

**2013 DRAFTING REQUEST**

**Bill**

Received: **5/17/2013** Received By: **gmalaise**  
Wanted: **As time permits** Same as LRB:  
For: **Jill Billings (608) 266-5780** By/Representing: **Chris McKinney**  
May Contact: Drafter: **gmalaise**  
Subject: **Administrative Law** Addl. Drafters:  
Extra Copies:

Submit via email: **YES**  
Requester's email: **Rep.Billings@legis.wisconsin.gov**  
Carbon copy (CC) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Rules promulgated by government accountability board; elimination of gubernatorial approval requirements

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**Instructions:**

See attached--redraft 2011 AB 355

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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 5/17/2013	csicilia 5/29/2013	jfrantze 5/29/2013	_____			
/1				_____	mbarman 5/29/2013	lparisi 5/29/2013	

FE Sent For:

↳ Not Needed

<END>

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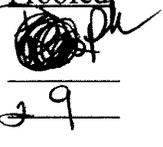
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/?	gmalaise	195 5/28					
FE Sent For:		13					

<END>

**Malaise, Gordon**

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**From:** McKinny, Chris  
**Sent:** Friday, May 17, 2013 11:28 AM  
**To:** Malaise, Gordon  
**Subject:** Bill Re-Draft

Hi Gordon,

Could we please have this bill from last session re-drafted?

<https://docs.legis.wisconsin.gov/2011/related/proposals/ab355.pdf>

Thanks!

Chris



State of Wisconsin  
2011 - 2012 LEGISLATURE



-2405/1

LRB-3102/1  
GMM:MAA:rs

IN 5/17

13

2011 ASSEMBLY BILL 355

P.W.F.

gjs

Sxll  
SA13  
K-1/2

November 1, 2011 - Introduced by Representatives HEBL, BARCA, ROYS, PASCH, DOYLE, MILROY, C. TAYLOR, POCAN, GRIGSEY, BERCEAU, JORGENSEN, RINGHAND, TURNER, KESSLER, BEWLEY, POPE-ROBERTS, BERNARD SCHABER and SINICKI, cosponsored by Senators RISSER, T. CULLEN, TAYLOR, JAUCH, C. LARSON, ERPENBACH, HANSEN, MILLER, CARPENTER and KING. Referred to Committee on Election and Campaign Reform.

elimination of certain gubernatorial approval requirements for administrative rules proposed

- 1 AN ACT to amend 227.135 (2), 227.135 (3), 227.135 (4), 227.185, 227.24 (1) (e) 1d.
- 2 and 227.24 (1) (e) 1g.; and to create 227.135 (2m) of the statutes; relating to:
- 3 ~~exempting rules promulgated~~ by the Government Accountability Board from
- 4 ~~certain administrative rule-making procedures involving the approval of the~~
- 5 ~~governor.~~

**Analysis by the Legislative Reference Bureau**

~~Current law requires all state agencies during the administrative rule promulgation process to present to the governor for approval all statements of the scope of proposed rules, the final draft form of the proposed rules, and the final draft form of all emergency rules. Without the approval of the governor of the statements of the scope of proposed rules and the final draft forms of proposed rules and emergency rules, the state agencies may not promulgate the rules. This bill exempts the Government Accountability Board from these administrative rule-making requirements.~~

Insert  
A

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

- 6 SECTION 1. 227.135 (2) of the statutes, as affected by 2011 Wisconsin Act 21,
- 7 is amended to read:

**ASSEMBLY BILL 355**

**SECTION 1**

a

1           227.135 (2) ~~An~~ Except as provided in sub. (2m), an agency that has prepared  
 2 a statement of the scope of ~~the~~ proposed rule shall present the statement to the  
 3 governor and to the individual or body with policy-making powers over the subject  
 4 matter of the proposed rule for approval. The agency may not send the statement  
 5 to the legislative reference bureau for publication under sub. (3) until the governor  
 6 issues a written notice of approval of the statement. The individual or body with  
 7 policy-making powers may not approve the statement until at least 10 days after  
 8 publication of the statement under sub. (3). No state employee or official may  
 9 perform any activity in connection with the drafting of a proposed rule to which this  
 10 subsection applies except for an activity necessary to prepare the statement of the  
 11 scope of the proposed rule until the governor and the individual or body with  
 12 policy-making powers over the subject matter of the proposed rule approves the  
 13 statement.

~~SECTION 2. 227.135 (2m) of the statutes is created to read:~~

~~227.135 (2m) If the the government accountability board prepares a statement  
 of the scope of a proposed rule, that board shall present the statement to the  
 individual or body with policy-making powers over the subject matter of the  
 proposed rule for approval. The individual or body with policy-making powers may  
 not approve the statement until at least 10 days after publication of the statement  
 under sub. (3). No state employee or official may perform any activity in connection  
 with the drafting of a proposed rule to which this subsection applies except for an  
 activity necessary to prepare the statement of the scope of the proposed rule until the  
 individual or body with policy-making powers approves the statement.~~

~~SECTION 3. 227.135 (3) of the statutes, as affected by 2011 Wisconsin Act 21,~~

is amended to read:

Inser  
2-23

X

ASSEMBLY BILL 355

government accountability board

that proposed the rule

1           227.135 (3) If the governor approves a statement of the scope of a proposed rule  
 2           under sub. (2), the agency shall send the statement to the legislative reference  
 3           bureau for publication in the register. If a statement of the scope of a proposed rule  
 4           is presented to the ~~individual or body with policy-making powers over the subject~~  
 5           ~~matter of the proposed rule~~ under sub. (2m), the government accountability board  
 6           ~~presenting the statement~~ shall send the statement to the legislative reference  
 7           bureau for publication in the register. On the same day that the agency sends the  
 8           statement to the legislative reference bureau, the agency shall send a copy of the  
 9           statement to the secretary of administration.

X

10           SECTION 4. 227.135 (4) of the statutes ~~as affected by 2011 Wisconsin Act 21~~  
 11           is amended to read:

12           227.135 (4) If at any time after a statement of the scope of a proposed rule is  
 13           approved under sub. (2) or (2m) the agency changes the scope of the proposed rule  
 14           in any meaningful or measurable way, including changing the scope of the proposed  
 15           rule so as to include in the scope any activity, business, material, or product that is  
 16           not specifically included in the original scope of the proposed rule, the agency shall  
 17           prepare and obtain approval of a revised statement of the scope of the proposed rule  
 18           in the same manner as the original statement was prepared and approved under  
 19           subs. (1) and (2) or under subs. (1) and (2m). No state employee or official may  
 20           perform any activity in connection with the drafting of the proposed rule except for  
 21           an activity necessary to prepare the revised statement of the scope of the proposed  
 22           rule until the revised statement is so approved.

X

23           SECTION 5. 227.185 of the statutes ~~as created by 2011 Wisconsin Act 21~~  
 24           is amended to read:

**ASSEMBLY BILL 355**

**SECTION 5**

1           **227.185 Approval by governor.** After Except as provided in this section,  
 2 after a proposed rule is in final draft form, the agency shall submit the proposed rule  
 3 to the governor for approval. The governor, in his or her discretion, may approve or  
 4 reject the proposed rule. If the governor approves a proposed rule, the governor shall  
 5 provide the agency with a written notice of that approval. No proposed rule may be  
 6 submitted to the legislature for review under s. 227.19 (2) unless the governor has  
 7 approved the proposed rule in writing. This section does not apply to a proposed rule  
 8 drafted by the government accountability board. ✓

X 9)           **SECTION 6.** 227.24 (1) (e) 1d. of the statutes, as affected by 2011 Wisconsin Act e

10) 32, is amended to read:

11           227.24 (1) (e) 1d. Prepare a statement of the scope of the proposed emergency  
 12 rule as provided in s. 227.135 (1), obtain approval of the statement as provided in s.  
 13 227.135 (2) or (2m), and send the statement to the legislative reference bureau for ✓  
 14 publication in the register as provided in s. 227.135 (3). If the agency changes the ✓  
 15 scope of a proposed emergency rule as described in s. 227.135 (4), the agency shall  
 16 prepare and obtain approval of a revised statement of the scope of the proposed ✓  
 17 emergency rule as provided in s. 227.135 (4). No state employee or official may  
 18 perform any activity in connection with the drafting of a proposed emergency rule  
 19 except for an activity necessary to prepare the statement of the scope of the proposed  
 20 emergency rule until the governor and the individual or body with policy-making  
 21 powers over the subject matter of the proposed emergency rule approves the  
 22 statement is approved as provided under s. 227.135 (2) or (2m) ← score

X 23)           **SECTION 7.** 227.24 (1) (e) 1g. of the statutes, as affected by 2011 Wisconsin Act e

24) 32, is amended to read:

**ASSEMBLY BILL 355**

1           227.24 (1) (e) 1g. Submit Except as provided in this subdivision, submit the  
2 proposed emergency rule in final draft form to the governor for approval. The  
3 governor, in his or her discretion, may approve or reject the proposed emergency rule.  
4 If the governor approves a proposed emergency rule, the governor shall provide the  
5 agency with a written notice of that approval. An agency may not file an emergency  
6 rule with the legislative reference bureau as provided in s. 227.20 and an emergency  
7 rule may not be published until the governor approves the emergency rule in writing.  
8 This subdivision does not apply to a proposed emergency rule drafted by the  
9 government accountability board. 

10

(END)

**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2405/lins  
GMM.....

(INSERT 2-23)

^

1           **SECTION 1.** 227.135 (2m) of the statutes is created to read:  
2           227.135 (2m) If a state employee or official prepares a statement of the scope  
3 of a proposed rule that the government accountability board plans to promulgate,  
4 that employee or official shall present the statement to the government  
5 accountability board for approval. The government accountability board may not  
6 approve the statement until at least 10 days after publication of the statement under  
7 sub. (3). No state employee or official may perform any activity in connection with  
8 the drafting of a proposed rule to which this subsection applies except for an activity  
9 necessary to prepare the statement of the scope of the proposed rule until the  
10 government accountability board approves the statement.

(END OF INSERT)

(INSERT A)

Current law requires a state agency (agency) that plans to promulgate an administrative rule, including an emergency rule, to present a statement of the scope of the proposed rule to the governor for approval before any state employee or official may perform any activity in connection with the drafting of the proposed rule. Current law also 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 and to submit a proposed emergency rule in final draft form to the governor for approval before the emergency rule may be filed with the Legislative Reference Bureau for publication. This bill eliminates those requirements with respect to a rule proposed by the Government Accountability Board.

(END OF INSERT)

**Barman, Mike**

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**From:** VanDenHeuvel2, Mike  
**Sent:** Wednesday, May 29, 2013 9:08 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -2405/1 Topic: Rules promulgated by government accountability board; eliminatio nof gubernatorial approval requirements

Please Jacket LRB -2405/1 for the ASSEMBLY.