



2019 ASSEMBLY BILL 851

February 3, 2020 - Introduced by Representatives NEYLON, BALLWEG and OTT, cosponsored by Senators NASS, CRAIG and STROEBEL. Referred to Committee on Government Accountability and Oversight.

1 **AN ACT** *to amend* 227.135 (5); and *to create* 227.135 (6), 227.135 (7) and 227.14
2 (6) (c) 1. c. of the statutes; **relating to:** statements of scope for administrative
3 rules.

Analysis by the Legislative Reference Bureau

Under current law, in order to promulgate a rule, an agency must submit a statement of scope for the proposed rule for review by the Department of Administration and approval by the governor. Once the governor approves the statement, the agency must send the approved statement of scope to the Legislative Reference Bureau for publication in the Wisconsin Administrative Register before continuing with the rule promulgation process. A statement of scope expires after 30 months, after which the agency may not promulgate any rule based on that statement of scope that has not been submitted for legislative review by the expiration date. This bill does the following:

1. Limits an agency to promulgating one permanent and one emergency rule per statement of scope.

2. Allows an agency to formally withdraw a statement of scope prior to its expiration date by sending a withdrawal notice for the statement to the LRB for publication in the Wisconsin Administrative Register. Once a statement of scope has been withdrawn, the agency may not promulgate a rule based upon that statement of scope and all proposed rules based upon that statement of scope that are in the process of being promulgated are automatically withdrawn.

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3. Clarifies that, when a statement of scope expires, an agency also may not promulgate an emergency rule based upon that statement of scope.

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

1 **SECTION 1.** 227.135 (5) of the statutes is amended to read:

2 227.135 (5) A statement of scope shall expire on the date that is 30 months after
3 the date on which it is published in the register. After a statement of scope expires,
4 an agency may not submit a proposed permanent rule based upon that statement of
5 scope to the legislature for review under s. 227.19 (2), and any such rule that has not
6 been submitted to the legislature for review before that date shall be considered
7 withdrawn on that date as provided in s. 227.14 (6) (c) 1. a. After a statement of scope
8 expires, an agency may not promulgate a proposed emergency rule based upon that
9 statement of scope. For purposes of this subsection, a revised statement of scope
10 prepared under sub. (4) shall expire on the date that is 30 months after the date on
11 which the revised statement is published in the register.

12 **SECTION 2.** 227.135 (6) of the statutes is created to read:

13 227.135 (6) (a) Except as provided in par. (b), an agency may withdraw a
14 statement of scope by sending a withdrawal notice for the statement to the legislative
15 reference bureau for publication in the register. The notice may include a statement
16 regarding the reasons the agency is withdrawing the statement of scope. The agency
17 shall also notify the presiding officer of each house of the legislature and the
18 legislative council staff of the withdrawal. When an agency withdraws a statement
19 of scope as provided in this paragraph, each proposed rule based upon that statement
20 of scope that has not been filed under s. 227.20 and that has not otherwise already

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1 been withdrawn shall also be considered withdrawn on that date as provided in s.
2 227.14 (6) (c) 1. c.

3 (b) An agency may not withdraw a statement of scope under par. (a) that has
4 expired under sub. (5).

5 (c) An agency may not promulgate a rule based upon a statement of scope that
6 has been withdrawn.

7 **SECTION 3.** 227.135 (7) of the statutes is created to read:

8 227.135 (7) An agency may not promulgate more than one permanent rule and
9 one emergency rule based on a statement of scope.

10 **SECTION 4.** 227.14 (6) (c) 1. c. of the statutes is created to read:

11 227.14 (6) (c) 1. c. On the date that the statement of scope for the proposed rule
12 is withdrawn under s. 227.135 (6) (a).

13 **SECTION 5. Initial applicability.**

14 (1) The treatment of s. 227.135 (7) first applies to statements of scope that are
15 approved by the governor on the effective date of this subsection.

16 (END)