

2007 DRAFTING REQUEST

Bill

Received: **03/16/2007**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Daniel LeMahieu (608) 266-9175**

By/Representing: **Dick Sweet**

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

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Administrative Law**

Extra Copies: **Dick Sweet, LC**

Submit via email: **YES**

Requester's email: **Rep.LeMahieu@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Clean up of ch 27 recodification

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	rnelson2 03/22/2007	jdyer 03/23/2007	pgreensl 03/26/2007	_____	lparisi 03/26/2007		
/2	rnelson2 03/30/2007	kfollett 03/30/2007	jfrantze 03/30/2007	_____	cduerst 03/30/2007	lparisi 04/05/2007	
	rnelson2 06/05/2007	jdyer 06/06/2007		_____			
/3			rschluet	_____	lparisi	lparisi	

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			06/06/2007 _____		06/06/2007	06/06/2007	

FE Sent For:

N/A

<END>

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/2	rnelson2 03/30/2007	kfollett 03/30/2007	jfrantze 03/30/2007	_____	cduerst 03/30/2007	lparisi 04/05/2007	

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Extra Copies: Dick Sweet, LC

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/1	rnelson2 03/22/2007	jdyer 03/23/2007	pgreensl 03/26/2007		lparisi 03/26/2007		

FE Sent For:

12 kf
3/30

J. Bell
3/30
<END>

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/?	rnelson2	1/23 jld	3/26 p8	3/26 p8/mm			

FE Sent For:

<END>

Nelson, Robert P.

From: Sweet, Richard
Sent: Wednesday, March 14, 2007 3:32 PM
To: Nelson, Robert P.
Cc: Grothman, Jeffrey; Sklansky, Ron
Subject: FW: Ch. 227 recodification trailer bill

Bob,

Jeff from Rep. LeMahieu's office asked me to forward the following drafting request from Rep. LeMahieu. It cleans up a couple of provisions from last session's ch. 227 recodification.

Thanks.

Dick

From: Sweet, Richard
Sent: Monday, March 12, 2007 4:53 PM
To: Grothman, Jeffrey; Kanninen, Dan
Cc: Sklansky, Ron
Subject: Ch. 227 recodification trailer bill

Jeff/Dan,

Last session, the Joint Legislative Council introduced a mostly technical recodification of ch. 227 of the statutes. It was enacted into law as 2005 Wisconsin Act 249. Since it was enacted, Ron Sklansky and I have come across a couple of glitches in the Act, which are described below. I'm writing to see if you know of any legislators (hint: e.g. your bosses) who might be willing to sponsor the legislation to correct these glitches.

The following are the problems we have encountered:

- When a standing committee wants to create an extension of its initial 30-day review period, it can post a hearing notice or request in writing that the agency meet with the committee. Before Act 249, a committee that did this received 30 days from the date of the posting or letter. The intent of Act 249 was to add a full 30 days to the first 30 days (i.e. a total of 60 days), regardless of when during the first 30 days the posting or letter was done. This was included in one provision of Act 249, but there are 2 sentences in current law that make it seem like the initial review period and the extension might not add up to a total of 60 days. This ambiguity could be corrected by the following amendment:

227.19(4)(b)1.a. Request in writing that the agency meet with the committee to review the proposed rule. ~~The continuation of the review period begins on the date the request is sent to the agency.~~

b. Publish or post notice that the committee will hold a meeting or hearing to review the proposed rule and immediately send a copy of the notice to the agency. ~~The continuation of the review period begins on the date the notice is published or posted, whichever is earlier.~~

- Prior to Act 249, an agency needed the consent of the Revisor of Statutes and the Attorney General in order to incorporate standards of technical societies of recognized national standing into rules by reference (rather than publishing the standards as part of the rule). Act 249 amended this to eliminate the need to obtain the consent of the Revisor. However, while the Act did this in one place, it failed to do so in another place that refers to the Revisor. This ambiguity could be corrected by the following amendment:

227.21(2)(a) Except as provided in s. 601.41 (3) (b), to avoid unnecessary expense an agency may, with the consent of ~~the revisor and the attorney general~~, adopt standards established by technical societies and organizations of recognized national standing by incorporating the standards in its rules by reference to the specific issue or issues of the publication in which they appear, without reproducing the standards in full.

If you have any questions, feel free to call Ron or me.

Dick Sweet

Richard Sweet
Senior Staff Attorney
Wisconsin Legislative Council
(608)266-2982
richard.sweet@legis.wisconsin.gov



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2259/1

RPN: a:...

jld

2007 BILL

1

Gen

period of administrative rules

AN ACT ...; relating to: ~~administrative rules~~ legislative committee review and

2

revisor consent regarding technical standards in rules.

Analysis by the Legislative Reference Bureau

Under current law, the attorney general and revisor of statutes must give consent before an agency may adopt technical standards in a proposed rule by reference to the publication where they appear, rather than placing the standards in the proposed rule. However, the statutes only give the attorney general directions as to when he or she shall give that consent. This bill removes the requirement that the revisor of statutes must consent to the adoption by reference of the standards.

Currently, a legislative committee has 30 days after a rule is referred to the committee to review the proposed rule. If the committee chairperson requests that the agency proposing the rule meet with the committee or posts a notice that the committee will hold a meeting to review the rule, current law extends the committee review period for an additional 30 days. However, current law provides that the 30-day extension begins on the day that the committee chair requests the meeting or on the day that the notice is posted, not at the end of the first 30-day review period. This bill removes the requirement that the 30-day extension begins on the day that the committee chair requests the meeting or on the day that the meeting notice is posted.

person

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

BILL**SECTION 1**

1 **SECTION 1.** 227.19 (4) (b) 1. a. of the statutes is amended to read:

2 227.19 (4) (b) 1. a. Request in writing that the agency meet with the committee
3 to review the proposed rule. ~~The continuation of the review period begins on the date~~
4 ~~the request is sent to the agency.~~ ✓

History: 1985 a. 182; 1987 a. 253; 1987 a. 403 s. 256; 1989 a. 175; 2001 a. 87; 2003 a. 118, 277; 2005 a. 249.

5 **SECTION 2.** 227.19 (4) (b) 1. b. of the statutes is amended to read:

6 227.19 (4) (b) 1. b. Publish or post notice that the committee will hold a meeting
7 or hearing to review the proposed rule and immediately send a copy of the notice to
8 the agency. ~~The continuation of the review period begins on the date the notice is~~
9 ~~published or posted, whichever is earlier.~~ ✓

History: 1985 a. 182; 1987 a. 253; 1987 a. 403 s. 256; 1989 a. 175; 2001 a. 87; 2003 a. 118, 277; 2005 a. 249.

10 **SECTION 3.** 227.21 (2) (a) of the statutes is amended to read:

11 227.21 (2) (a) Except as provided in s. 601.41 (3) (b), to avoid unnecessary
12 expense an agency may, with the consent of ~~the revisor and~~ ✓ the attorney general,
13 adopt standards established by technical societies and organizations of recognized
14 national standing by incorporating the standards in its rules by reference to the
15 specific issue or issues of the publication in which they appear, without reproducing
16 the standards in full.

History: 1985 a. 182; 1987 a. 403; 2001 a. 65; 2005 a. 249.

17 **SECTION 4. Initial applicability.**

18 (1) This act first applies to proposed rules that are submitted to the legislative
19 council staff on the effective date of this subsection. ✓

20

(END)

Nelson, Robert P.

From: Sweet, Richard
Sent: Thursday, March 29, 2007 5:10 PM
To: Nelson, Robert P.
Cc: Sklansky, Ron
Subject: RE: Ch. 227 recodification trailer bill

We've been telling committees that they already get the full 60 days because of s. 227.19(4)(b)(intro.), which says that they get 30 plus 30. Par. (b)1.a. and b. confuse it by saying that the continuation starts when they write the letter or post the notice, but the (intro.) says that they get 30 plus 30. So we've been reconciling these provisions by saying that while the continuation starts when the letter is sent or the notice is posted, the review period doesn't end until after the 60th day. The draft would eliminate the confusion, and we would like it to apply regardless of when the rule came to the Clearinghouse.

Dick

From: Nelson, Robert P.
Sent: Thursday, March 29, 2007 4:53 PM
To: Sweet, Richard
Subject: RE: Ch. 227 recodification trailer bill

Dick,

What happens with a rule that the committee has had, and that they have sent a letter or put out a notice, the 30 days after that action has occurred, although there is only 40 days total, and the review period is over? Removing the initial applicability would give the committee another 20 days in this example. This sounds good for the committee, but what about an agency that had already relied on the end of the committee review?

From: Sweet, Richard
Sent: Thursday, March 29, 2007 4:39 PM
To: Nelson, Robert P.
Cc: Grothman, Jeffrey; Sklansky, Ron
Subject: FW: Ch. 227 recodification trailer bill

Bob,

Ron and I discussed the initial applicability clause in LRB--2259/1 and feel (for reasons set out below) that it should be deleted. I e-mailed Jeff from Rep. LeMahieu's office and he asked me to have the bill redrafted without the initial applicability clause.

Thanks.

Dick

From: Grothman, Jeffrey
Sent: Thursday, March 29, 2007 4:35 PM
To: Sweet, Richard
Subject: RE: Ch. 227 recodification trailer bill

Okay have section 4 deleted and redrafted then.

From: Sweet, Richard
Sent: Thursday, March 29, 2007 3:41 PM
To: Grothman, Jeffrey
Cc: Sklansky, Ron
Subject: RE: Ch. 227 recodification trailer bill

Jeff,

I received a copy of the LRB draft that fixes the problems described below--LRB-2259/1. I shared a copy with Ron. We both agree that the bill fixes the problems identified, but that the initial applicability clause in Section 4 should be deleted. If it is deleted, a standing committee will get its full 60-day review period by posting notice or writing a letter, regardless of when the rule was sent to the Rules Clearinghouse. If the initial applicability clause is retained, there will still be some confusion about whether the committee gets the full 60 days for rules submitted to the Rules Clearinghouse before this draft becomes law.

Thanks.

Dick

From: Sweet, Richard
Sent: Wednesday, March 14, 2007 3:32 PM
To: Nelson, Robert P.
Cc: Grothman, Jeffrey; Sklansky, Ron
Subject: FW: Ch. 227 recodification trailer bill

Bob,

Jeff from Rep. LeMahieu's office asked me to forward the following drafting request from Rep. LeMahieu. It cleans up a couple of provisions from last session's ch. 227 recodification.

Thanks.

Dick

From: Sweet, Richard
Sent: Monday, March 12, 2007 4:53 PM
To: Grothman, Jeffrey; Kanninen, Dan
Cc: Sklansky, Ron
Subject: Ch. 227 recodification trailer bill

Jeff/Dan,

Last session, the Joint Legislative Council introduced a mostly technical recodification of ch. 227 of the statutes. It was enacted into law as 2005 Wisconsin Act 249. Since it was enacted, Ron Sklansky and I have come across a couple of glitches in the Act, which are described below. I'm writing to see if you know of any legislators (hint: e.g. your bosses) who might be willing to sponsor the legislation to correct these glitches.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2259/1

RPN:jld:pg

3
Stays

2007 BILL

Regen

1 AN ACT to amend 227.19 (4) (b) 1. a., 227.19 (4) (b) 1. b. and 227.21 (2) (a) of the
2 statutes; relating to: legislative committee review period of administrative
3 rules and revisor consent regarding technical standards in rules.

Analysis by the Legislative Reference Bureau

Under current law, the attorney general and revisor of statutes must give consent before an agency may adopt technical standards in a proposed rule by reference to the publication where they appear, rather than placing the standards in the proposed rule. However, the statutes only give the attorney general directions as to when he or she shall give that consent. This bill removes the requirement that the revisor of statutes must consent to the adoption by reference of the standards.

Currently, a legislative committee has 30 days after a rule is referred to the committee to review the proposed rule. If the committee chairperson requests that the agency proposing the rule meet with the committee or posts a notice that the committee will hold a meeting to review the rule, current law extends the committee review period for an additional 30 days. However, current law provides that the 30-day extension begins on the day that the committee chairperson requests the meeting or on the day that the notice is posted, not at the end of the first 30-day review period. This bill removes the requirement that the 30-day extension begins

BILL

on the day that the committee chairperson requests the meeting or on the day that the meeting notice is posted.

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

1 **SECTION 1.** 227.19 (4) (b) 1. a. of the statutes is amended to read:

2 227.19 (4) (b) 1. a. Request in writing that the agency meet with the committee
3 to review the proposed rule. ~~The continuation of the review period begins on the date~~
4 ~~the request is sent to the agency.~~

5 **SECTION 2.** 227.19 (4) (b) 1. b. of the statutes is amended to read:

6 227.19 (4) (b) 1. b. Publish or post notice that the committee will hold a meeting
7 or hearing to review the proposed rule and immediately send a copy of the notice to
8 the agency. ~~The continuation of the review period begins on the date the notice is~~
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10 **SECTION 3.** 227.21 (2) (a) of the statutes is amended to read:

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12 expense an agency may, with the consent of ~~the revisor and~~ the attorney general,
13 adopt standards established by technical societies and organizations of recognized
14 national standing by incorporating the standards in its rules by reference to the
15 specific issue or issues of the publication in which they appear, without reproducing
16 the standards in full.

17 **SECTION 4. Initial applicability.**

18 (1) This act first applies to proposed rules that are submitted to the legislative
19 council staff on the effective date of this subsection.

20

(END)

Parisi, Lori

From: Grothman, Jeffrey
Sent: Thursday, April 05, 2007 1:19 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-2259/2 Topic: Clean up of ch 27 recodification

Please Jacket LRB 07-2259/2 for the ASSEMBLY.

Nelson, Robert P.

From: Sweet, Richard
Sent: Tuesday, June 05, 2007 1:15 PM
To: Nelson, Robert P.
Subject: FW: Rep. LeMahieu Co-Sponsorship--2259; Relating to legislative committee review period of administrative rules and revisor consent regarding technical standards in rules.
Attachments: 07-22592.pdf

Bob,

Jeff Grothman from Rep. LeMahieu's office asked me to forward this change in LRB-2259. Thanks.

Dick

From: Sweet, Richard
Sent: Tuesday, June 05, 2007 1:09 PM
To: Grothman, Jeffrey
Subject: FW: Rep. LeMahieu Co-Sponsorship--2259; Relating to legislative committee review period of administrative rules and revisor consent regarding technical standards in rules.

Jeff,

If this draft hasn't been introduced already, there is another change that is needed in current law. The changes to s. 227.19(4)(b)1. on page 2, lines 1 to 9 of the draft also need to be made to s. 227.19(5)(b)1. This will ensure that JCRAR has the full 60 days when they get an extension by requesting a meeting or posting a notice.

Let me know if you want me to forward this on to the drafting attorney.

Thanks.

Dick

From: Grothman, Jeffrey
Sent: Thursday, April 05, 2007 3:47 PM
To: *Legislative Assembly Republicans; *Legislative Assembly Democrats; *Legislative Senate Republicans; *Legislative Senate Democrats
Cc: Sweet, Richard; Sklansky, Ron
Subject: Rep. LeMahieu Co-Sponsorship--2259; Relating to legislative committee review period of administrative rules and revisor consent regarding technical standards in rules.

Date: April 5, 2007

06/05/2007

To: All Legislators

From: State Representative Dan LeMahieu

Re: LRB 2259; Relating to legislative committee review period of administrative rules and revisor consent regarding technical standards in rules.

LRB 2259/2 is being introduced to clean up some language relating to the review of administrative rules by the legislature.

This bill removes the requirement that the reviser of statutes must consent to an agency adopting technical standards in a proposed rule by the reference to the publication where they appear, rather than placing the standards in the proposed rule. The attorney general would still have that requirement.

The other change deals with the 30-day extension of legislative oversight. This bill starts the 30 day extension at the end of the first 30 days not when the committee notice is published. That assures a full 60 days if a committee meeting is held. Those interested in signing onto this piece of legislation should contact Jeff in my office @ 266-9175. Co-Sponsorship deadline is **Thursday, April 19, 2007**.



5009 (6/5)

2007 BILL

Regen

No → including the joint committee for review of administrative rules

1 AN ACT to amend 227.19 (4) (b) 1. a., 227.19 (4) (b) 1. b. and 227.21 (2) (a) of the
2 statutes; relating to: legislative committee review period of administrative
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Insert 2-9

-2259/3

Section #. 227.19 (5) (b) 1. b. of the statutes is amended to read:

227.19 (5) (b) 1. b. Publish or post notice that the joint committee for review of administrative rules will hold a meeting or hearing to review the proposed rule and immediately send a copy of the notice to the agency. ~~The continuation of the review period begins on the date the notice is published or posted, whichever is earlier.~~ ^{strike}

History: 1985 a. 182; 1987 a. 253; 1987 a. 403 s. 256; 1989 a. 175; 2001 a. 87; 2003 a. 118, 277; 2005 a. 249.