

**2009 DRAFTING REQUEST**

**Bill**

Received: **11/18/2008**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Fred Risser (608) 266-1627**

By/Representing: **Terry**

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

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Administrative Law**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Risser@legis.wisconsin.gov**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Petition to review administrative decision

**Instructions:**

See attached 07 AB 368

**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>
/?	rnelson2 11/18/2008	kfollett 11/22/2008		_____			
/1			phery 11/24/2008	_____	mbarman 11/24/2008		
/2	rnelson2 12/23/2008	kfollett 01/06/2009	mduchek 01/06/2009	_____	sbasford 01/06/2009	lparisi 01/07/2009	

FE Sent For:

*None*

<END>

**2009 DRAFTING REQUEST**

**Bill**

Received: 11/18/2008

Received By: rnelson2

Wanted: As time permits

Identical to LRB:

For: Fred Risser (608) 266-1627

By/Representing: Terry

This file may be shown to any legislator: NO

Drafter: rnelson2

May Contact:

Addl. Drafters:

Subject: Administrative Law

Extra Copies:

Submit via email: YES

Requester's email: Sen.Risser@legis.wisconsin.gov

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Petition to review administrative decision

---

**Instructions:**

See attached 07 AB 368

---

**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>
/?	rnelson2 11/18/2008	kfollett 11/22/2008		_____			
/1			phery 11/24/2008	_____	mbarman 11/24/2008		
/2	rnelson2 12/23/2008	kfollett 01/06/2009	mduchek 01/06/2009	_____	sbasford 01/06/2009		

FE Sent For:

**<END>**

**2009 DRAFTING REQUEST**

**Bill**

Received: 11/18/2008

Received By: rnelson2

Wanted: As time permits

Identical to LRB:

For: Fred Risser (608) 266-1627

By/Representing: Terry

This file may be shown to any legislator: NO

Drafter: rnelson2

May Contact:

Addl. Drafters:

Subject: **Administrative Law**

Extra Copies:

Submit via email: YES

Requester's email: **Sen.Risser@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Petition to review administrative decision

---

**Instructions:**

See attached 07 AB 368

---

**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>
/?	rnelson2 11/18/2008	kfollett 11/22/2008		_____			
/1		12kf 1/6	phery 11/24/2008	_____	mbarman 11/24/2008		
FE Sent For:			ND 1/6	ND 1/6			<END>

**2009 DRAFTING REQUEST**

**Bill**

Received: 11/18/2008

Received By: rnelson2

Wanted: As time permits

Identical to LRB:

For: Fred Risser (608) 266-1627

By/Representing: Terry

This file may be shown to any legislator: NO

Drafter: rnelson2

May Contact:

Addl. Drafters:

Subject: Administrative Law

Extra Copies:

Submit via email: YES

Requester's email: Sen.Risser@legis.wisconsin.gov

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Petition to review administrative decision

---

**Instructions:**

See attached 07 AB 368

---

**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>
/?	rnelson2	11/5f 11/22	11/25 ph	11/25 ph			

FE Sent For:

<END>

**Nelson, Robert P.**

---

**From:** Tuschen, Terry  
**Sent:** Monday, November 17, 2008 12:43 PM  
**To:** Nelson, Robert P.  
**Cc:** Tuschen, Terry  
**Subject:** Senator Risser drafting request

Hi Bob! Hope you are well. Fred has agreed to introduce a bill, re-introduce I guess, from last session, 2007 AB 368 (LRB 1741/1). Woud you redraft that bill for this session for Fred? Let me know if you have any questions or concerns, and thanks!

Terry

\*\*\*\*\*

Terry Tuschen  
Office of State Senator Fred Risser  
220 South, State Capitol  
Madison, WI 53702  
608.266.1627  
Terry.Tuschen@legis.wisconsin.gov

11/18

PWF

# 2007 ASSEMBLY BILL 368

May 29, 2007 - Introduced by Representatives ALBERS, VOS, HAHN, TOWNSEND and OWENS, cosponsored by Senators A. LASEE and ROESSLER. Referred to Committee on Judiciary and Ethics.

Regen  
add Hubert Electric, Inc. vs. state Dept of Transportation, 200 Wis.2d 466, 699 N.W.2d 463 (2003)

1 AN ACT to amend 227.53 (1) (a) 2.; and to create 227.53 (1) (a) 2m. of the statutes;  
2 relating to: the time period to petition to review an administrative decision.

### Analysis by the Legislative Reference Bureau

Under current law, as interpreted by the Wisconsin Court of Appeals in *Collins v. Policano*, 231 Wis. 2d 420, 605 N.W. 2d 260 (Ct. App. 1999), and *Hedrich v. Board of Regents of the University of Wisconsin System*, 248 Wis. 2d 204, 635 N.W.2d 650 (Ct. App. 2001), a person has six months after the date of service of an administrative decision in a noncontested case to seek judicial review of the decision. Currently, a person must appeal an administrative decision in a contested case within 30 days after the date of service of the administrative decision. A contested case is an agency proceeding in which the assertion of a party of a substantial interest is denied or challenged by another party and, after a hearing, a substantial interest of a party is determined or adversely affected by an agency decision or order. All others are noncontested cases.

This bill requires a person to appeal an administrative decision within 30 days after the date of service of the administrative decision in both contested and noncontested cases.

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

3 SECTION 1. 227.53 (1) (a) 2. of the statutes is amended to read:



**Nelson, Robert P.**

---

**From:** Tuschen, Terry  
**Sent:** Monday, December 22, 2008 4:00 PM  
**To:** Nelson, Robert P.  
**Cc:** Tuschen, Terry  
**Subject:** FW: AB 368 Sponsorship

09-0852

Hi Bob, do you have any concern talking with Steve directly about this, by phone I presume? Steve uses a wheelchair and although I know he is perfectly able, I don't want to have him come up here if a phone call can handle it. Our daughter uses a wheelchair and they can be kind of a pain, especially during the winter season.

Anyway, however you want to proceed is fine with me.  
Terry

---

**From:** Steven Levine [mailto:steven.levine@charter.net]  
**Sent:** Friday, December 19, 2008 2:51 PM  
**To:** Tuschen, Terry  
**Subject:** RE: AB 368 Sponsorship

Hi Terry,

Sorry it took me a while to get back to you; I was laid up for a few days.

It does look like there may be a problem with section 2 of the draft, because the court decisions which prompted this corrective legislation held that the term "parties" applies only to contested cases, and section 2 of the draft is intended to apply to noncontested cases but still uses the term "parties." The problem might be solved by deletion of the words "all parties under s. 227.48(1)." in line 11. I would be more than willing to discuss this with the drafter, if it would help.

Thanks.

Steve Levine



## 2009 BILL

Regen

- 1 AN ACT *to amend* 227.53 (1) (a) 2.; and *to create* 227.53 (1) (a) 2m. of the statutes;
- 2 **relating to:** the time period to petition to review an administrative decision.

---

### *Analysis by the Legislative Reference Bureau*

Under current law, as interpreted by the Wisconsin Court of Appeals in *Collins v. Policano*, 231 Wis. 2d 420, 605 N.W. 2d 260 (Ct. App. 1999), a person has six months after the date of service of an administrative decision in a noncontested case to seek judicial review of the decision. Currently, a person must appeal an administrative decision in a contested case within 30 days after the date of service of the administrative decision. A contested case is an agency proceeding in which the assertion of a party of a substantial interest is denied or challenged by another party and, after a hearing, a substantial interest of a party is determined or adversely affected by an agency decision or order. All others are noncontested cases.

This bill requires a person to appeal an administrative decision within 30 days after the date of service of the administrative decision in both contested and noncontested cases.

---

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

- 3 SECTION 1. 227.53 (1) (a) 2. of the statutes is amended to read:
- 4 227.53 (1) (a) 2. Unless a rehearing is requested under s. 227.49, petitions for
- 5 review ~~under this paragraph~~ of contested cases shall be served and filed within 30

**BILL**

1 days after the service of the decision of the agency upon all parties under s. 227.48.  
2 If a rehearing is requested under s. 227.49, any party desiring judicial review under  
3 this subdivision shall serve and file a petition for review within 30 days after service  
4 of the order finally disposing of the application for rehearing, or within 30 days after  
5 the final disposition by operation of law of any such application for rehearing. The  
6 30-day period for serving and filing a petition under this ~~paragraph~~ subdivision  
7 commences on the day after personal service or mailing of the decision by the agency.

8 **SECTION 2.** 227.53 (1) (a) 2m. of the statutes is created to read:

9 227.53 (1) (a) 2m. Petitions for review of cases other than contested cases shall  
10 be served and filed within 30 days after the service of the decision of the agency upon  
11 all parties under s. 227.48 (1). The 30-day period for serving and filing a petition  
12 under this subdivision commences on the day after personal service or mailing of the  
13 decision by the agency.

14 **SECTION 3. Initial applicability.**

15 (1) This act first applies to agency decisions made on the effective date of this  
16 subsection.

17 (END)

**Parisi, Lori**

---

**From:** Tuschen, Terry  
**Sent:** Wednesday, January 07, 2009 10:42 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-0852/2 Topic: Petition to review administrative decision

Please Jacket LRB 09-0852/2 for the SENATE.