



2011 SENATE BILL 245

October 19, 2011 – Introduced by Senators RISSER, T. CULLEN, TAYLOR, JAUCH, C. LARSON, ERPENBACH, HANSEN, MILLER and CARPENTER, cosponsored by Representatives HEBL, BARCA, ROYS, PASCH, DOYLE, MILROY, C. TAYLOR, POCAN, GRIGSBY, BERCEAU, JORGENSEN, RINGHAND, TURNER, KESSLER, BEWLEY, POPE-ROBERTS and BERNARD SCHABER. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

1 **AN ACT** *to amend* 227.135 (2), 227.135 (3), 227.135 (4), 227.185, 227.24 (1) (e) 1d.
2 and 227.24 (1) (e) 1g.; and *to create* 227.135 (2m) of the statutes; **relating to:**
3 exempting rules promulgated by the Government Accountability Board from
4 certain administrative rule-making procedures involving the approval of the
5 governor.

Analysis by the Legislative Reference Bureau

Current law requires all state agencies during the administrative rule promulgation process to present to the governor for approval all statements of the scope of proposed rules, the final draft form of the proposed rules, and the final draft form of all emergency rules. Without the approval of the governor of the statements of the scope of proposed rules and the final draft forms of proposed rules and emergency rules, the state agencies may not promulgate the rules. This bill exempts the Government Accountability Board from these administrative rule-making requirements.

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

6 **SECTION 1.** 227.135 (2) of the statutes, as affected by 2011 Wisconsin Act 21,
7 is amended to read:

SENATE BILL 245**SECTION 1**

1 227.135 (2) ~~An~~ Except as provided in sub. (2m), an agency that has prepared
2 a statement of the scope of the proposed rule shall present the statement to the
3 governor and to the individual or body with policy-making powers over the subject
4 matter of the proposed rule for approval. The agency may not send the statement
5 to the legislative reference bureau for publication under sub. (3) until the governor
6 issues a written notice of approval of the statement. The individual or body with
7 policy-making powers may not approve the statement until at least 10 days after
8 publication of the statement under sub. (3). No state employee or official may
9 perform any activity in connection with the drafting of a proposed rule to which this
10 subsection applies except for an activity necessary to prepare the statement of the
11 scope of the proposed rule until the governor and the individual or body with
12 policy-making powers over the subject matter of the proposed rule approves the
13 statement.

14 **SECTION 2.** 227.135 (2m) of the statutes is created to read:

15 227.135 (2m) If the the government accountability board prepares a statement
16 of the scope of a proposed rule, that board shall present the statement to the
17 individual or body with policy-making powers over the subject matter of the
18 proposed rule for approval. The individual or body with policy-making powers may
19 not approve the statement until at least 10 days after publication of the statement
20 under sub. (3). No state employee or official may perform any activity in connection
21 with the drafting of a proposed rule to which this subsection applies except for an
22 activity necessary to prepare the statement of the scope of the proposed rule until the
23 individual or body with policy-making powers approves the statement.

24 **SECTION 3.** 227.135 (3) of the statutes, as affected by 2011 Wisconsin Act 21,
25 is amended to read:

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1 227.135 (3) If the governor approves a statement of the scope of a proposed rule
2 under sub. (2), the agency shall send the statement to the legislative reference
3 bureau for publication in the register. If a statement of the scope of a proposed rule
4 is presented to the individual or body with policy-making powers over the subject
5 matter of the proposed rule under sub. (2m), the government accountability board
6 presenting the statement shall send the statement to the legislative reference
7 bureau for publication in the register. On the same day that the agency sends the
8 statement to the legislative reference bureau, the agency shall send a copy of the
9 statement to the secretary of administration.

10 **SECTION 4.** 227.135 (4) of the statutes, as affected by 2011 Wisconsin Act 21,
11 is amended to read:

12 227.135 (4) If at any time after a statement of the scope of a proposed rule is
13 approved under sub. (2) or (2m) the agency changes the scope of the proposed rule
14 in any meaningful or measurable way, including changing the scope of the proposed
15 rule so as to include in the scope any activity, business, material, or product that is
16 not specifically included in the original scope of the proposed rule, the agency shall
17 prepare and obtain approval of a revised statement of the scope of the proposed rule
18 in the same manner as the original statement was prepared and approved under
19 subs. (1) and (2) or under subs. (1) and (2m). No state employee or official may
20 perform any activity in connection with the drafting of the proposed rule except for
21 an activity necessary to prepare the revised statement of the scope of the proposed
22 rule until the revised statement is so approved.

23 **SECTION 5.** 227.185 of the statutes, as created by 2011 Wisconsin Act 21, is
24 amended to read:

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1 **227.185 Approval by governor.** ~~After~~ Except as provided in this section,
2 after a proposed rule is in final draft form, the agency shall submit the proposed rule
3 to the governor for approval. The governor, in his or her discretion, may approve or
4 reject the proposed rule. If the governor approves a proposed rule, the governor shall
5 provide the agency with a written notice of that approval. No proposed rule may be
6 submitted to the legislature for review under s. 227.19 (2) unless the governor has
7 approved the proposed rule in writing. This section does not apply to a proposed rule
8 drafted by the government accountability board.

9 **SECTION 6.** 227.24 (1) (e) 1d. of the statutes, as affected by 2011 Wisconsin Act
10 32, is amended to read:

11 227.24 (1) (e) 1d. Prepare a statement of the scope of the proposed emergency
12 rule as provided in s. 227.135 (1), obtain approval of the statement as provided in s.
13 227.135 (2) or (2m), and send the statement to the legislative reference bureau for
14 publication in the register as provided in s. 227.135 (3). If the agency changes the
15 scope of a proposed emergency rule as described in s. 227.135 (4), the agency shall
16 prepare and obtain approval of a revised statement of the scope of the proposed
17 emergency rule as provided in s. 227.135 (4). No state employee or official may
18 perform any activity in connection with the drafting of a proposed emergency rule
19 except for an activity necessary to prepare the statement of the scope of the proposed
20 emergency rule until the governor and the individual or body with policy-making
21 powers over the subject matter of the proposed emergency rule approves the
22 statement.

23 **SECTION 7.** 227.24 (1) (e) 1g. of the statutes, as affected by 2011 Wisconsin Act
24 32, is amended to read:

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1 227.24 (1) (e) 1g. ~~Submit~~ Except as provided in this subdivision, submit the
2 proposed emergency rule in final draft form to the governor for approval. The
3 governor, in his or her discretion, may approve or reject the proposed emergency rule.
4 If the governor approves a proposed emergency rule, the governor shall provide the
5 agency with a written notice of that approval. An agency may not file an emergency
6 rule with the legislative reference bureau as provided in s. 227.20 and an emergency
7 rule may not be published until the governor approves the emergency rule in writing.
8 This subdivision does not apply to a proposed emergency rule drafted by the
9 government accountability board.

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(END)