

2001 DRAFTING REQUEST

Bill

Received: **01/04/2001**

Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **Steven Foti (608) 266-2401**

By/Representing: **Michael Heifetz**

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact:

Addl. Drafters:

Subject: **Administrative Law**

Extra Copies: **MGD**

Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Duration of effect of emergency rules

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	nelsorp1 01/24/2001	jdyer 02/02/2001	martykr 02/05/2001	_____	lrb_docadmin 02/05/2001		
/2	nelsorp1 03/05/2001	jdyer 03/05/2001	martykr 03/05/2001	_____	lrb_docadmin 03/05/2001	lrb_docadmin 04/12/2001	

FE Sent For:

<END>

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FE Sent For:

h/3 jld
h/3 km
pb/3 km

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1?	nelsorp1	1 2/2 jld	km/s	PG 2 km/s			

FE Sent For:

<END>

Nelson, Robert P.

From: Heifetz, Michael
Sent: Thursday, January 04, 2001 1:28 PM
To: Nelson, Robert P.
Subject: FW:

Bob:

Forget the 90 days. Foti wants 60.

Thanks.

-----Original Message-----

From: Dykman, Peter
Sent: Thursday, January 04, 2001 1:22 PM
To: Heifetz, Michael
Cc: Nelson, Robert P.
Subject: RE:

No. Bob Nelson does. I am forward your e-mail request to him to draft.

*What about time
227.ⁱⁿ24(2)(a) |
(4)*

-----Original Message-----

From: Heifetz, Michael
Sent: Thursday, January 04, 2001 11:47 AM
To: Dykman, Peter
Subject:

Good morning. Do you handle the administrative rules process? Foti would like to make a change to the 150 day duration of emergency rules. He would like to reduce it to 90.

Thanks.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1802/1

RPN.....:....

D-Note

JLD

2001 BILL

gen

1 AN ACT ...; relating to: the duration of the effect of emergency rules. ✓

Analysis by the Legislative Reference Bureau

Under current law, an agency may promulgate a rule as an emergency rule without complying with the notice, hearing, and publication requirements for regular rule making if the rule is needed to preserve the public health, safety, or welfare. A rule promulgated as an emergency rule takes effect upon its publication in the official state newspaper and remains in effect for 150 days. Current law allows the agency to request that the joint committee for review of administrative rules extend the extend the effective date of the emergency rule for additional periods not to exceed 60 days each, but with a maximum of 120 days for all the extensions. Currently, a request for an extension of an emergency rule must be made at least 30 days before the expiration date of the rule. An agency that issues an emergency rule must hold a public hearing within 45 days after the rule is promulgated, or if the agency submits a rule to the legislative council staff that is the same as the emergency rule, the agency must hold a public hearing on both rules within 90 days after promulgating the emergency rule or within 30 days after the agency receives the report on the rule prepared by the legislative council, whichever is later.

of date on which the

This bill makes the following reductions in the time periods regarding emergency rules:

1. The effective period of an emergency rule from 150 days to 60[✓] days.
2. The initial period that an emergency rule may be extended from 60[✓] days to 30 days.
3. The maximum period of extension from 120 days to 60[✓] days.
4. The time period before the expiration of the rule that the agency has to request an extension from 30 to 15 days.

days

BILL

5. The time that the agency must hold a public hearing if the rule not submitted to the legislative council staff from 45 days to 22[✓] days.

6. The time that the agency must hold a public hearing if the rule is submitted to the legislative council staff for review from 90 days to 45[✓] days (after the emergency rule is promulgated) and from 30 days to 15[✓] days (after receiving the legislative council report), whichever is later.

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

1 **SECTION 1.** 227.24 (1) (c) [✓] of the statutes is amended to read:

2 227.24 (1) (c) A rule promulgated under par. (a) takes effect upon publication
3 in the official state newspaper or on any later date specified in the rule and, except
4 as provided under sub. (2), remains in effect only for 150 [✓]60 days.

5 History: 1985 a. 182 ss. 6, 46, 55 (1), 57; 1985 a. 332 s. 253; 1987 a. [✓]403; 1989 a. 31; 1995 a. 151; 1997 a. 185.

5 **SECTION 2.** 227.24 (2) (a) [✓] of the statutes is amended to read:

6 227.24 (2) (a) At the request of an agency, the joint committee for review of
7 administrative rules may, at any time prior to the expiration date of a rule
8 promulgated under sub. (1) (a), extend the effective period of the emergency rule or
9 part of the emergency rule for a period specified by the committee not to exceed 60
10 [✓]30 days. Any number of extensions may be granted under this paragraph, but the
11 total period for all extensions may not exceed 120 [✓]60 days.

12 History: 1985 a. 182 ss. 6, 46, 55 (1), 57; 1985 a. 332 s. 253; 1987 a. [✓]403; 1989 a. 31; 1995 a. 151; 1997 a. 185.

12 **SECTION 3.** 227.24 (2) (am) of the statutes is amended to read:

13 227.24 (2) (am) Any request by an agency to extend the effective period of the
14 emergency rule or part of the emergency rule must be made in writing to the joint
15 committee for review of administrative rules no later than 30 [✓]15 days before the
16 initial expiration date of the emergency rule. At the time that the agency submits
17 the written request to the joint committee for review of administrative rules, the
18 agency shall submit a copy of the written request to the presiding officer of each

BILL

1 house of the legislature and to the appropriate committees of each house of the
2 legislature, as determined by the presiding officer of each house of the legislature.
3 The presiding officer of each house of the legislature shall enter a statement in the
4 journal of his or her house that the agency has submitted a request to extend the
5 effective period of the emergency rule or part of the emergency rule. This paragraph
6 shall not apply to any subsequent request by the agency to extend the same
7 emergency rule or part of the emergency rule.

8 History: 1985 a. 182 ss. 6, 46, 55 (1), 57; 1985 a. 332 s. 253; 1987 a. 403; 1989 a. 31; 1995 a. 151; 1997 a. 185.

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

9 227.24 (4) PUBLIC HEARING. Notwithstanding sub. (1) (a) and (b), an agency
10 shall hold a public hearing within 45 [✓]22 days after it promulgates a rule under sub.
11 (1). If within that ~~45-day~~ [✓]22-day period the agency submits to the legislative council
12 staff under s. 227.15 a proposed rule corresponding to the rule under sub. (1), it shall
13 hold a public hearing on both rules within 90 [✓]45 days after promulgation of the rule
14 under sub. (1), or within 30 [✓]15 days after the agency receives the report on the
15 proposed rule prepared by the legislative council under s. 227.15 (2), whichever
16 occurs later.

17 History: 1985 a. 182 ss. 6, 46, 55 (1), 57; 1985 a. 332 s. 253; 1987 a. 403; 1989 a. 31; 1995 a. 151; 1997 a. 185.

SECTION 5. Initial applicability.

18 (1) ~~This~~ [✓]act first applies to emergency rules promulgated on the effective date
19 of this subsection. [✓]

20 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1802/1dn

RPN.....

↑
jld

⁽¹⁾
In addition to reducing the effective period of an emergency rule from 150 days to 60 days, made corresponding changes in the other time periods related to emergency rule making. I was not sure what the changes should be, so I basically cut the other related time periods in half. You may want to change those periods in some other way. I suggest that you share this draft with staff at the Legislative Council who deal with rule making to make sure that I did not create impossible or incorrect time periods.

Do you want a delayed effective date to give agencies time to become acquainted with the new time periods?

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1802/1dn
RPN;jld:km

February 5, 2001

In addition to reducing the effective period of an emergency rule from 150 days to 60 days, I made corresponding changes in the other time periods related to emergency rule making. I was not sure what the changes should be, so I basically cut the other related time periods in half. You may want to change those periods in some other way. I suggest that you share this draft with staff at the Legislative Council who deal with rule making to make sure that I did not create impossible or incorrect time periods.

Do you want a delayed effective date to give agencies time to become acquainted with the new time periods?

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us



2001 BILL

Regen

1 AN ACT to amend 227.24 (1) (c), 227.24 (2) (a), 227.24 (2) (am) and 227.24 (4) of
2 the statutes; relating to: the duration of the effect of emergency rules.

Analysis by the Legislative Reference Bureau

Under current law, an agency may promulgate a rule as an emergency rule without complying with the notice, hearing, and publication requirements for regular rule making if the rule is needed to preserve the public health, safety, or welfare. A rule promulgated as an emergency rule takes effect upon its publication in the official state newspaper and remains in effect for 150 days. Current law allows the agency to request that the joint committee for review of administrative rules extend ~~the effective date~~ the effective date of the emergency rule for additional periods not to exceed 60 days each, but with a maximum of 120 days for all of the extensions. Currently, a request for an extension of an emergency rule must be made at least 30 days before the expiration date of the rule. An agency that issues an emergency rule must hold a public hearing within 45 days after the date on which the rule is promulgated, or if the agency submits a rule to the legislative council staff that is the same as the emergency rule, the agency must hold a public hearing on both rules within 90 days after promulgating the emergency rule or within 30 days after the date on which the agency receives the report on the rule prepared by the legislative council, whichever is later.

This bill ~~makes the following reductions in the time periods regarding~~ ^{NO #} emergency rules: ~~reduces the initial~~ ^{reduces the initial} effective period of an emergency rule from 150 days to 60 days. ² The initial period that an emergency rule may be extended from ~~60 days to~~ ^{30 days.}

BILL

~~3. The maximum period of extension from 120 days to 60 days.~~

~~4. The time period before the expiration of the rule that the agency has to request an extension from 30 days to 15 days.~~

~~5. The time that the agency must hold a public hearing if the rule not submitted to the legislative council staff from 45 days to 22 days.~~

~~6. The time that the agency must hold a public hearing if the rule is submitted to the legislative council staff for review from 90 days to 45 days (after the emergency rule is promulgated) and from 30 days to 15 days (after receiving the legislative council report), whichever is later.~~

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

SECTION 1. 227.24 (1) (c) of the statutes is amended to read:

227.24 (1) (c) A rule promulgated under par. (a) takes effect upon publication in the official state newspaper or on any later date specified in the rule and, except as provided under sub. (2), remains in effect only for 150 [✓]60 days.

~~**SECTION 2.** 227.24 (2) (a) of the statutes is amended to read:~~

~~227.24 (2) (a) At the request of an agency, the joint committee for review of administrative rules may, at any time prior to the expiration date of a rule promulgated under sub. (1) (a), extend the effective period of the emergency rule or part of the emergency rule for a period specified by the committee not to exceed 60 30 days. Any number of extensions may be granted under this paragraph, but the total period for all extensions may not exceed 120 60 days.~~

~~**SECTION 3.** 227.24 (2) (am) of the statutes is amended to read:~~

~~227.24 (2) (am) Any request by an agency to extend the effective period of the emergency rule or part of the emergency rule must be made in writing to the joint committee for review of administrative rules no later than 30 15 days before the initial expiration date of the emergency rule. At the time that the agency submits the written request to the joint committee for review of administrative rules, the~~

BILL

1 agency shall submit a copy of the written request to the presiding officer of each
2 house of the legislature and to the appropriate committees of each house of the
3 legislature, as determined by the presiding officer of each house of the legislature.
4 The presiding officer of each house of the legislature shall enter a statement in the
5 journal of his or her house that the agency has submitted a request to extend the
6 effective period of the emergency rule or part of the emergency rule. This paragraph
7 shall not apply to any subsequent request by the agency to extend the same
8 emergency rule or part of the emergency rule.

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

10 227.24 (4) PUBLIC HEARING. Notwithstanding sub. (1) (a) and (b), an agency
11 shall hold a public hearing within ~~45~~ 22 days after it promulgates a rule under sub.
12 (1). If within that ~~45-day~~ 22-day period the agency submits to the legislative council
13 staff under s. 227.15 a proposed rule corresponding to the rule under sub. (1), it shall
14 hold a public hearing on both rules within ~~90~~ 45 days after promulgation of the rule
15 under sub. (1), or within ~~30~~ 15 days after the agency receives the report on the
16 proposed rule prepared by the legislative council under s. 227.15 (2), whichever
17 occurs later.

18 **SECTION 5. Initial applicability.**

19 (1) This act first applies to emergency rules promulgated on the effective date
20 of this subsection.

21 (END)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

March 5, 2001

MEMORANDUM

To: Representative Foti

From: Robert P. Nelson, Senior Legislative Attorney

Re: LRB-1802 Duration of effect of emergency rules

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

_____ JACKET FOR ASSEMBLY _____ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-7511 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.