



2011 SENATE BILL 568

March 15, 2012 - Introduced by Senator LASSA, cosponsored by Representatives BARCA and TURNER. Referred to Committee on Senate Organization.

- 1 **AN ACT** *to create* 227.28 of the statutes; **relating to:** periodic review of
2 administrative rules.

Analysis by the Legislative Reference Bureau

Under current law, a state agency (agency) may promulgate administrative rules (rules) to interpret the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute.

This bill requires periodic review of rules. Specifically, the bill requires every agency that has promulgated rules to determine which of those rules has been in effect for ten years without being modified or revised. The bill, however, permits agencies to make that determination with respect to a rule that is in effect on January 1, 2013, which is the effective date of the bill, during a five-year grace period beginning on that date. If an agency determines that a rule has been in effect for ten years without being modified or revised, the agency must submit a report regarding the rule to the Joint Committee for Review of Administrative Rules (JCRAR). The report must include all of the following:

1. An analysis of the continued need for the rule; the nature and merits of any complaints or comments received from the public regarding the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates, or conflicts with federal regulations, other state rules, or local ordinances; and the degree to which technology, economic conditions, or other factors have changed in the subject area affected by the rule since the rule was promulgated or last modified or revised.
2. Recommendations to delete any obsolete provisions of the rule; to address any meritorious complaints or comments received from the public regarding the rule;

SENATE BILL 568

to simplify any unnecessarily complex provisions of the rule; to eliminate any overlap, duplication, or conflict of the rule with federal regulations, other state rules, or local ordinances; and to modernize the rule in light of technological, economic, or other changes in the subject area affected by the rule since the rule was promulgated or last modified or revised.

JCRAR then must review the report using a 14-day passive review process. Specifically, if the cochairpersons of JCRAR do not notify the head of the agency that JCRAR has scheduled a meeting for the purpose of reviewing the report within 14 working days after receipt of the report, the rule identified in the report continues in effect and the agency may proceed with rule making to revise the rule in accordance with its recommendations. If, however, the cochairpersons of JCRAR notify the head of the agency, within those 14 working days, that JCRAR has scheduled a meeting for the purpose of reviewing the report, JCRAR may schedule a meeting to review the report. At the conclusion of its review, JCRAR may do any of the following:

1. Approve the rule in its current form, as modified by the agency's recommendations, in which case the rule continues in effect and the agency may proceed with rule making to revise the rule in accordance with those recommendations.

2. Approve the rule in its current form, but object to the agency's recommendations, in which case the rule continues in effect and the agency may submit modified recommendations to JCRAR.

3. Object to the rule in its current form, but approve the agency's recommendations, in which case JCRAR may suspend the rule and the agency may proceed with rule making to revise the rule in accordance with those recommendations.

4. Object to the rule in its current form and to the agency's recommendations, in which case JCRAR may suspend the rule and the agency may submit modified recommendations to JCRAR.

5. Refer the report to a standing committee in each house of the legislature, in which case each standing committee to which the report is referred may approve or object to the rule in its current form and the agency's recommendations and JCRAR may concur or nonconcur in the actions of those standing committees or otherwise approve or object to the rule and those recommendations.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 227.28 of the statutes is created to read:

2 **227.28 Periodic review of rules.** (1) Every agency that has promulgated

3 rules shall determine which of those rules has been in effect for 10 years without

SENATE BILL 568

1 being modified or revised. With respect to a rule that is in effect on January 1, 2013,
2 an agency shall make that determination during the 5-year period beginning on that
3 date. If an agency determines that a rule has been in effect for 10 years without being
4 modified or revised, the agency shall submit a report regarding the rule to the joint
5 committee for review of administrative rules. The report shall identify the rule,
6 specify the date on which the rule was first promulgated and the date on which the
7 rule was last modified or revised, and briefly describe the subject matter of the rule.
8 The report shall also include all of the following:

9 (a) An analysis of the continued need for the rule; the nature and merits of any
10 complaints or comments received from the public regarding the rule; the complexity
11 of the rule; the extent to which the rule overlaps, duplicates, or conflicts with federal
12 regulations, other state rules, or local ordinances; and the degree to which
13 technology, economic conditions, or other factors have changed in the subject area
14 affected by the rule since the rule was promulgated or last modified or revised.

15 (b) Recommendations to delete any obsolete provisions of the rule; to address
16 any meritorious complaints or comments received from the public regarding the rule;
17 to simplify any unnecessarily complex provisions of the rule; to eliminate any
18 overlap, duplication, or conflict of the rule with federal regulations, other state rules,
19 or local ordinances; and to modernize the rule in light of technological, economic, or
20 other changes in the subject area affected by the rule since the rule was promulgated
21 or last modified or revised.

22 (2) Upon receipt of a report under sub. (1), the cochairpersons of the joint
23 committee for review of administrative rules shall notify, in writing, each committee
24 member of receipt of the report. If the cochairpersons of the committee do not notify
25 the head of the agency that the committee has scheduled a meeting for the purpose

SENATE BILL 568**SECTION 1**

1 of reviewing the report within 14 working days after the date of receipt of the report,
2 the rule identified in the report shall continue in effect and the agency may proceed
3 with rule making under the procedures prescribed in this subchapter to revise the
4 rule in accordance with the recommendations submitted under sub. (1) (b). If, within
5 14 working days after receipt of the report, the cochairpersons of the committee
6 notify the head of the agency that the committee has scheduled a meeting for the
7 purpose of reviewing the report, the committee may schedule a meeting to review the
8 report.

9 (3) In reviewing a report under sub. (1), the joint committee for review of
10 administrative rules shall consider the analysis under sub. (1) (a), the
11 recommendations under sub. (1) (b), and any other information included in the
12 report. The committee may hold a public hearing to review the report and may
13 request the agency to meet with the committee to review the report. At the
14 conclusion of its review, the committee may do any of the following:

15 1. Approve the rule in its current form, as modified by the recommendations
16 submitted under sub. (1) (b), in which case the rule shall continue in effect and the
17 agency may proceed with rule making under the procedures prescribed in this
18 subchapter to revise the rule in accordance with those recommendations.

19 2. Approve the rule in its current form, but object to the recommendations
20 submitted under sub. (1) (b), in which case the rule shall continue in effect and the
21 agency may submit modified recommendations to the committee.

22 3. Object to the rule in its current form, but approve the recommendations
23 submitted under sub. (1) (b), in which case the committee may suspend the rule
24 under s. 227.26 (2) and the agency may proceed with rule making under the

SENATE BILL 568

1 procedures prescribed in this subchapter to revise the rule in accordance with those
2 recommendations.

3 4. Object to the rule in its current form and to the recommendations submitted
4 under sub. (1) (b), in which case the committee may suspend the rule under s. 227.26
5 (2) and the agency may submit modified recommendations to the committee.

6 5. Refer the report to the presiding officer of each house of the legislature for
7 referral to a standing committee as provided in s. 227.19 (2), in which case each
8 standing committee to which the report is referred may approve or object to the rule
9 in its current form and the recommendations submitted under sub. (1) (b) and the
10 joint committee for review of administrative rules may concur or nonconcur in the
11 actions of those standing committees or otherwise approve or object to the rule and
12 those recommendations as provided in subds. 1. to 4.

13 **SECTION 2. Effective date.**

14 (1) PERIODIC REVIEW OF RULES. This act takes effect on January 1, 2013.

15 (END)