

CHAPTER 414, Laws of 1975

(Veto Overruled)

AN ACT to repeal 93.19, 196.405, 205.17 (3), 227.08, 227.11, 227.16 (1m), 227.20 (1), 551.61 (2), 553.56 (2) and 601.62 (3) (b); to renumber 227.01 (3) to (5), 227.10, 227.13, 227.14 and 227.20 (2); to amend 227.01 (2), 227.014 (1), 227.08 (1), as renumbered, 227.15, 227.16 (1) and (2) and 227.19 (3); to repeal and recreate 227.07, 227.09 and 227.12; and to create 227.01 (2) (a) to (c) and (2m) to (8), 227.075, 227.08 (5) to (7), 227.13, 227.14, 227.20 (1) to (9) and 227.22 (3) and (4) of the statutes, relating to a revision of procedure concerning contested cases under the administrative procedure act.

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

SECTION 1. 93.19, 196.405 and 205.17 (3) of the statutes are repealed.

SECTION 2. 227.01 (2) of the statutes is amended to read:

227.01 (2) "Contested case" means a proceeding before an agency in which, after hearing required by law, ~~the legal rights, duties or privileges~~ substantial interests of any party to such proceeding are determined or directly adversely affected by a decision or order in such proceeding and in which the assertion by one party of any such ~~right, duty or privilege~~ substantial interest is denied or controverted by another party to such proceeding. There are 3 classes of contested cases as follows:

SECTION 3. 227.01 (2) (a) to (c) of the statutes are created to read:

227.01 (2) (a) A "class 1 proceeding" is a proceeding in which an agency acts under standards conferring substantial discretionary authority upon the agency. Class 1 proceedings include, but are not restricted to: rate making; price setting; granting of certificates of convenience and necessity; the making, review or equalization of tax assessments; and the grant or denial of licenses.

(b) A "class 2 proceeding" is a proceeding in which an agency determines whether to impose a sanction or penalty against one or more parties. Class 2 proceedings include, but are not restricted to, suspensions of, revocations of, and refusals to renew licenses because of an alleged violation of law. Any proceeding which could be construed to be both a class 1 and 2 proceeding shall be treated as a class 2 proceeding.

(c) A "class 3 proceeding" is any contested case not included in class 1 or 2.

SECTION 4. 227.01 (3) to (5) of the statutes are renumbered 227.01 (9) to (11).

SECTION 5. 227.01 (2m) to (8) of the statutes are created to read:

227.01 (2m) "Hearing examiner" means a person designated under s. 227.09 (1) to preside over a contested case.

(3) "License" includes the whole or any part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law, except motor vehicle operator's licenses issued under ch. 343, vehicle registration certificates issued under ch. 341 and licenses required primarily for revenue purposes or for hunting or fishing or other similar licenses where the issuance is merely a ministerial or nondiscretionary act.

(4) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license.

(5) "Official of the agency" means a secretary, commissioner or member of any board of any agency.

(6) "Party" means each person or agency named or admitted as a party. Any person whose substantial interests may be adversely affected by any proposed agency action in a contested case shall be admitted as a party.

(7) "Person" means a person as defined in s. 990.01 (26).

(8) A "person aggrieved" includes any person or agency whose substantial interests are adversely affected by a determination of an agency.

SECTION 6. 227.014 (1) of the statutes is amended to read:

227.014 (1) Except as provided in sub. (2) and s. 227.08, ~~and except as rule-making authority is conferred upon the revisor of statutes as otherwise expressly provided in this chapter,~~ nothing in this chapter confers rule-making authority upon or augments the rule-making authority of any agency.

SECTION 7. 227.07 of the statutes is repealed and recreated to read:

227.07 Contested cases; notice; hearing; records. (1) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice. Except in the case of an emergency, reasonable notice shall consist of mailing notice to known interested parties at least 10 days prior to the hearing.

(2) The notice shall include:

(a) A statement of the time, place, and nature of the hearing, including whether the case is a class 1, 2 or 3 proceeding.

(b) A statement of the legal authority and jurisdiction under which the hearing is to be held, and, in the case of a class 2 proceeding, a reference to the particular statutes and rules involved.

(c) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters with specificity at the time the notice is served, the notice may be limited to a statement of the issues involved.

(3) Opportunity shall be afforded all parties to present evidence and to rebut or offer countervailing evidence.

(4) (a) In any action to be set for hearing, the agency or hearing examiner may direct the parties to appear before it for a conference to consider:

1. The clarification of issues.

2. The necessity or desirability of amendments to the pleadings.

3. The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof.

4. The limitation of the number of witnesses.

5. Such other matters as may aid in the disposition of the action.

(b) The agency or hearing examiner presiding at the conference shall make a memorandum for the record which summarizes the action taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties as to any of the matters considered, and which limits the issues for hearing to those not disposed of by admissions or agreements of the parties. Such memorandum controls the subsequent course of the action, unless modified at the hearing to prevent manifest injustice.

(5) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default. In any proceeding in

which a hearing is required by law, if there is no such hearing, the agency shall record in writing the reason why no such hearing was held, and shall make copies available to interested persons.

(6) The record in a contested case shall include:

(a) All applications, pleadings, motions, intermediate rulings and exhibits and appendices thereto.

(b) Evidence received or considered, stipulations and admissions.

(c) A statement of matters officially noticed.

(d) Questions and offers of proof, objections, and rulings thereon.

(e) Any proposed findings or decisions and exceptions.

(f) Any decision, opinion or report by the agency or hearing examiner.

(7) All staff memoranda and staff data, not admitted as evidence in a contested case, which are submitted to the hearing examiner or officials of the agency in connection with their consideration of the case, are not part of the official record but shall be made a part of the file and shall be served on all parties. Any party may, within 10 days of service of such memoranda or data, submit comments thereon to the examiner or officials and such comments shall also be served on all parties and placed in the file.

(8) A stenographic, electronic or other record of oral proceedings shall be made in any class 2 or class 3 proceeding and in any class 1 proceeding when requested by a party. Each agency may establish rules relating to the transcription of the record into a written transcript and the providing of free copies of the written transcript. Rules may require a purpose for transcription which is deemed by the agency to be reasonable, such as appeal, and if this test is met to the satisfaction of the agency, the record shall be transcribed at the agency's expense. Rules may require a showing of impecuniousness or financial need as a basis for providing a free copy of the transcript, otherwise a reasonable compensatory fee may be charged. If any agency does not adopt such rules, then it must transcribe the record and provide free copies of written transcripts upon request. In any event, an agency shall not refuse to provide a written transcript if the person making the request pays a reasonable compensatory fee for the transcription and for the copy. This section does not apply where a transcript fee is specifically provided by law.

(9) The factual basis of the decision shall be solely the evidence and matters officially noticed.

SECTION 8. 227.075 of the statutes is created to read:

227.075 Right to hearing. (1) In addition to any other right provided by law, any person filing a written request with an agency for hearing shall have the right to a hearing which shall be treated as a contested case if:

(a) A substantial interest of the person is injured in fact or threatened with injury by agency action or inaction;

(b) There is no evidence of legislative intent that the interest is not to be protected;

(c) The injury to the person requesting a hearing is different in kind or degree from injury to the general public caused by the agency action or inaction; and

(d) There is a dispute of material fact.

(2) Any denial of a request for a hearing shall be in writing, shall state the reasons for denial, and is an order reviewable under this chapter. If the agency does not enter an order disposing of the request for hearing within 20 days from the date of filing, the request shall be deemed denied as of the end of the 20-day period.

(3) This section does not apply to rule-making proceedings or rehearings, or to actions where hearings at the discretion of the agency are expressly authorized by law.

SECTION 9. 227.08 of the statutes is repealed.

SECTION 10. 227.08 (5) to (7) of the statutes are created to read:

227.08 (5) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(6) A party may conduct cross-examinations reasonably required for a full and true disclosure of the facts.

(7) In any class 2 proceeding, each party shall have the right, prior to the date set for hearing, to take and preserve evidence as provided in ch. 887. In any class 1 or class 3 proceeding, an agency may by rule permit the taking and preservation of evidence, but in every such proceeding the taking and preservation of evidence shall be permitted with respect to a witness:

(a) Who is beyond reach of the subpoena of the agency;

(b) Who is about to go out of the state, not intending to return in time for the hearing;

(c) Who is so sick, infirm or aged as to make it probable that he will not be able to attend the hearing; or

(d) Who is a member of the legislature, if any committee of the same or the house of which he is a member is in session, provided he waives his privilege.

SECTION 11. 227.09 of the statutes is repealed and recreated to read:

227.09 Hearing examiners; examination of evidence by agency. (1) An agency may designate an official of the agency or an employe on its staff or borrowed from another agency pursuant to s. 16.24 or 20.901 as a hearing examiner to preside over any contested case. Subject to rules of the agency, examiners presiding at hearings may:

(a) Administer oaths and affirmations.

(b) Issue subpoenas authorized by law.

(c) Rule on offers of proof and receive relevant evidence.

(d) Take depositions or have depositions taken when permitted by law.

(e) Regulate the course of the hearing.

(f) Hold conferences for the settlement or simplification of the issues by consent of the parties.

(g) Dispose of procedural requests or similar matters.

(h) Make or recommend findings of fact, conclusions of law and decisions to the extent permitted by law.

(i) Take other action authorized by agency rule consistent with this chapter.

(2) In any contested case which is a class 2 or class 3 proceeding, where a majority of the officials of the agency who are to render the final decision are not present for the hearing, the hearing examiner presiding at the hearing shall prepare a proposed decision, including findings of fact, conclusions of law, order and opinion, in a form that may be adopted as the final decision in the case. The proposed decision shall be a part of the record and shall be served by the agency on all parties. Each party adversely affected by the proposed decision shall be given an opportunity to file objections to the proposed decision, briefly stating the reasons and authorities for each objection, and to argue with respect to them before the officials who are to participate in the decision. The agency may direct whether such argument shall be written or

oral. If an agency's decision varies in any respect from the decision of the hearing examiner, the agency's decision shall include an explanation of the basis for each variance.

(3) With respect to contested cases, an agency may by rule or in a particular case may by order:

(a) Direct that the hearing examiner's decision be the final decision of the agency;

(b) Except as provided in sub. (2) or (4), direct that the record be certified to it without an intervening proposed decision; or

(c) Direct that the procedure in sub. (2) be followed, except that in a class 1 proceeding both written and oral argument may be limited.

(4) Notwithstanding any other provision of this section, in any contested case, when a majority of the officials of the agency who are to render the final decision have not heard the case or read the record, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposed decision is served upon the parties and an opportunity is afforded to each party adversely affected to file objections and present briefs or oral argument to the officials who are to render the decision. The proposed decision shall contain a statement of the reasons therefor and of each issue of fact or law necessary to the proposed decision, prepared by the person who conducted the hearing or one who has read the record. The parties by written stipulation may waive compliance with this subsection.

(5) In any class 2 proceeding, if the decision to file a complaint or otherwise commence a proceeding to impose a sanction or penalty is made by one or more of the officials of the agency, the hearing examiner shall not be an official of the agency and the procedure described in sub. (2) shall be followed.

(6) The functions of persons presiding at a hearing or participating in proposed or final decisions shall be performed in an impartial manner. A hearing examiner or agency official may at any time disqualify himself. In class 2 and 3 proceedings, on the filing in good faith of a timely and sufficient affidavit of personal bias or other disqualification of a hearing examiner or official, the agency shall determine the matter as part of the record and decision in the case.

(7) (a) Notwithstanding any other provision of law, the hearing examiner presiding at a hearing may order such protective measures as are necessary to protect the trade secrets of parties to the hearing.

(b) In this subsection, "trade secret" has the meaning given under s. 943.205 (2) (a).

SECTION 12. 227.10 of the statutes is renumbered 227.08, and 227.08 (1), as renumbered, is amended to read:

227.08 (1) Agencies shall not be bound by common law or statutory rules of evidence. They shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant or unduly repetitious testimony. They shall give effect to the rules of privilege recognized by law. Basic principles of relevancy, materiality and probative force, ~~as recognized in equitable proceedings,~~ shall govern the proof of all questions of fact. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.

SECTION 13. 227.11 of the statutes is repealed.

SECTION 14. 227.12 of the statutes is repealed and recreated to read:

227.12 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any party to a contested case who deems himself aggrieved by a final order may, within 20 days after entry of the order,

file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after a final order. This subsection does not apply to s. 17.025 (3) (e).

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 20 days after it is filed. If the agency does not enter an order disposing of the petition within the 20-day period, the petition shall be deemed to have been denied as of the expiration of the 20-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

(7) If an application for rehearing is filed under this section, the person filing the application may not initiate a proceeding in a reviewing court based on any ground not set forth in an application for rehearing, unless good cause is shown to the court for failure to present the ground to the agency in the petition for rehearing.

SECTION 15. 227.13 of the statutes is renumbered 227.10.

SECTION 16. 227.13 of the statutes is created to read:

227.13 Ex parte communications in contested cases. (1) (a) In a contested case, no ex parte communication relative to the merits or a threat or offer of reward shall be made, before a decision is rendered, to the hearing examiner or any other official or employe of the agency who is involved in the decision-making process, by:

1. An official of the agency or any other public employe or official engaged in prosecution or advocacy in connection with the matter under consideration or a factually related matter; or

2. A party to the proceeding, or any person who directly or indirectly would have a substantial interest in the proposed agency action or his authorized representative or counsel.

(b) Paragraph (a) 1 does not apply to an advisory staff which does not participate in the proceeding.

(c) This subsection does not apply to an ex parte communication which is authorized or required by statute.

(d) This subsection does not apply to an ex parte communication by an official or employe of an agency which is conducting a class I proceeding.

(e) This subsection does not apply to any communication made to an agency in response to a request by the agency for information required in the ordinary course of its regulatory functions by rule of the agency.

(2) A hearing examiner or other agency official or employe involved in the decision-making process who receives an ex parte communication in violation of sub. (1) shall place on the record of the pending matter the communication, if written, a memorandum stating the substance of the communication, if oral, all written responses to the communication and a memorandum stating the substance of all oral responses made, and also shall advise all parties that the material has been placed on the record; however, any writing or memorandum which would not be admissible into the record if presented at the hearing shall not be placed in the record, but notice of the substance or nature of the communication shall be given to all parties. Any party desiring to rebut the communication shall be allowed to do so, if the party requests the opportunity for rebuttal within 10 days after notice of the communication. The hearing examiner or agency official or employe may, if he deems it necessary to eliminate the effect of an ex parte communication received by him, withdraw from the proceeding, in which case the agency shall assign a successor.

SECTION 17. 227.14 of the statutes is renumbered 227.11.

SECTION 18. 227.14 of the statutes is created to read:

227.14 Licenses. (1) When the grant, denial or renewal of a license is required to be preceded by notice and opportunity for hearing, the provisions of this chapter concerning contested cases apply.

(2) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally acted upon by the agency, and, if the application is denied or the terms of the new license are limited, until the last day for seeking review of the agency decision or a later date fixed by order of the reviewing court.

(3) Except as otherwise specifically provided by law, no revocation, suspension, annulment or withdrawal of any license is lawful unless the agency gives notice by mail to the licensee of facts or conduct which warrant the intended action and the licensee is given an opportunity to show compliance with all lawful requirements for the retention of the license. If an agency finds that public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. Such proceedings shall be promptly instituted and determined.

SECTION 19. 227.15 of the statutes is amended to read:

227.15 Judicial review; orders reviewable. Administrative decisions, which directly adversely affect the legal rights, duties or privileges substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, except the decisions of the department of revenue, the commissioner of banking, the commissioner of credit unions and the commissioner of savings and loan, shall be subject to judicial review as provided in this chapter; ~~but if specific statutory provisions require a petition for rehearing as a condition precedent, review shall be afforded only after such petition is filed and determined.~~

SECTION 20. 227.16 (1) of the statutes is amended to read:

227.16 (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.15 ~~and directly affected thereby~~ shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by registered mail upon the agency or one of its ~~members or upon its secretary or clerk~~ officials, and by filing such petition in the office of the clerk of the circuit court for ~~Dane county~~ the county where the trial shall be held pursuant to ch. 261 except s. 261.01 (9) (unless a different place of review is expressly provided by law), all within 30 days after the service of the decision of the agency upon all parties as provided in s. ~~227.14~~ 227.11 or, in cases where a rehearing is requested, within 30 days after service of the order finally disposing of the application for such rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing.

(b) The petition shall state the nature of the petitioner's interest, the ~~fact~~ facts showing that petitioner is a person aggrieved ~~and directly affected~~ by the decision, and the ~~ground or~~ grounds specified in s. 227.20 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving ~~the same~~ it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the ~~tax appeals commission or of the banking review board, the consumer credit review board or the credit union review board, or of the savings and loan review board, the department of revenue or the commissioner of banking or the commissioner of savings and loan, as the case may be, shall be the named respondent~~ except as provided in sub. (1m) following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.
2. The banking review board or the consumer credit review board, the commissioner of banking.
3. The credit union review board, the commissioner of credit unions.
4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) Copies of the petition shall be served, personally or by ~~registered mail certified mail, or, when service is timely admitted in writing, by first class mail,~~ not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made; ~~and for.~~ For the purpose of such service the agency upon request shall certify to the petitioner the names and addresses of all such parties as disclosed by its records, which certification shall be conclusive.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court, ~~in its discretion,~~ may permit other interested persons to intervene.

SECTION 21. 227.16 (1m) of the statutes is repealed.

SECTION 21m. 227.16 (2) of the statutes is amended to read:

227.16 (2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such

person, a notice of appearance clearly stating his position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney-general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as ~~herein~~ provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.

SECTION 22. 227.19 (3) of the statutes is amended to read:

227.19 (3) Within 20 days after the time specified in ~~section s.~~ 227.16 for filing notices of appearance in any proceeding for review, any respondent who has served such notice may move to dismiss the petition as filed upon the ground that such petition, upon its face, does not state facts sufficient to show that the petitioner named therein is a person aggrieved ~~and directly affected~~ by the decision sought to be reviewed. Upon the hearing of such motion the court may grant the petitioner leave to amend the petition if the amendment as proposed shall have been served upon all respondents prior to such hearing. If so amended the court may consider and pass upon the validity of the amended petition without further or other motion to dismiss the same by any respondent.

SECTION 23. 227.20 (1) of the statutes is repealed.

SECTION 24. 227.20 (2) of the statutes is renumbered 227.20 (10).

SECTION 25. 227.20 (1) to (9) of the statutes are created to read:

227.20 (1) The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, testimony thereon may be taken in the court and, if leave is granted to take such testimony, depositions and written interrogatories may be taken prior to the date set for hearing as provided in ch. 887 if proper cause is shown therefor.

(2) Unless the court finds a ground for setting aside, modifying, remanding or ordering agency action or ancillary relief under a specified provision of this section, it shall affirm the agency's action.

(3) The court shall separately treat disputed issues of agency procedure, interpretations of law, determinations of fact or policy within the agency's exercise of delegated discretion.

(4) The court shall remand the case to the agency for further action if it finds that either the fairness of the proceedings or the correctness of the action has been impaired by a material error in procedure or a failure to follow prescribed procedure.

(5) The court shall set aside or modify the agency action if it finds that the agency has erroneously interpreted a provision of law and a correct interpretation compels a particular action, or it shall remand the case to the agency for further action under a correct interpretation of the provision of law.

(6) If the agency's action depends on any fact found by the agency in a contested case proceeding, the court shall not substitute its judgment for that of the agency as to the weight of the evidence on any disputed finding of fact. The court shall, however, set aside agency action or remand the case to the agency if it finds that the agency's action depends on any finding of fact that is not supported by substantial evidence in the record.

(7) If the agency's action depends on facts determined without a hearing, the court shall set aside, modify or order agency action if the facts compel a particular

action as a matter of law, or it may remand the case to the agency for further examination and action within the agency's responsibility.

(8) The court shall reverse or remand the case to the agency if it finds that the agency's exercise of discretion is outside the range of discretion delegated to the agency by law; is inconsistent with an agency rule, an officially stated agency policy or a prior agency practice, if deviation therefrom is not explained to the satisfaction of the court by the agency; or is otherwise in violation of a constitutional or statutory provision; but the court shall not substitute its judgment for that of the agency on an issue of discretion.

(9) The court's decision shall provide whatever relief is appropriate irrespective of the original form of the petition. If the court sets aside agency action or remands the case to the agency for further proceedings, it may make such interlocutory order as it finds necessary to preserve the interests of any party and the public pending further proceedings or agency action.

SECTION 26. 227.22 (3) and (4) of the statutes are created to read:

227.22 (3) Any provision of ss. 227.07, 227.075 and 227.12 which is inconsistent with the requirements of title 45 of the code of federal regulations shall not apply to hearings held pursuant to ch. 49.

(4) This chapter does not apply to proceedings involving revocation of parole or probation, grant of probation, or prison discipline or good time.

SECTION 27. 551.61 (2), 553.56 (2) and 601.62 (3) (b) of the statutes are repealed.

SECTION 28. **Cross reference changes.** In the sections listed below in column A, the cross references in column B are changed to the cross references shown in column C:

A	B	C
Statute Sections	Old Cross References	New Cross References
13.56 (2)	227.01 (3) and (5)	227.01 (9) and (11)
41.13 (3) (f)	227.08 to 227.13	227.07 to 227.13
66.076 (9)	196.26 to 196.405	196.26 to 196.40
70.335 (4) (b), (8) and (15)	227.07 to 227.14	227.07 to 227.13
93.06 (7)	93.19 and ch. 227	ch. 227
97.32 (4)	93.19 and ch. 227	ch. 227
140.45 (3)	227.01 (3)	227.01 (9)
195.06	227.14	227.11
196.24 (3)	227.12	227.09
227.01 (10) and (11) (intro.), as renum- bered	sub. (3)	sub. (9)
227.01 (11) (intro.), as renumbered	sub. (4)	sub. (10)
227.02 (1) (d)	sub. (3) or (4)	sub. (9) or (10)
601.62 (3) (c)	227.01 (4)	227.01 (10)
601.63 (1)	par. (a) or (b)	par. (a)
	227.14	227.11
	601.62 (3) (b)	227.12

SECTION 29. **Effective date.** This act shall take effect 90 days after publication.