  
19 approves a statement of the scope of the proposed rule, a state employee or official  
20 may not perform any activity in connection with drafting the proposed rule except  
21 for an activity necessary to prepare the statement for approval. The agency may not  
22 send the statement to the legislative reference bureau for publication under sub. (3)  
23 until the governor issues a written notice of approval of the statement. The  
24 individual or body with policy-making powers may not approve -a- the statement  
25 until at least 10 days after publication of the statement in the register as required

1 under sub. (3). ~~If the individual or body with policy-making powers does not~~  
2 ~~disapprove the statement within 30 days after the statement is presented to the~~  
3 ~~individual or body, or by the 11th day after publication of the statement in the~~  
4 ~~register, whichever is later, the statement is considered to be approved~~ No state  
5 employee or official may perform any activity in connection with the drafting of a  
6 proposed rule except for an activity necessary to prepare the statement of the scope  
7 of the proposed rule until the governor and the individual or body with  
8 policy-making powers over the subject matter of the proposed rule approves the  
9 statement.

10 **SECTION 5.** 227.135 (3) of the statutes is amended to read:

11 227.135 (3) ~~The agency shall send the~~ If the governor approves a statement of  
12 the scope of a proposed rule under sub. (2), the agency shall send the statement to  
13 the legislative reference bureau for publication in the register. On the same day that  
14 the agency sends the statement to the legislative reference bureau, the agency shall  
15 send a copy of the statement to the secretary of administration.

16 **SECTION 6.** 227.135 (4) of the statutes is repealed and recreated to read:

17 227.135 (4) If at any time after a statement of the scope of a proposed rule is  
18 approved under sub. (2) the agency changes the scope of the proposed rule in any  
19 meaningful or measurable way, including changing the scope of the proposed rule so  
20 as to include in the scope any activity, business, material, or product that is not  
21 specifically included in the original scope of the proposed rule, the agency shall  
22 prepare and obtain approval of a revised statement of the scope of the proposed rule  
23 in the same manner as the original statement was prepared and approved under  
24 subs. (1) and (2). No state employee or official may perform any activity in connection  
25 with the drafting of the proposed rule except for an activity necessary to prepare the

1 revised statement of the scope of the proposed rule until the revised statement is so  
2 approved.

3 **SECTION 7.** 227.137 (title) of the statutes is amended to read:

4 **227.137 (title) Economic impact reports analyses of proposed rules.**

5 **SECTION 8.** 227.137 (1) of the statutes is repealed.

6 **SECTION 9.** 227.137 (2) (intro.) of the statutes is renumbered 227.137 (2) and  
7 amended to read:

8 ~~227.137 (2) After an agency publishes a statement of the scope of a proposed~~  
9 ~~rule under s. 227.135, and before the agency submits the proposed rule to the~~  
10 ~~legislature for review under s. 227.19 (2), a municipality, an association that~~  
11 ~~represents a farm, labor, business, or professional group, or 5 or more persons that~~  
12 ~~would be directly and uniquely affected by the proposed rule may submit a petition~~  
13 ~~to the department of administration asking that the secretary of administration~~  
14 ~~direct the agency to prepare an economic impact report for the proposed rule. The~~  
15 An agency shall prepare an economic impact report analysis for a proposed rule  
16 before submitting the proposed rule to the legislature for review under s. 227.19 (2)  
17 if the secretary of administration directs the agency to prepare that report. The  
18 secretary of administration may direct the agency to prepare an economic impact  
19 report for the proposed rule before submitting the proposed rule to the legislature for  
20 review under s. 227.19 (2). The secretary of administration shall direct the agency  
21 to prepare an economic impact report for the proposed rule before submitting the  
22 proposed rule to the legislature for review under s. 227.19 (2) if the secretary  
23 determines that all of the following apply: legislative council staff under s. 227.15.

24 **SECTION 10.** 227.137 (2) (a) of the statutes is repealed.

25 **SECTION 11.** 227.137 (2) (b) of the statutes is repealed.

1           **SECTION 12.** 227.137 (3) (intro.) of the statutes is amended to read:

2           227.137 (3) (intro.) An economic impact ~~report~~ analysis of a proposed rule shall  
3 contain information on the economic effect of the proposed rule on specific  
4 businesses, business sectors, public utility ratepayers, and the state's economy as a  
5 whole. When preparing the ~~report~~ analysis, the agency shall solicit information and  
6 advice from ~~the department of commerce, and from governmental units,~~  
7 ~~associations,~~ businesses, associations representing businesses, local governmental  
8 units, and individuals that may be affected by the proposed rule. The agency may  
9 request information that is reasonably necessary for the preparation of an economic  
10 impact ~~report~~ analysis from other ~~state agencies, governmental units, associations,~~  
11 ~~businesses, associations, local governmental units,~~ and individuals and from other  
12 agencies. The economic impact report shall include all of the following:

13           **SECTION 13.** 227.137 (3) (a) of the statutes is amended to read:

14           227.137 (3) (a) An analysis and quantification of the policy problem, including  
15 any risks to public health or the environment, that the proposed rule is intending to  
16 address, including comparisons with the approaches used by the federal government  
17 and by Illinois, Iowa, Michigan, and Minnesota to address that policy problem and,  
18 if the approach chosen by the agency to address that policy problem is different from  
19 those approaches, a statement as to why the agency chose a different approach.

20           **SECTION 14.** 227.137 (3) (b) of the statutes is amended to read:

21           227.137 (3) (b) An analysis and detailed quantification of the economic impact  
22 of the proposed rule, including the implementation and compliance costs that are  
23 reasonably expected to be incurred by ~~the state, governmental units, associations,~~  
24 or passed along to the businesses, and affected individuals that may be affected by  
25 the proposed rule.

1           **SECTION 15.** 227.137 (3) (c) of the statutes is amended to read:

2           227.137 (3) (c) An analysis of the actual and quantifiable benefits of the  
3 proposed rule, including ~~how the rule reduces the risks and addresses the problems~~  
4 an assessment of how effective the proposed rule will be in addressing the policy  
5 problem that the rule is intended to address.

6           **SECTION 16.** 227.137 (3) (d) of the statutes is created to read:

7           227.137 (3) (d) An analysis of alternatives to the proposed rule, including the  
8 alternative of not promulgating the proposed rule.

9           **SECTION 17.** 227.137 (3) (e) of the statutes is created to read:

10          227.137 (3) (e) A determination made in consultation with the businesses and  
11 individuals that may be affected by the proposed rule as to whether the proposed rule  
12 would adversely affect in a material way the economy, a sector of the economy,  
13 productivity, jobs, or the overall economic competitiveness of this state.

14          **SECTION 18.** 227.137 (4) of the statutes is amended to read:

15          227.137 (4) ~~The~~ On the same day that the agency shall submit ~~submits~~ the  
16 economic impact ~~report~~ analysis to the legislative council staff; under s. 227.15 (1),  
17 the agency shall also submit that analysis to the department of administration, ~~and~~  
18 ~~to the petitioner~~ to the governor, and to the chief clerks of each house of the  
19 legislature, who shall distribute the analysis to the presiding officers of their  
20 respective houses, to the chairpersons of the appropriate standing committees of  
21 their respective houses, as designated by those presiding officers, and to the  
22 cochairpersons of the joint committee for review of administrative rules. If a  
23 proposed rule is modified after the economic impact analysis is submitted under this  
24 subsection so that the economic impact of the proposed rule is significantly changed,  
25 the agency shall prepare a revised economic impact analysis for the proposed rule as

1 modified. A revised economic impact analysis shall be prepared and submitted in the  
2 same manner as an original economic impact analysis is prepared and submitted.

3 **SECTION 19.** 227.137 (5) of the statutes is repealed.

4 **SECTION 20.** 227.138 (title) and (1) of the statutes are repealed.

5 **SECTION 21.** 227.138 (2) (intro.) of the statutes is renumbered 227.137 (6)  
6 (intro.) and amended to read:

7 227.137 (6) (intro.) If an economic impact report will be prepared under s.  
8 227.137 (2) analysis regarding a proposed rule indicates that a total of \$20,000,000  
9 or more in implementation and compliance costs are reasonably expected to be  
10 incurred by or passed along to businesses and individuals as a result of the proposed  
11 rule, the department of administration shall review the proposed rule and issue a  
12 report. The agency ~~shall~~ may not submit a proposed rule to the legislature for review  
13 under s. 227.19 (2) until the agency receives a copy of the department's report and  
14 the approval of the secretary of administration. The report shall include all of the  
15 following findings:

16 **SECTION 22.** 227.138 (2) (a) of the statutes is renumbered 227.138 (6) (a) and  
17 amended to read:

18 227.138 (6) (a) That the economic impact report ~~and the analysis required~~  
19 ~~under s. 227.137 (3) are~~ is supported by related documentation contained or  
20 referenced in the economic impact report analysis.

21 **SECTION 23.** 227.138 (2) (b) of the statutes is renumbered 227.137 (6) (b).

22 **SECTION 24.** 227.138 (2) (c) of the statutes is renumbered 227.137 (6) (c).

23 **SECTION 25.** 227.138 (2) (d) of the statutes is renumbered 227.137 (6) (d).

24 **SECTION 26.** 227.138 (3) of the statutes is renumbered 227.137 (7) and amended  
25 to read:

1           227.137 (7) Before issuing a report under sub. (2) (6), the department of  
2           administration may return a proposed rule to the agency for further consideration  
3           and revision with a written explanation of why the proposed rule is being returned.  
4           If the agency head disagrees with the department's reasons for returning the  
5           proposed rule, the agency head shall so notify the department in writing. The  
6           secretary of administration shall approve the proposed rule when the agency has  
7           adequately addressed the issues raised during the department's review of the rule.

8           **SECTION 27.** 227.138 (4) of the statutes is repealed.

9           **SECTION 28.** 227.14 (2) (a) 6. of the statutes is amended to read:

10          227.14 (2) (a) 6. Any analysis and supporting documentation that the agency  
11          used in support of the agency's determination of the rule's effect on small businesses  
12          under s. 227.114 or that was used when the agency prepared an economic impact  
13          report analysis under s. 227.137 (3).

14          **SECTION 29.** 227.15 (1) of the statutes is amended to read:

15          227.15 (1) SUBMITTAL TO LEGISLATIVE COUNCIL STAFF. Prior to a public hearing  
16          on a proposed rule or, if no public hearing is required, prior to notice under s. 227.19,  
17          an agency shall submit the proposed rule to the legislative council staff for review.  
18          The proposed rule shall be in the form required under s. 227.14 (1), and shall include  
19          the material required under s. 227.14 (2) ~~to (4), (3), and (4)~~ and the economic impact  
20          analysis required under s. 227.137 (2). An agency may not hold a public hearing on  
21          a proposed rule or give notice under s. 227.19 until after it has received a written  
22          report of the legislative council staff review of the proposed rule or until after the  
23          initial review period of 20 working days under sub. (2) (intro.), whichever comes first.  
24          An agency may give notice of a public hearing prior to receipt of the legislative council  
25          staff report. This subsection does not apply to rules promulgated under s. 227.24.

1           **SECTION 30.** 227.15 (1m) (bm) of the statutes is created to read:

2           227.15 **(1m)** (bm) The economic impact analysis required under s. 227.137 (2).

3           **SECTION 31.** 227.17 (3) (em) of the statutes is created to read:

4           227.17 **(3)** (em) The economic impact analysis required under s. 227.137 (2) and  
5 any report prepared by the department of administration under s. 227.137 (6), or a  
6 summary of that analysis and report and a description of how a copy of the full  
7 analysis and report may be obtained from the agency at no charge.

8           **SECTION 32.** 227.185<sup>↓</sup> of the statutes is created to read:

9           **227.185 Approval by governor.** After a proposed rule is in final draft form,  
10 the agency shall submit the proposed rule to the governor for approval. The governor,  
11 in his or her discretion, may approve or reject the proposed rule. If the governor  
12 approves a proposed rule, the governor shall provide the agency with a written notice  
13 of that approval. No proposed rule may be submitted to the legislature for review  
14 under s. 227.19 (2)<sup>↓</sup> or filed with the legislative reference bureau under s. 227.20<sup>↓</sup> for  
15 publication under s. 227.21<sup>↓</sup> unless the governor has approved the proposed rule in  
16 writing.

17           **SECTION 33.** 227.19 (2) of the statutes is amended to read:

18           227.19 **(2) NOTIFICATION OF LEGISLATURE.** An agency shall submit a notice to the  
19 chief clerk of each house of the legislature when a proposed rule is in final draft form.  
20 The notice shall be submitted in triplicate and shall be accompanied by a report in  
21 the form specified under sub. (3). A notice received under this subsection on or after  
22 September 1 of an even-numbered year the last day of the legislature's final  
23 general-business floorperiod in the biennial session as established in the joint  
24 resolution required under s. 13.02 (3) shall be considered received on the first day of  
25 the next regular session of the legislature, unless the presiding officers of both

1 houses direct referral of the notice and report under this subsection before that day.

2 The presiding officer of each house of the legislature shall, within 10 working days  
3 following the day on which the notice and report are received, direct the appropriate  
4 chief clerk to refer ~~them~~ the notice and report to one standing committee. The agency  
5 shall submit to the legislative reference bureau for publication in the register a  
6 statement that a proposed rule has been submitted to the chief clerk of each house  
7 of the legislature. Each chief clerk shall enter a similar statement in the journal of  
8 his or her house.

9 **SECTION 34.** 227.19 (3) (intro.) of the statutes is amended to read:

10 227.19 (3) FORM OF REPORT. (intro.) The report required under sub. (2) shall be  
11 in writing and shall include the proposed rule in the form specified in s. 227.14 (1),  
12 the material specified in s. 227.14 (2) ~~to~~, (3), and (4), a copy of any economic impact  
13 report analysis prepared by the agency under s. 227.137 (2), a copy of any report  
14 prepared by the department of administration under s. ~~227.138~~ 227.137 (6), a copy  
15 of any energy impact report received from the public service commission under s.  
16 227.117 (2), and a copy of any recommendations of the legislative council staff. The  
17 report shall also include all of the following:

18 **SECTION 35.** 227.19 (4) (b) 1. (intro.) of the statutes is amended to read:

19 227.19 (4) (b) 1. (intro.) Except as provided under ~~subd.~~ subds. 1m. and 5., the  
20 committee review period for each committee extends for 30 days after referral of the  
21 proposed rule to the committee under sub. (2). If the chairperson or the  
22 cochairpersons of a committee take either of the following actions within the 30-day  
23 period, the committee review period for that committee is continued for 30 days from  
24 the date on which the first 30-day review period would have expired:

25 **SECTION 36.** 227.19 (4) (b) 1m. of the statutes is created to read:

1           227.19 (4) (b) 1m. Except as provided under subd. 5., if a notice and report  
2 received under sub. (2) after the last day of the legislature's final general-business  
3 floorperiod as specified in sub. (2) is referred for committee review before the first day  
4 of the next regular session of the legislature, the committee review period for each  
5 committee to which the proposed rule is referred extends to the day specified under  
6 s. 13.02 (1) for the next legislature to convene.

7           **SECTION 37.** 227.19 (4) (b) 2. of the statutes is amended to read:

8           227.19 (4) (b) 2. If a committee, by a majority vote of a quorum of the committee,  
9 requests modifications in a proposed rule, and the agency, in writing, agrees to  
10 consider making modifications, the review period for both committees to which the  
11 proposed rule is referred is extended either to the 10th working day following receipt  
12 by ~~the~~ those committees of the modified proposed rule or a written statement to the  
13 committee requesting the modifications that the agency will not make the  
14 modifications or to the expiration of the review period under subd. 1. or, if applicable,  
15 subd. 1m., whichever is later. There is no limit either on the number of modification  
16 agreements that may be entered into or on the time within which modifications may  
17 be made.

18           **SECTION 38.** 227.19 (4) (b) 2m. of the statutes is amended to read:

19           227.19 (4) (b) 2m. If a committee requests in writing that the public service  
20 commission determine the rule's impact on the cost or reliability of electricity  
21 generation, transmission, or distribution or of fuels used in generating electricity, the  
22 commission shall prepare an energy impact report in the manner provided under s.  
23 227.117 (1). The commission shall submit a copy of the report to the committee and  
24 to the agency that proposed the rule within 30 days after the written request is  
25 submitted to the commission. The review period for both committees to which the

1 proposed rule is referred is extended to the 10th working day following receipt by ~~the~~  
2 those committees of the report, to the expiration of the review period under subd. 1.  
3 or, if applicable, subd. 1m., or to the expiration of the review period under subd. 2.,  
4 whichever is later.

5 **SECTION 39.** 227.19 (4) (b) 3. of the statutes is amended to read:

6 227.19 (4) (b) 3. An agency may, on its own initiative, submit a germane  
7 modification to a proposed rule to a committee during its review period. If a germane  
8 modification is submitted within the final 10 days of a committee review period  
9 under subd. 1., the review period for both committees to which the proposed rule is  
10 referred is extended for 10 working days. If a germane modification is submitted to  
11 a committee after the committee in the other house has concluded its jurisdiction  
12 over the proposed rule, the jurisdiction of the committee of the other house is revived  
13 for 10 working days. In this subdivision, an agency's proposal to delete part of a  
14 proposed rule under committee review shall be treated as a germane modification of  
15 the proposed rule.

16 **SECTION 40.** 227.19 (4) (b) 3m. of the statutes is amended to read:

17 227.19 (4) (b) 3m. An agency may, during the committee review period,  
18 reconsider its action by recalling the proposed rule from the chief clerk of each house  
19 of the legislature. If the agency decides to continue the rule-making process with  
20 regard to the proposed rule, ~~it~~ the agency shall resubmit the proposed rule, either in  
21 its recalled form or with one or more germane modifications, to the chief clerk in each  
22 house of the legislature as provided in sub. (2) and the committee review period  
23 under subd. 1. or, if applicable, subd. 1m. shall begin again.

24 **SECTION 41.** 227.19 (4) (b) 5. of the statutes is amended to read:

1           227.19 (4) (b) 5. If a committee in one house votes to object to a proposed rule  
2           or to a part of the proposed rule under par. (d), the chairperson or cochairpersons of  
3           the committee in the other house shall immediately notify the chairperson or  
4           cochairpersons of the committee to which the proposed rule was referred ~~in the other~~  
5           ~~house~~. Upon receipt of the notice, the review period for the committee in the other  
6           house immediately ceases and no further action on the proposed rule or part of the  
7           proposed rule objected to may be taken under this paragraph by that committee, but  
8           the committee may proceed under par. (d) to object to the proposed rule or <sup>a</sup> part of  
9           the proposed rule.

10           **SECTION 42.** 227.19 (4) (b) 6. of the statutes is amended to read:

11           227.19 (4) (b) 6. If a committee has not concluded its jurisdiction over a  
12           proposed rule or <sup>a</sup> part of a proposed rule before the day specified under s. 13.02 (1) for  
13           the next legislature to convene, that jurisdiction immediately ceases and, within 10  
14           working days after that date, the presiding officer of the appropriate house shall  
15           refer the proposed rule or part of the proposed rule to the appropriate standing  
16           committee of the next legislature as provided under sub. (2). ~~The~~ If a committee  
17           review period ~~that was~~ is interrupted by the loss of jurisdiction under this  
18           subdivision ~~continues~~, a new committee review period as provided in subd. 1. shall  
19           begin for the committee to which the proposed rule or part of the proposed rule is  
20           referred under this subdivision beginning on the date of referral under this  
21           subdivision.

22           **SECTION 43.** 227.19 (4) (c) of the statutes is amended to read:

23           227.19 (4) (c) ~~Agency not to promulgate rule during~~ Waiver of committee review.  
24           ~~An agency may not promulgate a proposed rule during the committee review period~~  
25           ~~unless both committees waive jurisdiction over the proposed rule prior to the~~

1 ~~expiration of the review period.~~ A committee may waive its jurisdiction over a  
2 proposed rule prior to the expiration of the committee review period by adopting, by  
3 a majority vote of a quorum of the committee, a motion waiving the committee's  
4 jurisdiction.

5 **SECTION 44.** 227.19 (4) (d) (intro.) of the statutes is amended to read:

6 227.19 (4) (d) *Committee action.* (intro.) A committee, by a majority vote of a  
7 quorum of the committee during the applicable review period under par. (b), may  
8 object to a proposed rule or to a part of a proposed rule for one or more of the following  
9 reasons:

10 **SECTION 45.** 227.19 (4) (e) of the statutes is repealed and recreated to read:

11 227.19 (4) (e) *Conclusion of committee jurisdiction.* Subject to par. (b) 3., a  
12 committee's jurisdiction over a proposed rule is concluded when the committee  
13 objects to, approves, or waives its jurisdiction over the proposed rule or when the  
14 committee review period ends, whichever occurs first. When a committee's  
15 jurisdiction over a proposed rule is concluded, the committee shall report the  
16 proposed rule and any objection as provided in sub. (5) (a).

17 **SECTION 46.** 227.19 (5) (a) of the statutes is amended to read:

18 227.19 (5) (a) *Referral.* ~~If a committee objects to~~ When a committee's  
19 jurisdiction over a proposed rule is concluded as provided in sub. (4) (e), the  
20 committee shall report the proposed rule and ~~the~~ any objection to the chief clerk of  
21 the appropriate house within 5 working days after ~~making the objection that~~  
22 jurisdiction is concluded. The chief clerk shall refer the proposed rule and ~~the~~ any  
23 objection to the joint committee for review of administrative rules within 5 working  
24 days after receiving the committee report.

25 **SECTION 47.** 227.19 (5) (b) 1. (intro.) of the statutes is amended to read:

1           227.19 (5) (b) 1. (intro.) The Except as provided in subd. 1m., the review period  
2           for the joint committee for review of administrative rules extends for 30 days after  
3           the last referral of a proposed rule and objection are referred to it to that committee,  
4           and during that review period that committee may take any action on the proposed  
5           rule in whole or in part permitted under this subsection. The joint committee for  
6           review of administrative rules shall meet and take action in executive session during  
7           that period with respect to any proposed rule or part of a proposed rule to which a  
8           committee has objected and may meet and take action in executive session during  
9           that period with respect to any proposed rule or part of a proposed rule to which no  
10           committee has objected, except that if the cochairpersons take either of the following  
11           actions within the 30-day period, the joint committee review period is continued for  
12           30 days from the date on which the first 30-day review period would have expired:

13           **SECTION 48.** 227.19 (5) (b) 1m. of the statutes is created to read:

14           227.19 (5) (b) 1m. If a notice and report received under sub. (2) after the last  
15           day of the legislature's final general-business floorperiod as specified in sub. (2) is  
16           referred for committee review before the first day of the next regular session of the  
17           legislature, the review period for the joint committee for review of administrative  
18           rules extends to the day specified under s. 13.02 (1) for the next legislature to  
19           convene. During that review period, the joint committee for review of administrative  
20           rules may meet and take action in executive session and may take any action on the  
21           proposed rule in whole or in part permitted under this subsection. If the joint  
22           committee <sup>o</sup> for review of administrative rules meets in executive session with  
23           respect to a proposed rule or <sup>a</sup> part of a proposed rule to which a committee has  
24           objected, that joint committee shall take action as permitted under this subsection  
25           with respect to the committee's objection.

1           **SECTION 49.** 227.19 (5) (b) 2. of the statutes is amended to read:

2           227.19 (5) (b) 2. If the joint committee for review of administrative rules, by a  
3 majority vote of a quorum of the committee, requests modifications in a proposed  
4 rule, and the agency, in writing, agrees to consider making modifications, the review  
5 period for the joint committee is extended either to the 10th working day following  
6 receipt by the joint committee of the modified proposed rule or a written statement  
7 to the joint committee that the agency will not make the modifications or to the  
8 expiration of the review period under subd. 1. or, if applicable, subd. 1m., whichever  
9 is later. There is no limit either on the number of modification agreements that may  
10 be entered into or on the time within which modifications may be made.

11           **SECTION 50.** 227.19 (5) (b) 3. of the statutes is repealed.

12           **SECTION 51.** 227.19 (5) (b) 4. <sup>↓</sup> of the statutes is amended to read:

13           227.19 (5) (b) 4. If the joint committee for review of administrative rules has  
14 not concluded its jurisdiction over a proposed rule <sup>STB → ✓ OK</sup> or a part of a proposed rule before  
15 the day specified under s. 13.02 (1) for the next legislature to convene, that  
16 jurisdiction immediately ceases and, within 10 working days after that date, the  
17 presiding officer of the appropriate house shall refer the proposed rule or part of the  
18 proposed rule to the joint committee for review of administrative rules. ~~The of the~~  
19 next legislature. If a committee review period that was is interrupted by the loss of  
20 jurisdiction under this subdivision ~~continues~~, a new committee review period as  
21 provided in subd. 1. shall begin for the joint committee for review of administrative  
22 rules to which the proposed rule or part of the proposed rule is referred under this  
23 subdivision beginning on the date of referral under this subdivision.

24           **SECTION 52.** 227.19 (5) (c) of the statutes is amended to read:

1           227.19 (5) (c) *Agency not to promulgate rule during joint committee review.* An  
2 agency may not promulgate a proposed rule to which a committee has objected unless  
3 or part of a proposed rule until the joint committee for review of administrative rules,  
4 under par. (d), nonconcur in the ~~action~~ objection of the committee, concurs in the  
5 approval of the committee, otherwise approves the proposed rule or part of the  
6 proposed rule, or waives its jurisdiction over the proposed rule or part of the proposed  
7 rule under par. (d), or until a bill introduced under par. (e) fails to be enacted. An  
8 agency may promulgate any part of a proposed rule to which no objection has been  
9 made.

10           **SECTION 53.** 227.19 (5) (d) of the statutes is amended to read:

11           227.19 (5) (d) *Joint committee action.* The joint committee for review of  
12 administrative rules may nonconcur in a committee's objection to a proposed rule or  
13 a part of a proposed rule, concur in a committee's approval of a proposed rule or part  
14 of a proposed rule, otherwise approve a proposed rule or part of a proposed rule, or  
15 waive its jurisdiction over a proposed rule or part of a proposed rule by voting to  
16 nonconcur, concur, approve, or waive during the applicable review period under par.

17 (b). If the joint committee for review of administrative rules objects to a proposed  
18 rule, or part of a proposed rule, that committee shall report the proposed rule or part  
19 of the proposed rule and objection to the governor within 5 working days after  
20 making the objection. Within 30 days after the proposed rule or part of the proposed  
21 rule and objection are reported to the governor, the governor shall review the  
22 proposed rule or part of the proposed rule and objection and may either sustain,  
23 nonconcur in, or not act on the objection. If the governor sustains or does not act on  
24 the objection, an agency may not promulgate the proposed rule or part of the  
25 proposed rule objected to. If the governor nonconcur in the objection, an agency may

1 not promulgate the proposed rule or part of the proposed rule objected to until a bill  
2 introduced under par. (e) fails to be enacted. The joint committee for review of  
3 administrative rules may object to a proposed rule <sup>a</sup>or part of a proposed rule only for  
4 one or more of the reasons specified under sub. (4) (d).

5 **SECTION 54.** 227.19 (5) (e) of the statutes is amended to read:

6 227.19 (5) (e) *Bills to prevent promulgation.* When the joint committee for  
7 review of administrative rules objects to a proposed rule <sup>a</sup>or part of a proposed rule  
8 it shall, within 30 days of the date of the objection, meet and take executive action  
9 regarding the introduction, in each house of the legislature, of a bill to support the  
10 objection. The joint committee shall introduce the bills within 5 working days after  
11 taking executive action in favor of introduction of the bills unless the bills cannot be  
12 introduced during this time period under the joint rules of the legislature.

13 **SECTION 55.** 227.19 (5) (f) of the statutes is amended to read:

14 227.19 (5) (f) *Timely introduction of bills; effect.* If both bills required under par.  
15 (e) are defeated, or fail to be enacted in any other manner, the agency may  
16 promulgate the proposed rule or part of the proposed rule that was objected to. If  
17 either bill becomes law, the agency may not promulgate the proposed rule or part of  
18 the proposed rule that was objected to unless a subsequent law specifically  
19 authorizes its promulgation. This paragraph applies to bills introduced on or after  
20 the day specified under s. 13.02 (1) for the legislature to convene and before February  
21 1 of an even-numbered year.

22 **SECTION 56.** 227.19 (5) (g) (intro.) of the statutes is amended to read:

23 227.19 (5) (g) (intro.) If the bills required under par. (e) are introduced on or  
24 after February 1 of an even-numbered year and before the next regular session of  
25 the legislature commences, as provided under s. 13.02 (2), or if the bills cannot be

1 introduced during this time period under the joint rules of the legislature, the joint  
2 committee for review of administrative rules shall introduce the bills on the first day  
3 of the next regular session of the legislature, unless either house adversely disposes  
4 of either bill. If the joint committee for review of administrative rules is required to  
5 introduce the bills, the agency may not promulgate the proposed rule or part of the  
6 proposed rule to which the bills pertain except as provided in par. (f). If either house  
7 adversely disposes of either bill, the agency may promulgate the proposed rule or  
8 part of the proposed rule that was objected to. In this paragraph, "adversely disposes  
9 of" means that one house has voted in one of the following ways:

10 **SECTION 57.** 227.19 (6) (a) 1. of the statutes is amended to read:

11 227.19 (6) (a) 1. An explanation of the issue involving the proposed rule or part  
12 of the proposed rule objected to and the factual situation out of which the issue arose.

13 **SECTION 58.** 227.19 (6) (a) 4. of the statutes is amended to read:

14 227.19 (6) (a) 4. A statement and analysis of the grounds upon which the joint  
15 committee for review of administrative rules relies for objecting to the proposed rule  
16 or part of the proposed rule.

17 **SECTION 59.** 227.24 (1) (e) 1. of the statutes is renumbered 227.24 (1) (e) 1m.

18 **SECTION 60.** 227.24 (1) (e) 1d. of the statutes is created to read:

19 227.24 (1) (e) 1d. Prepare a statement of the scope of the proposed emergency  
20 rule as provided in s. 227.135 (1), obtain approval of the statement as provided in s.  
21 227.135 (2), and send the statement to the legislative reference bureau for  
22 publication in the register under s. 227.135 (3) at the same time that the proposed  
23 emergency rule is published. If the agency changes the scope of a proposed  
24 emergency rule as described in s. 227.135 (4), the agency shall prepare and obtain

1 approval of a revised statement of the scope of the proposed emergency rule as  
2 provided in s. 227.135 (4).

3 **SECTION 61.** 227.24 (1) (e) 1g. of the statutes is created to read:

4 227.24 (1) (e) 1g. Submit the proposed emergency rule in final draft form to the  
5 governor for approval. The governor, in his or her discretion, may approve or reject  
6 the proposed emergency rule. If the governor approves a proposed emergency rule,  
7 the governor shall provide the agency with a written notice of that approval. An  
8 agency may not file an emergency rule for publication until the governor approves  
9 the emergency rule in writing.

10 **SECTION 62.** 227.40 (1) of the statutes is amended to read:

11 227.40 (1) Except as provided in sub. (2), the exclusive means of judicial review  
12 of the validity of a rule shall be an action for declaratory judgment as to the validity  
13 of ~~such~~ the rule brought in the circuit court for the county where the party asserting  
14 the invalidity of the rule resides or has its principal place of business or, if that party  
15 is a nonresident or does not have its principal place of business in this state, in the  
16 circuit court for Dane County. The officer, ~~board, commission~~ or other agency whose  
17 rule is involved shall be the party defendant. The summons in ~~such~~ the action shall  
18 be served as provided in s. 801.11 (3) and by delivering a copy to ~~such~~ that officer or,  
19 if the agency is composed of more than one person, to the secretary or clerk of the  
20 agency ~~where composed of more than one person~~ or to any member of ~~such~~ the agency.  
21 The court shall render a declaratory judgment in ~~such~~ the action only when it  
22 appears from the complaint and the supporting evidence that the rule or its  
23 threatened application interferes with or impairs, or threatens to interfere with or  
24 impair, the legal rights and privileges of the plaintiff. A declaratory judgment may

1 be rendered whether or not the plaintiff has first requested the agency to pass upon  
2 the validity of the rule in question.

3 **SECTION 63.** 801.50 (3) of the statutes is amended to read:

4 801.50 (3) All actions in which the sole defendant is the state, any state board  
5 or commission or any state officer, employee or agent in an official capacity shall be  
6 venued in ~~Dane County~~ the county where the plaintiff resides unless another venue  
7 is specifically authorized by law. If the plaintiff is a nonresident or is not a natural  
8 person, the action shall be venued in the county where the dispute arose.

9 **SECTION 9309. Initial applicability; Circuit Courts.**

10 (1) VENUE IN DECLARATORY JUDGMENT ACTIONS. The treatment of section 227.40  
11 (1) of the statutes first applies to an action for declaratory judgment commenced on  
12 the effective date of this subsection.

13 (2) VENUE IN CERTAIN ACTIONS AGAINST THE STATE. The treatment of section  
14 801.50 (3) of the statutes first applies to an action commenced on the effective date  
15 of this subsection.

16 **SECTION 9355. Initial applicability; Other.**

17 (1) RULE-MAKING AUTHORITY; RULES INTERPRETING STATUTES. The renumbering  
18 and amendment of section 227.11 (2) (a) of the statutes and the creation of section  
19 227.11 (2) (a) 1. to 3. of the statutes first apply to a proposed administrative rule  
20 submitted to the legislative council staff under section 227.15 of the statutes on the  
21 effective date of this subsection.

22 (2) ECONOMIC IMPACT ANALYSES. The treatment of sections 227.137 (title), (1), (2)  
23 (intro.), (a) and (b), (3) (intro.), (a), (b), (c), (d), and (e), (4), and (5), 227.138 (title), (1),  
24 (2) (intro.), (a), (b), (c), and (d), (3), and (4), 227.14 (2) (a) 6., 227.15 (1) and (1m) (bm),  
25 227.17 (3) (em), and 227.19 (3) (intro.) of the statutes first applies to a proposed

1 administrative rule submitted to the legislative council staff under section 227.15 of  
2 the statutes, as affected by this act, and to a proposed emergency rule filed with the  
3 legislative reference bureau under section 227.24 (3) of the statutes on the effective  
4 date of this subsection.

5 (3) GUBERNATORIAL APPROVAL OF EMERGENCY RULES. The treatment of sections  
6 227.135 (2), (3), and (4), 227.185, and 227.24 (1) (e) 1., 1d., and 1g. of the statutes first  
7 applies to a proposed rule or emergency rule whose statement of scope is presented  
8 to the governor for approval on the effective date of this subsection.

9 (4) LEGISLATIVE AND GUBERNATORIAL APPROVAL OF RULES. The treatment of section  
10 227.19 (2), (4) (b) 1. (intro.), 1m., 2., 2m., 3., 3m., 5., and 6., (c), (d) (intro.), and (e),  
11 (5) (a), (b) 1. (intro.), 1m., 2., 3., and 4., (c), (d), (e), (f), and (g) (intro.), and (6) (a) 1.  
12 and 4. of the statutes first applies to a proposed rule submitted to the legislature  
13 under section 227.19 (2), as affected by this act, on the effective date of this  
14 subsection.

15 (END)