



2001 SENATE BILL 162

April 26, 2001 - Introduced by Senators WELCH and HUELSMAN, cosponsored by Representatives SUDER, URBAN, MUSSER, STASKUNAS, HOVEN, GRONEMUS, JESKEWITZ, TOWNSEND, ALBERS, MCCORMICK and SERATTI. Referred to Joint committee for review of Administrative Rules.

1 **AN ACT to repeal** 20.765 (2) (c), 20.923 (6) (aLi) and 230.08 (2) (am); and **to create**
2 20.765 (2) (c), 20.923 (6) (aLi) and 230.08 (2) (am) of the statutes; **relating to:**
3 creating an administrative rules task force and making an appropriation.

Analysis by the Legislative Reference Bureau

The bill creates an administrative rules task force (task force) composed of ten nonlegislative members appointed by the legislative leadership. The bill directs the task force to review existing administrative rules and agency statements of policy and interpretations of statutes selected by the task force to ensure that each reviewed rule, statement, or interpretation satisfies the 11 standards specified in the bill.

The bill directs the task force to report its findings and recommendations: 1) that relate to amending a rule, statement, or interpretation, to the agency that promulgated the rule, statement, or interpretation; 2) that relate to amending a statute interpreted by a rule, statement, or interpretation, to the appropriate standing committees of the legislature; and 3) that relate to promulgating a statement or interpretation as a rule, to the joint committee for review of administrative rules (JCRAR).

The task force may also recommend to JCRAR that an existing rule be suspended if the task force determines, based on testimony received by the task force at a hearing on the rule, that the rule does one or more of the following: 1) is not authorized by the statutes; 2) conflicts with state law; 3) is affected by a change in circumstances since enactment of the earliest law upon which the rule is based; 4)

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1 20.923 (6) (aLi) Administrative rules task force: director and staff employed
2 under 2001 Wisconsin Act (this act), section 8 (1) to (8).

3 **SECTION 5.** 20.923 (6) (aLi) of the statutes, as created by 2001 Wisconsin Act
4 (this act), is repealed.

5 **SECTION 6.** 230.08 (2) (am) of the statutes is created to read:

6 230.08 (2) (am) The director and all staff of the administrative rules task force
7 employed under 2001 Wisconsin Act (this act), section 8 (1) to (8).

8 **SECTION 7.** 230.08 (2) (am) of the statutes, as created by 2001 Wisconsin Act
9 (this act), is repealed.

10 **SECTION 8. Nonstatutory provisions.**

11 (1) DEFINITIONS. In this SECTION:

12 (a) "Agency" has the meaning given in section 227.01 (1) of the statutes.

13 (b) "Rule" has the meaning given in section 227.01 (13) of the statutes.

14 (c) "Small business" has the meaning given in section 227.114 (1) (a) of the
15 statutes.

16 (d) "Task force" means the administrative rules task force created in this
17 SECTION.

18 (2) CREATION. There is created the administrative rules task force in the
19 legislative branch of state government. The task force shall consist of the following
20 nonlegislative members:

21 (a) Three members appointed by the speaker of the assembly.

22 (b) Three members appointed by the president of the senate.

23 (c) Two members appointed by the assembly minority leader.

24 (d) Two members appointed by the senate minority leader.

25 (3) POWERS AND DUTIES.

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1 (a) *Duties.* The task force shall conduct a review of rules and agency statements
2 of policy and interpretations of statutes in effect on the effective date of this
3 paragraph that are identified by the task force based upon complaints and public
4 comments received by the task force and concerns of task force members. The task
5 force shall ensure that each reviewed rule, statement, or interpretation meets all of
6 the following criteria:

- 7 1. It is current and necessary.
- 8 2. It does not conflict with related federal statutes and regulations.
- 9 3. If a rule, it was properly promulgated as a rule.
- 10 4. If a rule, it was promulgated with adequate consideration of its effect on
11 businesses, including its effect on small businesses under section 227.114 (2) of the
12 statutes.
- 13 5. It does not discourage innovation and entrepreneurial business activity.
- 14 6. It is not detrimental to a healthy, statewide economy.
- 15 7. It is authorized by statute.
- 16 8. It does not conflict with state law.
- 17 9. It is not affected by a change in circumstances since enactment of the earliest
18 law upon which the rule, statement, or interpretation is based.
- 19 10. It is not arbitrary and capricious.
- 20 11. It does not impose an undue hardship.

21 (b) *Powers.* The task force may do any of the following:

22 1. Based upon its review under paragraph (a), report findings and
23 recommendations that relate to any of the following:

24 a. Amending a rule, a statement of policy, or an interpretation of a statute, to
25 the agency that promulgated the rule, statement, or interpretation.

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1 b. Amending a statute interpreted by a rule, a statement of policy, or other
2 interpretation, to the appropriate standing committees of the legislature under
3 section 13.172 (3) of the statutes.

4 c. Promulgating a statement of policy or an interpretation of a statute as a rule,
5 to the joint committee for review of administrative rules.

6 2. Conduct public hearings and take testimony regarding a rule, statement of
7 policy, or interpretation of a statute.

8 3. Based upon its review under paragraph (a), recommend to the joint
9 committee for review of administrative rules, by a majority vote of a quorum of the
10 task force, that a rule be suspended. The task force may recommend suspension only
11 on the basis of testimony in relation to that rule received at a public hearing and only
12 if the rule does not comply with one or more of the standards specified in paragraph
13 (a) 7. to 11.

14 4. Make recommendations to one or more agencies or the joint committee for
15 review of administrative rules on methods or procedures to improve the process for
16 promulgating new rules and reviewing existing rules.

17 5. Create one or more advisory committees to assist the task force.

18 (4) TASK FORCE REPORT. If the task force recommends that a rule be suspended
19 under subsection (3) (b) 3., the task force shall submit to the joint committee for
20 review of administrative rules with the recommendation a report that contains all
21 of the following:

22 (a) An explanation of the issue regarding the rule and the factual situation out
23 of which the issue arose.

24 (b) Arguments presented for and against the suspension recommendation at
25 the public hearing on the rule.

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1 (c) A statement of the action taken by the task force regarding the rule.

2 (d) A statement and analysis of the grounds upon which the task force relied
3 for recommending suspension of the rule.

4 (5) JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES ACTION.

5 (a) *Temporary suspension.*

6 1. If, within 30 days after receiving a recommendation from the task force
7 under subsection (3) (b) 3. that a rule be suspended, the cochairpersons of the joint
8 committee for review of administrative rules do not notify the chairperson of the task
9 force that they have scheduled a meeting of the committee for the purpose of
10 reviewing the recommendation, the committee shall be considered to have
11 suspended the rule on the 31st day after receiving the recommendation from the task
12 force.

13 2. If, within 30 days after receiving a recommendation from the task force
14 under subsection (3) (b) 3. that a rule be suspended, the cochairpersons of the joint
15 committee for review of administrative rules notify the chairperson of the task force
16 that they have scheduled a meeting of the committee for the purpose of reviewing the
17 recommendation, the committee shall not be considered to have suspended the rule
18 under subdivision 1. The committee may, notwithstanding section 227.26 (2) (d) of
19 the statutes, suspend the rule under this subdivision by a majority vote of a quorum
20 of the committee. The committee may suspend a rule under this subdivision only on
21 the basis of testimony in relation to that rule received by the committee at a public
22 hearing and only if it determines that the rule does not comply with one or more of
23 the standards in subsection (3) (a) 7. to 11.

24 (b) *Effect of suspension.* Section 227.26 (2) (e) to (k) of the statutes applies to
25 a rule suspended under paragraph (a) 1. or 2.

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1 (6) DUTIES OF STATE AGENCIES.

2 (a) *Report.* Each agency shall report to the task force by the first day of the 2nd
3 month after the effective date of this paragraph all of the following information for
4 each chapter in the Wisconsin Administrative Code promulgated by the agency prior
5 to the effective date of this paragraph:

6 1. The subject of the chapter.

7 2. The categories of persons, including small businesses, that are subject to the
8 chapter and an estimate of the number of persons in each category on the effective
9 date of this subdivision.

10 3. The statutory authority for the chapter and statutes interpreted by the
11 chapter.

12 4. Any federal statutes or regulations that relate to the substance of the
13 chapter.

14 5. Whether the chapter has an effect on small businesses and, if it does,
15 whether the agency modified the chapter after considering the methods specified in
16 section 227.114 (2) of the statutes when the agency promulgated or amended the
17 chapter or whether the agency amended the chapter when the agency reviewed the
18 chapter under section 227.114 (7) of the statutes.

19 6. Any other information requested by the task force.

20 (b) *Assistance.* Each agency shall provide to the task force information
21 requested by the task force to the fullest extent possible.

22 (7) OPERATION.

23 (a) *Organization.* The speaker of the assembly and president of the senate shall
24 jointly convene the first meeting of the task force and supervise the election of the

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1 chairperson of the task force. The task force may establish other officers and elect
2 those officers of the task force.

3 (b) *Expenses.* The members of the task force shall be reimbursed from the
4 appropriation under section 20.765 (2) (c) of the statutes, as created by this act, for
5 their actual and necessary expenses incurred in the performance of their duties but
6 shall not receive compensation for their services.

7 (c) *Staff.* The chairperson of the task force shall employ outside the classified
8 service a task force director and such staff as is required for the performance of its
9 duties. The task force may contract for technical assistance.

10 (8) DISSOLUTION. The task force is dissolved on July 1, 2003.

11 (9) PROJECT POSITIONS. There is authorized for the administrative rules task
12 force, as created by this act, 1.0 FTE GPR director project position and 2.0 FTE GPR
13 project positions for the period ending on July 1, 2003, to be funded from the
14 appropriation under section 20.765 (2) (c) of the statutes, as created by this act.

15 **SECTION 9. Effective dates.** This act takes effect on the day after publication
16 of the biennial budget act, except as follows:

17 (1) The repeal of sections 20.765 (2) (c), 20.923 (6) (aLi), and 230.08 (2) (am) of
18 the statutes takes effect on July 1, 2003.

19 (END)