

1979 Assembly Bill 275

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CHAPTER 121, Laws of 1979
(Veto Overruled)

AN ACT to amend 186.113 (1) and 186.26; and to create 13.91 (1) (c), 186.113 (1m) and 186.40 of the statutes, relating to authorization of Wisconsin credit unions to do limited business in other states under certain circumstances, and granting rule-making authority.

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

SECTION 1. Statement of purpose; rule-making powers. (1) Article IV of the constitution vests in the legislature the power to make laws, and thereby to establish agencies and to designate agency functions, budgets and purposes. Article V of the constitution charges the executive with the responsibility to expedite all measures which may be resolved upon by the legislature.

(2) The legislature recognizes the need for smooth administration of public policy. In granting to the executive the responsibility to manage agencies created by it, the legislature may deem it necessary to delegate rule-making authority to these agencies to facilitate administration of legislative policy. In so doing, the legislature reserves unto itself

the right and responsibility to designate the method of rule review and modification, applicable to any rule adopted under this delegation of authority.

SECTION 1g. 13.91 (1) (c) of the statutes is created to read:

13.91 (1) (c) Perform the functions prescribed in s. 186.40 for the review of administrative rules.

SECTION 1r. 186.113 (1) of the statutes is amended to read:

186.113 (1) If the need and necessity exists, establish subsidiary offices where permanent records may be maintained within the state with the approval of the commissioner.

SECTION 2. 186.113 (1m) of the statutes is created to read:

186.113 (1m) (a) Establish limited services offices outside this state if all of the following requirements are met:

1. The establishment of limited services offices outside the state is necessary.
2. The common bond among the members of the credit union establishing such offices is employment by a corporation, partnership or association whose principal office is located in this state.
3. The establishment of such offices has been approved by the commissioner.
4. Such offices are established and operated in accordance with rules promulgated by the commissioner.
5. The offices are established and maintained at locations of other facilities of the corporation, partnership or association which employs the credit union's members.

(b) A limited services office established under this subsection may pay withdrawals and accept deposits, loan applications and payments on loans. Permanent records of limited services offices established under this subsection shall be maintained at the credit union's home office in this state.

SECTION 3. 186.26 of the statutes is amended to read:

186.26 Examinations. (1) At least once each year, the commissioner shall make or cause to be made an examination into the affairs of ~~all such~~ each credit unions union and for that purpose the commissioner or the examiners appointed by ~~him~~ the commissioner shall have full access to, and may compel the production of, ~~all their~~ each credit union's books, papers, securities and moneys, administer oaths to and examine ~~their~~ each credit union's officers and agents as to their respective affairs. Special examination shall be made upon written request of 5 or more members, ~~they guaranteeing if those members~~ guarantee the expense of the ~~same~~ special examination. The refusal of any credit union to submit to an examination ordered or requested shall be reported to the department of justice for the purpose of instituting proceedings to have the charter of the credit union revoked because of the refusal.

(2) If records are located outside this state, at the option of the commissioner, the credit union shall either make ~~such~~ the records available to the commissioner at a convenient location within this state or pay the reasonable and necessary expenses for the commissioner or examiners to examine ~~such~~ the records at the place where they are maintained. The commissioner may designate examiners, including comparable officials of the state in which the records are located, to inspect them on the commissioner's behalf. ~~The~~ Except as provided in s. 186.113 (1m), the maintenance of any office or branch outside this state is not allowed under this chapter.

SECTION 4. 186.40 of the statutes is created to read:

186.40 Review of rules. (1) DEFINITIONS. In this section:

- (a) "Proposed rule" means any rule to be created, amended, renumbered or repealed.
- (b) "Working day" means each day except Saturday, Sunday and those holidays designated in s. 230.35 (4) (a).

(2) **SUBMISSION TO LEGISLATIVE COUNCIL STAFF.** Prior to any public hearing on a proposed rule under s. 186.113 (1m) (a) 4 or if no public hearing is required, prior to notification under s. 227.018 (2), the commissioner shall submit the proposed rule to the legislative council staff for review.

(3) **ROLE OF LEGISLATIVE COUNCIL STAFF.** The legislative council staff shall act as a clearinghouse for rule drafting under s. 186.113 (1m) (a) 4. The council staff shall issue a report on each proposed rule which is referred to it under this section no later than the end of the 20th working day following the day on which the proposed rule is referred, unless an extension is granted by the chairman of the council. No extension granted under this subsection may exceed 20 working days. The council staff shall cooperate with the commissioner and the revisor of statutes to:

(a) Review the statutory authority under which the commissioner intends to adopt the rule.

(b) Ensure that the procedures for the promulgation of a rule required by ch. 227 are followed.

(c) Review proposed rules for form, style and placement in the administrative code.

(d) Review proposed rules to avoid conflict with or duplication of existing rules.

(e) Review proposed rules to provide adequate references to related statutes, related rules and forms.

(f) Review proposed rules for clarity, grammar and punctuation and to ensure plain language.

(g) Review proposed rules to determine potential conflicts and to make comparisons with related federal regulations.

(h) Streamline and simplify the rule-making process.

(4) **ASSISTANCE TO STANDING COMMITTEES.** The legislative council staff shall work with and assist the appropriate standing committees throughout the rule-making process under s. 186.113 (1m) (a) 4. The legislative council staff may issue recommendations concerning proposed rules which the commissioner shall submit with the notice required under s. 227.018 (2).

(5) **NOTIFICATION OF STANDING COMMITTEES.** The commissioner shall notify the presiding officer of each house of the legislature when any proposed rule under s. 186.113 (1m) (a) 4 is in final draft form by submitting a notice to the presiding officer to this effect. Each presiding officer shall refer the notice to one standing committee by the end of the 2nd working day following the day on which the notice is received. The commissioner may withdraw a proposed rule at any time by notifying the presiding officer of his or her intention not to promulgate the rule. The commissioner shall cause a notice that a proposed rule is referred to the presiding officers to appear in the Wisconsin administrative register. Each presiding officer shall cause a similar notice to appear in the journal of the house.

(6) **FORM OF NOTICE.** The notice shall include the proposed rule in the form specified in s. 227.024 (1), an analysis, any recommendations of the legislative council staff and a report. The report shall include findings of fact, conclusions and recommendations which demonstrate the need for the proposed rule and its reasonableness.

(7) **STANDING COMMITTEE REVIEW.** (a) *Standing committee meeting.* A committee may be convened upon the call of its chairperson or a majority of its members to review a proposed rule. A committee may meet separately or jointly with the other committee to which the notice is referred, direct the commissioner to dispatch a representative to attend the meeting and hold a public hearing to review the proposed rule.

(b) *Standing committee review period.* The standing committee review period extends for 30 days after the notice is published under sub. (5) and if within the 30-day period a standing committee directs the commissioner to meet with it to review the draft, the standing committee review period is continued for 30 days from the date of that request.

(c) *Commissioner not to promulgate rule pending standing committee review.* The commissioner may not promulgate a proposed rule under s. 186.113 (1m) (a) 4 during the standing committee review period unless both committees waive their authority to disapprove the proposed rule prior to the expiration of that period.

(d) *Standing committee action.* Either standing committee may disapprove the proposed rule or part of the proposed rule by taking action in executive session to disapprove the rule within the standing committee review period. If both committees fail to take this action, the proposed rule is not disapproved and the commissioner may promulgate the rule.

(e) *Rereferral.* If a proposed rule is referred to standing committees and the review period under par. (b) has not expired and the committees have not waived their authority to disapprove the proposed rule under par. (c) at the time of final adjournment of the legislature, the presiding officer of each house may rerefer the proposed rule to a different standing committee. In this case, the presiding officers shall publish a revised notice under sub. (2) and the standing committee review period begins on the date of rereferral.

(8) JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES. (a) *Referral.* If either standing committee disapproves a proposed rule or part of a proposed rule, the committee shall refer the proposed rule or the part disapproved to the joint committee for the review of administrative rules.

(b) *Joint committee review period.* The joint committee review period extends for 30 days after a proposed rule is referred to it. The joint committee shall meet and take action in executive session during that period.

(c) *Commissioner not to promulgate rule pending joint committee review.* The commissioner may not promulgate a proposed rule or any part thereof which is disapproved by a standing committee under s. 186.113 (1m) (a) 4 unless the action of the standing committee is reversed by the joint committee for the review of administrative rules under par. (d) or until the bill introduced under par. (e) fails of enactment. The commissioner may promulgate any portion of a rule which is not disapproved.

(d) *Joint committee action.* The joint committee for the review of administrative rules may reverse the disapproval of a proposed rule or portion thereof by a standing committee by taking action to authorize adoption of the rule or portion thereof within the joint committee review period. The joint committee may uphold the disapproval of a proposed rule or portion thereof by a standing committee by taking action to disapprove the rule or portion thereof within the joint committee review period. The joint committee may remand the proposed rule or disapproved portion not more than one time to the commissioner for further consideration or a public hearing, or both. If the joint committee disapproves a proposed rule or portion of a rule, the commissioner may not promulgate the proposed rule or portion thereof until the bill introduced under par. (e) fails of enactment.

(e) *Bill to support disapproval.* When the joint committee for the review of administrative rules disapproves a proposed rule or portion of a proposed rule under s. 186.113 (1m) (a) 4 the committee shall as soon as possible place before the legislature a bill to support the disapproval. If the bill is defeated, or fails of enactment in any other manner, the proposed rule or disapproved portion thereof may be promulgated. If the bill becomes law, the proposed rule or disapproved portion thereof may not be promulgated unless a properly enacted law specifically authorizes the adoption of that rule or disapproved portion.

(9) NONAPPLICATION. This section does not apply to emergency rules adopted under s. 227.027.
