



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRBa2308/1  
MED:ahe

**ASSEMBLY AMENDMENT 7,  
TO ASSEMBLY BILL 251**

February 17, 2016 - Offered by Representative BALLWEG.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 34, line 18: after that line insert:

3 **"SECTION 69g.** 227.26 (4) of the statutes is created to read:

4 227.26 (4) REPEAL OF UNAUTHORIZED RULES. (a) In this subsection,  
5 "unauthorized rule" means a rule that an agency lacks the authority to promulgate  
6 due to the repeal or amendment of the law that previously authorized its  
7 promulgation.

8 (b) Notwithstanding ss. 227.114 to 227.117 and 227.135 to 227.19, an agency  
9 that promulgated or that otherwise administers a rule that the agency determines  
10 is an unauthorized rule may petition the joint committee for review of administrative  
11 rules for authorization to repeal that rule by using the following process:

12 1. The agency shall submit a petition with a proposed rule that repeals the rule  
13 the agency has determined is an unauthorized rule to the legislative council staff for

1 review. The proposed rule shall be in the form required under s. 227.14 (1) and shall  
2 include the material required under s. 227.14 (2) (a) 1., 2., and 7. and a statement that  
3 the agency is petitioning the joint committee for review of administrative rules to use  
4 the process under this subsection to repeal a rule the agency has determined to be  
5 an unauthorized rule.

6 2. The legislative council staff shall review the petition and proposed rule in  
7 accordance with s. 227.15 (2) and submit to the joint committee for review of  
8 administrative rules the petition and proposed rule with a written report including  
9 a statement of its determination as to whether the proposed rule proposes to repeal  
10 an unauthorized rule.

11 3. Following receipt of the petition and proposed rule submitted by the  
12 legislative council staff under subd. 2., the joint committee for review of  
13 administrative rules shall review the petition and proposed rule and may do any of  
14 the following:

15 a. Approve the agency's petition if the committee determines that the proposed  
16 rule would repeal an unauthorized rule.

17 b. Deny the agency's petition.

18 c. Request that the agency make changes to the proposed rule and resubmit the  
19 petition and proposed rule under subd. 1.

20 4. The committee shall inform the agency in writing of its decision as to the  
21 petition.

22 (c) If the joint committee for review of administrative rules approves a petition  
23 to repeal an unauthorized rule as provided in par. (b) 3. a., the agency may  
24 promulgate the proposed rule by filing a certified copy of the rule with the legislative  
25 reference bureau under s. 227.20, together with a copy of the committee's decision.

1           **SECTION 69r.** 227.29 of the statutes is created to read:

2           **227.29 Agency review of rules and enactments. (1)** By March 31 of each  
3 odd-numbered year, each agency with any rules published in the code shall submit  
4 a report to the joint committee for review of administrative rules listing all of the  
5 following rules promulgated or otherwise administered by that agency:

6           (a) Rules for which the authority to promulgate has been eliminated or  
7 restricted, together with a description of the legislation that eliminated or restricted  
8 that authority.

9           (b) Rules that are obsolete or that have been rendered unnecessary, together  
10 with a description of why those rules are obsolete or have been rendered unnecessary.

11           (c) Rules that are duplicative of, superseded by, or in conflict with another rule,  
12 a state statute, a federal statute or regulation, or a ruling of a court of competent  
13 jurisdiction, together with a citation to or the text of any such statute, regulation, or  
14 ruling.

15           **(2)** The report under sub. (1) shall also include all of the following:

16           (a) A description of the agency's actions, if any, to address each rule listed in  
17 the report. If the agency has not taken any action to address a rule listed in the  
18 report, the agency shall include an explanation for not taking action.

19           (b) A description of the status of each rule listed in the previous year's report  
20 not otherwise listed.

21           (c) If the agency determines that there is no rule as described under sub. (1) (a),  
22 (b), or (c), a statement of that determination.

23           **(3)** (a) In this subsection, "enactment" means an act or a portion of an act that  
24 is required to be published under s. 35.095 (3) (a).

1 (c) Each agency shall review enactments to determine whether any part of an  
2 enactment does any of the following:

3 1. Eliminates or restricts the agency's authority to promulgate any rules  
4 promulgated or otherwise administered by that agency.

5 2. Renders any rules promulgated or otherwise administered by that agency  
6 obsolete or unnecessary.

7 3. Renders, for any reason, any rules promulgated or otherwise administered  
8 by that agency not in conformity with or superseded by a state statute, including due  
9 to statutory numbering or terminology changes in the enactment.

10 4. Requires or otherwise necessitates rule making by the agency.

11 (d) If an agency determines that any consequence specified in par. (c) 1. to 4.  
12 results from an enactment or part of an enactment, within 6 months after the  
13 applicable effective date for the enactment or part of the enactment, the agency shall  
14 do one or more of the following, as applicable, to address the consequence identified  
15 by the agency and notify the joint committee for review of administrative rules of its  
16 action:

17 1. Submit a statement of the scope of a proposed rule under s. 227.135 (2),  
18 unless the enactment requires otherwise or unless the agency submits a notice to the  
19 committee explaining why it is unable to submit the statement of scope within that  
20 time period and an estimate of when the agency plans to submit the statement of  
21 scope.

22 2. In the case of an affected rule that the agency determines is an unauthorized  
23 rule, as defined in s. 227.26 (4) (a), submit a petition to the legislative council staff  
24 under s. 227.26 (4) (b) 1.

1           3. In the case of a consequence specified under par. (c) 3. that can be addressed  
2           by the legislative reference bureau using its authority under s. 13.92 (4) (b), submit  
3           a request to the legislative reference bureau to use that authority.”.

4           **2.** Page 35, line 11: after that line insert:

5           “(3m) The treatment of section 227.29 (3) of the statutes first applies to  
6           enactments published by the legislative reference bureau under section 35.095 (3)  
7           (a) of the statutes on the effective date of this subsection.”.

8

(END)