



2017 ASSEMBLY BILL 42

January 31, 2017 - Introduced by Representatives NEYLON, JARCHOW, BRANDTJEN, E. BROOKS, R. BROOKS, DUCHOW, EDMING, GANNON, JACQUE, JAGLER, KATSMA, KLEEFISCH, KOOYENGA, KREMER, KRUG, KULP, MURPHY, PETERSEN, QUINN, RIPP, RODRIGUEZ, SCHRAA, SPIROS, SUMMERFIELD, SWEARINGEN, THIESFELDT, TITTL, TRANEL, TUSLER, VORPAGEL, WEATHERSTON, WICHGERS, HUTTON, KNODL, SANFELIPPO, TAUCHEN and SKOWRONSKI, cosponsored by Senators LEMAHIEU, DARLING, KAPENGA, LASEE, MARKLEIN, NASS, STROEBEL, TIFFANY and VUKMIR. Referred to Committee on State Affairs.

1 **AN ACT to repeal** 227.137 (6) and (7) and 227.17 (3) (em); **to renumber and**
2 **amend** 227.137 (3) (b) and 227.16 (6); **to amend** 227.12 (4), 227.135 (2),
3 227.135 (3), 227.137 (3) (intro.) and (a), 227.14 (4m), 227.15 (1), 227.15 (1m)
4 (bm), 227.16 (1), 227.17 (1) (intro.), 227.185, 227.19 (3) (intro.), 227.19 (3) (c),
5 227.19 (4) (b) 1. (intro.), 227.19 (5) (b) 1. (intro.), 227.24 (1) (a), 227.24 (1) (e) 1d.
6 and 227.24 (4); and **to create** 20.765 (1) (kt), 35.93 (2) (b) 3. bm., 227.136,
7 227.137 (3) (b) 1. and 2., 227.137 (4m), 227.139, 227.14 (2) (a) 3m., 227.17 (3)
8 (eg) and 227.19 (5) (b) 3. of the statutes; **relating to:** various changes regarding
9 administrative rules and rule-making procedures and making an
10 appropriation.

Analysis by the Legislative Reference Bureau

This bill 1) requires scope statements for proposed administrative rules to be reviewed by the Department of Administration for a determination of an agency's authority to promulgate a rule; 2) requires agencies to hold preliminary public hearings and comment periods on scope statements for rules if directed to do so by the Joint Committee for Review of Administrative Rules (JCRAR); 3) requires the

ASSEMBLY BILL 42

passage of a bill in order for an agency to promulgate a rule that would result in implementation and compliance costs of \$10 million over any two-year period, subject to certain exceptions; and 4) allows either a cochairperson of JCRAR or JCRAR as a whole, at certain steps in the rule-making process, to request the preparation of an independent economic impact analysis for a proposed rule.

CURRENT LAW

Current law sets forth the procedure for promulgating administrative rules. Generally, that procedure consists of the following steps:

1. The agency planning to promulgate the rule prepares a statement of the scope of the proposed rule (scope statement), which must be approved by the governor and the agency head before any state employee or official may perform any activity in connection with the drafting of the proposed rule.

2. The agency drafts the proposed rule, together with an economic impact analysis, plain-language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council Staff for review.

3. Subject to certain exceptions, the agency holds a public hearing on the proposed rule.

4. The final draft of the proposed rule is submitted to the governor for approval who, in his or her discretion, may approve or reject the proposed rule.

5. The final draft of the proposed rule, together with a report including certain information, is submitted to the legislature for review by one standing committee in each house and by JCRAR.

6. The proposed rule is filed with the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Register (register), and, subject to certain exceptions, the rule becomes effective on the first day of the first month beginning after publication of the rule changes in the Wisconsin Administrative Code.

An agency may also promulgate rules as emergency rules if preservation of the public peace, health, safety, or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with the requirements for permanent rules. The emergency rules procedure varies from the procedure for permanent rules in a number of ways and includes exemptions from some of the steps required for permanent rules. Emergency rules may generally remain in effect for up to 150 days, but may be extended for up to an additional 120 days by JCRAR.

THE BILL

The bill makes various changes regarding the rule-making procedures established under current law. Significant changes regarding those procedures are described below.

Submission statements of scope to DOA

The bill requires scope statements for proposed rules to be submitted to DOA instead of to the governor. Following the submission, the bill requires DOA to make a determination as to the agency's authority to promulgate the proposed rule and report its determination to the governor, who may then approve or reject the statement of scope as under current law.

ASSEMBLY BILL 42***Preliminary public hearings and comment periods on scope statements***

The bill requires an agency, following approval of a scope statement by the governor, to hold a preliminary public hearing and comment period on a scope statement if directed to do so by a cochairperson of JCRAR. Following such a directive, the agency must submit to the LRB a notice of the hearing and comment period to allow for public comment and feedback on the scope statement. The agency must hold the preliminary public hearing no sooner than the third day after publication of the notice in the register and submit all comments and feedback received to the agency head. A preliminary public hearing and comment period under the bill is in addition to the public hearing required under current law for certain rules.

Passage of bill required for certain rules

The bill provides that if an economic impact analysis, a revised economic impact analysis, or an independent economic impact analysis for a proposed rule indicates that \$10 million or more in implementation and compliance costs are reasonably expected to be incurred by or passed along to businesses, local governmental units, and individuals over any two-year period as a result of the proposed rule, the agency proposing the rule must stop work on the proposed rule and may not continue to promulgate the rule except as follows:

1. The agency may resume the rule-making procedure for the proposed rule upon enactment of a bill that authorizes its promulgation.

2. The agency may modify the proposed rule to address the implementation and compliance costs of the proposed rule. If a revised economic impact analysis prepared by an agency and any independent economic impact analysis prepared following the modification all indicate that \$10 million or more in implementation and compliance costs are not reasonably expected to be incurred by or passed along to businesses, local governmental units, and individuals over a two-year period as a result of the proposed rule, the agency may then resume the rule-making procedure for the proposed rule.

Independent economic impact analyses

The bill allows a cochairperson of JCRAR, after an agency submits a copy of an economic impact analysis for a proposed rule to the legislature, but before the proposed rule is submitted to DOA for review and final approval by the governor, to request that an independent economic impact analysis be prepared for the proposed rule. In that case, the cochairperson must contract for the preparation of the independent economic impact analysis. The person preparing the independent economic impact analysis must complete the independent economic impact analysis within 60 days and must include most of the same information and analysis that is required for an economic impact analysis prepared by an agency. If an independent economic impact analysis is requested for a proposed rule, an agency may not submit the proposed rule to DOA for final review until the agency receives the completed independent economic impact analysis. Upon completion of an independent economic impact analysis, the person preparing the analysis may submit a request to JCRAR for reimbursement of its actual and necessary costs of completing the

ASSEMBLY BILL 42

analysis. The bill specifies circumstances under which either the agency or the legislature must pay the costs of the independent economic impact analysis.

In addition, the bill allows JCRAR, when a proposed rule is before JCRAR for final review, to request an independent economic impact analysis for the proposed rule. If JCRAR requests an independent economic impact analysis at that time, the analysis must similarly be completed within 60 days and JCRAR's review period is extended to the tenth working day following receipt by JCRAR of the completed analysis.

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

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

1 **SECTION 1.** 20.765 (1) (kt) of the statutes is created to read:

2 20.765 (1) (kt) *Independent economic analyses for administrative rules.* All
3 moneys received from agencies under s. 227.137 (4m) (b) 2. a. to reimburse persons
4 for conducting independent economic impact analyses under ss. 227.137 (4m) and
5 227.19 (5) (b) 3.

6 **SECTION 2.** 35.93 (2) (b) 3. bm. of the statutes is created to read:

7 35.93 (2) (b) 3. bm. Notices of preliminary public hearings and comment periods
8 under s. 227.136.

9 **SECTION 3.** 227.12 (4) of the statutes is amended to read:

10 227.12 (4) If a petition to the department of revenue establishes that the
11 department has established a standard by which it is construing a state tax statute,
12 but has not promulgated a rule to adopt the standard or published the standard in
13 a manner that is available to the public, the department shall, as provided under s.
14 227.135, submit a statement of the scope of the proposed rule to the ~~governor~~
15 department of administration no later than 90 days after receiving the petition. No
16 later than 270 days after the statement is approved by the governor, the department

ASSEMBLY BILL 42

1 shall submit the proposed rule in final draft form to the governor for the governor's
2 approval, as provided under s. 227.185. At the department's request, the governor
3 or the department of administration may, at any time prior to the expiration of any
4 deadline specified in this subsection, extend the time for submitting the statement
5 or proposed rule in draft form for any period not to exceed 60 days. The governor or
6 the department of administration may grant more than one extension under this
7 subsection, but the total period for all such extensions may not exceed 120 days. The
8 rule need not adhere to the standard established by the department, but shall
9 address the same circumstances as the standard addresses. If the department fails
10 to comply with this subsection, any of the petitioners may commence an action in
11 circuit court to compel the department's compliance. If an action is commenced
12 under this subsection, the court may compel the department to provide information
13 to the court related to the degree to which the department is enforcing the standard,
14 except that the information provided by the department shall not disclose the
15 identity of any person who is not a party to the action.

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

17 227.135 (2) An agency that has prepared a statement of the scope of the
18 proposed rule shall present the statement to the governor ~~and to the individual or~~
19 ~~body with policy-making powers over the subject matter of the proposed rule for~~
20 ~~approval~~ department of administration, which shall make a determination as to the
21 agency's authority to promulgate the rule as proposed in the statement of scope and
22 shall report the statement of scope and its determination to the governor who, in his
23 or her discretion, may approve or reject the statement of scope. The agency may not
24 send the statement to the legislative reference bureau for publication under sub. (3)
25 until the governor issues a written notice of approval of the statement. The agency

ASSEMBLY BILL 42**SECTION 4**

1 shall also present the statement to the individual or body with policy-making powers
2 over the subject matter of the proposed rule for approval. The individual or body with
3 policy-making powers may not approve the statement until at least 10 days after
4 publication of the statement under sub. (3) and, if a preliminary public hearing and
5 comment period are held by the agency under s. 227.136, until the individual or body
6 has received and reviewed any public comments and feedback received from the
7 agency under s. 227.136 (5). No state employee or official may perform any activity
8 in connection with the drafting of a proposed rule, except for an activity necessary
9 to prepare the statement of the scope of the proposed rule or an activity necessary
10 to draft a corresponding emergency rule under s. 227.24, until the governor and the
11 individual or body with policy-making powers over the subject matter of the
12 proposed rule approve the statement.

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

14 227.135 (3) If the governor approves a statement of the scope of a proposed rule
15 under sub. (2), the agency shall send an electronic copy of the statement to the
16 legislative reference bureau, in a format approved by the legislative reference
17 bureau, for publication in the register. On the same day that the agency sends the
18 statement to the legislative reference bureau, the agency shall send a copy of the
19 statement to the secretary of administration and to the chief clerks of each house of
20 the legislature, who shall distribute the statement to the cochairpersons of the joint
21 committee for review of administrative rules. The agency shall include with any
22 statement of scope sent to the legislative reference bureau the date of the governor's
23 approval of the statement of scope. The legislative reference bureau shall assign a
24 discrete identifying number to each statement of scope and shall include that

ASSEMBLY BILL 42

1 number and the date of the governor's approval in the publication of the statement
2 of scope in the register.

3 **SECTION 6.** 227.136 of the statutes is created to read:

4 **227.136 Preliminary public hearing and comment period.** (1) Within
5 10 days after publication of a statement of the scope of a proposed rule under s.
6 227.135 (3), either cochairperson of the joint committee for the review of
7 administrative rules may submit a written directive to the agency that prepared the
8 statement for the agency to hold a preliminary public hearing and comment period
9 on the statement of scope as provided in this section.

10 (2) If the agency is directed to hold a preliminary public hearing and comment
11 period on a statement of scope as provided in sub. (1) or if the agency otherwise opts
12 to do so on its own initiative, the agency shall submit to the legislative reference
13 bureau, in a format approved by the legislative reference bureau, a notice of a
14 preliminary public hearing and comment period to allow for public comment and
15 feedback on the statement of scope. The agency may also take any other action it
16 considers necessary to provide notice of the preliminary public hearing and comment
17 period to other interested persons. The notice shall be approved by the individual
18 or body with policy-making powers over the subject matter of the proposed rule and
19 shall include all of the following:

20 (a) A statement of the date, time, and place of the preliminary public hearing.

21 (b) The place where comments on the statement of scope should be submitted
22 and the deadline for submitting those comments.

23 (3) The agency shall hold the preliminary public hearing and comment period
24 in accordance with the notice required under sub. (2), but may not hold the hearing
25 sooner than the 3rd day after publication of the notice in the register.

ASSEMBLY BILL 42**SECTION 6**

1 (4) The agency shall conduct a hearing under this section in accordance with
2 s. 227.18.

3 (5) The agency shall report all public comments and feedback on the statement
4 of scope of the proposed rule that the agency receives at the preliminary public
5 hearing and comment period to the individual or body with policy-making powers
6 over the subject matter of the proposed rule.

7 (6) Failure of any person to receive notice of a preliminary public hearing as
8 provided in this section is not grounds for invalidating any resulting rule if notice of
9 the hearing was published in the register in accordance with s. 35.93 (2) (b) 3. bm.

10 **SECTION 7.** 227.137 (3) (intro.) and (a) of the statutes are amended to read:

11 227.137 (3) (intro.) An economic impact analysis of a proposed rule shall
12 contain information on the economic effect of the proposed rule on specific
13 businesses, business sectors, public utility ratepayers, local governmental units, and
14 the state's economy as a whole. ~~When~~ The agency or person preparing the analysis,
15 ~~the agency~~ shall solicit information and advice from businesses, associations
16 representing businesses, local governmental units, and individuals that may be
17 affected by the proposed rule. The agency or person shall prepare the economic
18 impact analysis in coordination with local governmental units that may be affected
19 by the proposed rule. The agency or person may also request information that is
20 reasonably necessary for the preparation of an economic impact analysis from other
21 businesses, associations, local governmental units, and individuals and from other
22 agencies. The economic impact analysis shall include all of the following:

23 (a) An analysis and quantification of the policy problem that the proposed rule
24 is intending to address, including comparisons with the approaches used by the
25 federal government and by Illinois, Iowa, Michigan, and Minnesota to address that

ASSEMBLY BILL 42

1 policy problem and, if, if the approach chosen by the agency to address that policy
2 problem is different from those approaches, an economic impact analysis prepared
3 by an agency shall include a statement as to why the agency chose a different
4 approach.

5 **SECTION 8.** 227.137 (3) (b) of the statutes is renumbered 227.137 (3) (b) (intro.)
6 and amended to read:

7 227.137 (3) (b) (intro.) An analysis and detailed quantification of the economic
8 impact of the proposed rule, including the implementation and compliance costs that
9 are reasonably expected to be incurred by or passed along to the businesses, local
10 governmental units, and individuals that may be affected by the proposed rule.,
11 specifically including all of the following:

12 **SECTION 9.** 227.137 (3) (b) 1. and 2. of the statutes are created to read:

13 227.137 (3) (b) 1. An estimate of the total implementation and compliance costs
14 that are reasonably expected to be incurred by or passed along to businesses, local
15 governmental units, and individuals as a result of the proposed rule, expressed as
16 a single dollar figure. With respect to an independent economic impact analysis
17 prepared under sub. (4m) or s. 227.19 (5) (b) 3., the person preparing the analysis
18 shall provide a detailed explanation of any variance from the agency's estimate
19 under this subdivision.

20 2. A determination, for purposes of the requirement under s. 227.139, as to
21 whether \$10,000,000 or more in implementation and compliance costs are
22 reasonably expected to be incurred by or passed along to businesses, local
23 governmental units, and individuals over any 2-year period as a result of the
24 proposed rule.

25 **SECTION 10.** 227.137 (4m) of the statutes is created to read:

ASSEMBLY BILL 42**SECTION 10**

1 227.137 (4m) (a) After an agency submits an economic impact analysis for a
2 proposed rule to the legislature under sub. (4), but before the agency submits the
3 proposed rule for approval under s. 227.185, either cochairperson of the joint
4 committee for review of administrative rules may request an independent economic
5 impact analysis to be prepared for the proposed rule.

6 (b) 1. If a cochairperson of the joint committee for review of administrative rules
7 requests an independent economic impact analysis under par. (a), the cochairperson
8 shall notify the agency proposing the proposed rule and shall contract with a person
9 that is not an agency to prepare the independent economic impact analysis.

10 2. Upon completion of an independent economic impact analysis requested by
11 a cochairperson of the joint committee for review of administrative rules, the person
12 preparing the analysis may submit a request to the committee for reimbursement of
13 its actual and necessary costs of completing the analysis. Costs of completing the
14 independent economic impact analysis shall be paid as follows:

15 a. If the estimate in the independent economic impact analysis of total
16 implementation and compliance costs under sub. (3) (b) 1. varies from the agency's
17 estimate by 15 percent or more or varies from the agency's determination that there
18 will be no implementation or compliance costs, the committee shall assess the agency
19 that is proposing the proposed rule for those costs. The committee shall credit all
20 moneys received under this subd. 2. a. to the appropriation account under s. 20.765
21 (1) (kt) and shall reimburse the person from the appropriation account under s.
22 20.765 (1) (kt).

23 b. If the estimate in the independent economic impact analysis of total
24 implementation and compliance costs under sub. (3) (b) 1. does not vary from the
25 agency's estimate by 15 percent or more or is in accord with the agency's

ASSEMBLY BILL 42

1 determination that there will be no implementation and compliance costs, the
2 committee shall reimburse the person in equal parts from the appropriation
3 accounts under s. 20.765 (1) (a) and (b).

4 (c) A person preparing an independent economic impact analysis under par. (b)
5 shall do all of the following:

6 1. Include in the analysis the information that is required under sub. (3).

7 2. Upon completion of the analysis, submit the analysis to the agency, to the
8 department of administration, to the governor, and to the chief clerks of each house
9 of the legislature, who shall distribute the analysis to the presiding officers of their
10 respective houses, to the chairpersons of the appropriate standing committees of
11 their respective houses, as designated by those presiding officers, and to the
12 cochairpersons of the joint committee for review of administrative rules.

13 3. Complete the independent economic impact analysis within 60 days after
14 contracting to prepare the analysis.

15 (d) When an independent economic impact analysis is requested under par. (a),
16 the agency may not submit the proposed rule for approval under s. 227.185 until the
17 agency receives the completed independent economic impact analysis.

18 **SECTION 11.** 227.137 (6) and (7) of the statutes are repealed.

19 **SECTION 12.** 227.139 of the statutes is created to read:

20 **227.139 Passage of bill required for certain rules.** (1) If an economic
21 impact analysis prepared under s. 227.137 (2), a revised economic impact analysis
22 prepared under s. 227.137 (4), or an independent economic impact analysis prepared
23 under s. 227.137 (4m) or 227.19 (5) (b) 3. indicates that \$10,000,000 or more in
24 implementation and compliance costs are reasonably expected to be incurred by or
25 passed along to businesses, local governmental units, and individuals over any

ASSEMBLY BILL 42**SECTION 12**

1 2-year period as a result of the proposed rule, the agency proposing the rule shall
2 stop work on the proposed rule and may not continue promulgating the proposed rule
3 notwithstanding any provision authorizing or requiring the agency to promulgate
4 the proposed rule, except as authorized under sub. (2).

5 (2) (a) Any member of the legislature may introduce a bill authorizing an
6 agency to promulgate a rule that the agency is prohibited from promulgating under
7 sub. (1). The agency may resume the rule-making process as provided in this
8 subchapter upon enactment of a bill introduced under this paragraph.

9 (b) If an agency is prohibited from promulgating a rule under sub. (1), the
10 agency may modify the proposed rule, if the modification is germane to the subject
11 matter of the proposed rule, to address the implementation and compliance costs of
12 the proposed rule. If the agency modifies a proposed rule under this paragraph, the
13 agency shall prepare a revised economic impact analysis under s. 227.137 (4).
14 Following the modification, the agency may continue with the rule-making process
15 as provided in this subchapter if the revised economic impact analysis prepared by
16 the agency indicates, and any independent economic impact analysis prepared under
17 s. 227.137 (4m) or 227.19 (5) (b) 3. subsequent to the agency's modification also
18 indicates, that \$10,000,000 or more in implementation and compliance costs are not
19 reasonably expected to be incurred by or passed along to businesses, local
20 governmental units, and individuals over any 2-year period as a result of the
21 proposed rule.

22 (3) This section does not apply to rules promulgated under s. 227.24.

23 **SECTION 13.** 227.14 (2) (a) 3m. of the statutes is created to read:

24 227.14 (2) (a) 3m. A summary of any public comments and feedback on the
25 statement of scope of the proposed rule that the agency received at any preliminary

ASSEMBLY BILL 42

1 public hearing and comment period held under s. 227.136 and a description of how
2 and to what extent the agency took those comments and that feedback into account
3 in drafting the proposed rule.

4 **SECTION 14.** 227.14 (4m) of the statutes is amended to read:

5 227.14 (4m) NOTICE OF SUBMITTAL TO LEGISLATIVE COUNCIL STAFF. On the same
6 day that an agency submits a proposed rule to the legislative council staff under s.
7 227.15, the agency shall prepare a written notice of the agency's submittal to the
8 legislative council staff. The notice shall include a statement of the date on which
9 the proposed rule has been submitted to the legislative council staff for review, of the
10 subject matter of the proposed rule, and of whether a public hearing on the proposed
11 rule is required under s. 227.16, and shall identify the organizational unit within the
12 agency that is primarily responsible for the promulgation of the rule. The notice
13 shall also include a statement containing the identifying number of the statement
14 of scope for the proposed rule assigned under s. 227.135 (3), the date of publication
15 and issue number of the register in which the statement of scope is published, and
16 the date of approval of the statement of scope by the individual or body with
17 policy-making powers over the subject matter of the proposed rule under s. 227.135
18 (2). The notice shall be approved by the individual or body with policy-making
19 powers over the subject matter of the proposed rule. The agency shall send an
20 electronic copy of the notice to the legislative reference bureau, in a format approved
21 by the legislative reference bureau, for publication in the register. On the same day
22 that the agency sends the notice to the legislative reference bureau, the agency shall
23 send a copy of the notice to the secretary of administration.

24 **SECTION 15.** 227.15 (1) of the statutes is amended to read:

ASSEMBLY BILL 42**SECTION 15**

1 227.15 (1) SUBMITTAL TO LEGISLATIVE COUNCIL STAFF. Prior to a public hearing
2 on a proposed rule required under s. 227.16 or, if no such public hearing is required,
3 prior to notice under s. 227.19, an agency shall submit the proposed rule to the
4 legislative council staff for review. The proposed rule shall be in the form required
5 under s. 227.14 (1), and shall include the material required under s. 227.14 (2), (3),
6 and (4), the economic impact analysis required under s. 227.137 (2), and any revised
7 economic impact analysis required under s. 227.137 (4). An agency may not hold a
8 public hearing on a proposed rule or give notice under s. 227.19 until after it has
9 received a written report of the legislative council staff review of the proposed rule
10 or until after the initial review period of 20 working days under sub. (2) (intro.),
11 whichever comes first. An agency may give notice of a public hearing prior to receipt
12 of the legislative council staff report. This subsection does not apply to rules
13 promulgated under s. 227.24.

14 **SECTION 16.** 227.15 (1m) (bm) of the statutes is amended to read:

15 227.15 (1m) (bm) The economic impact analysis required under s. 227.137 (2)
16 ~~and~~, any revised economic impact analysis required under s. 227.137 (4), and any
17 independent economic impact analysis prepared under s. 227.137 (4m).

18 **SECTION 17.** 227.16 (1) of the statutes is amended to read:

19 227.16 (1) ~~Except as provided under sub. (2)~~ In addition to any preliminary
20 public hearing and comment period held under s. 227.136, all rule making by an
21 agency shall be preceded by notice and public hearing as provided in ss. 227.17 and
22 227.18, except as provided in sub. (2).

23 **SECTION 18.** 227.16 (6) of the statutes is renumbered 227.136 (7) and amended
24 to read:

ASSEMBLY BILL 42

1 227.136 (7) For the purpose of soliciting public comment, an agency may hold
2 a hearing on the general subject matter of possible or anticipated rules before
3 preparing a statement of scope for a proposed rule in draft form. A hearing held
4 under this subsection does not satisfy the requirement of sub. (1) with respect to the
5 promulgation of a specific proposed rule relieve the agency from its obligation to
6 comply with a directive under sub. (1) or the requirement to hold a hearing under s.
7 227.16.

8 **SECTION 19.** 227.17 (1) (intro.) of the statutes is amended to read:

9 227.17 (1) (intro.) If a hearing is required under s. 227.16, the agency shall do
10 all of the following:

11 **SECTION 20.** 227.17 (3) (eg) of the statutes is created to read:

12 227.17 (3) (eg) Any independent economic impact analysis prepared under s.
13 227.137 (4m).

14 **SECTION 21.** 227.17 (3) (em) of the statutes is repealed.

15 **SECTION 22.** 227.185 of the statutes is amended to read:

16 **227.185 Approval by governor.** After a proposed rule is in final draft form,
17 the agency shall submit the proposed rule to the governor for approval. The governor,
18 in his or her discretion, may approve or reject the proposed rule. If the governor
19 approves a proposed rule, the governor shall provide the agency with a written notice
20 of that approval. No proposed rule may be submitted to the legislature for review
21 under s. 227.19 (2) unless the governor has approved the proposed rule in writing.
22 The agency shall notify the joint committee for review of administrative rules
23 whenever it submits a proposed rule for approval under this section.

24 **SECTION 23.** 227.19 (3) (intro.) of the statutes is amended to read:

ASSEMBLY BILL 42**SECTION 23**

1 227.19 (3) FORM OF REPORT. (intro.) The report required under sub. (2) shall be
2 in writing and shall include the proposed rule in the form specified in s. 227.14 (1);
3 the material specified in s. 227.14 (2), (3), and (4); including any statement,
4 suggested changes, or other material submitted to the agency by the small business
5 regulatory review board; a copy of any economic impact analysis prepared by the
6 agency under s. 227.137 (2); a copy of any revised economic impact analysis prepared
7 by the agency under s. 227.137 (4); a copy of any report prepared by the department
8 of administration under s. 227.137 (6); independent economic impact analysis
9 prepared under s. 227.137 (4m); a copy of any energy impact report received from the
10 public service commission under s. 227.117 (2); and a copy of any recommendations
11 of the legislative council staff. The report shall also include all of the following:

12 **SECTION 24.** 227.19 (3) (c) of the statutes is amended to read:

13 227.19 (3) (c) A list of the persons who appeared or registered for or against the
14 proposed rule at a public hearing held under s. 227.136 or 227.16.

15 **SECTION 25.** 227.19 (4) (b) 1. (intro.) of the statutes is amended to read:

16 227.19 (4) (b) 1. (intro.) Except as otherwise provided under ~~subds. 1m. and 5.~~
17 in this paragraph, the committee review period for each committee extends for 30
18 days after referral of the proposed rule to the committee under sub. (2). If the
19 chairperson or the cochairpersons of a committee take either of the following actions
20 within the 30-day period, the committee review period for that committee is
21 continued for 30 days from the date on which the first 30-day review period would
22 have expired:

23 **SECTION 26.** 227.19 (5) (b) 1. (intro.) of the statutes is amended to read:

24 227.19 (5) (b) 1. (intro.) Except as otherwise provided in ~~subd. 1m.~~ this
25 paragraph, the review period for the joint committee for review of administrative

ASSEMBLY BILL 42

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

12 **SECTION 27.** 227.19 (5) (b) 3. of the statutes is created to read:

13 227.19 (5) (b) 3. The joint committee for review of administrative rules, by a
14 majority vote of a quorum of the committee, may request the preparation of an
15 independent economic impact analysis for a proposed rule, regardless of whether an
16 independent economic impact analysis was prepared under s. 227.137 (4m). If the
17 joint committee for review of administrative rules requests an independent economic
18 impact analysis under this subdivision, the committee shall notify the agency
19 proposing the proposed rule and shall contract with a person that is not an agency
20 to prepare the independent economic impact analysis. The person preparing the
21 independent economic impact analysis shall comply with s. 227.137 (4m) (c) 1. to 3.
22 Upon completion of an independent economic impact analysis requested under this
23 subdivision, the person preparing the analysis may submit a request to the
24 committee for reimbursement of its actual and necessary costs of completing the
25 analysis. Costs of completing the independent economic impact analysis shall be

ASSEMBLY BILL 42**SECTION 27**

1 paid as provided in s. 227.137 (4m) (b) 2. a. and b. If the committee requests an
2 independent economic impact analysis under this subdivision, the review period for
3 the committee is extended to the 10th working day following receipt by the committee
4 of the completed analysis.

5 **SECTION 28.** 227.24 (1) (a) of the statutes is amended to read:

6 227.24 (1) (a) An agency may, except as provided in s. 227. 136 (1), promulgate
7 a rule as an emergency rule without complying with the notice, hearing, and
8 publication requirements under this chapter if preservation of the public peace,
9 health, safety, or welfare necessitates putting the rule into effect prior to the time it
10 would take effect if the agency complied with the procedures.

11 **SECTION 29.** 227.24 (1) (e) 1d. of the statutes is amended to read:

12 227.24 (1) (e) 1d. Prepare a statement of the scope of the proposed emergency
13 rule as provided in s. 227.135 (1), obtain approval of the statement as provided in s.
14 227.135 (2), ~~and~~ send the statement to the legislative reference bureau for
15 publication in the register as provided in s. 227.135 (3), and hold a preliminary public
16 hearing and comment period if directed under s. 227.136 (1). If the agency changes
17 the scope of a proposed emergency rule as described in s. 227.135 (4), the agency shall
18 prepare and obtain approval of a revised statement of the scope of the proposed
19 emergency rule as provided in s. 227.135 (4). No state employee or official may
20 perform any activity in connection with the drafting of a proposed emergency rule
21 except for an activity necessary to prepare the statement of the scope of the proposed
22 emergency rule until the governor and the individual or body with policy-making
23 powers over the subject matter of the proposed emergency rule approve the
24 statement.

25 **SECTION 30.** 227.24 (4) of the statutes is amended to read:

