

2013 DRAFTING REQUEST

Bill

Received: 9/23/2013 Received By: gmalaise
Wanted: As time permits Same as LRB:
For: Workforce Development 6-9427 By/Representing: Howard Bernstein
May Contact: Drafter: gmalaise
Subject: Administrative Law Addl. Drafters:
Employ Priv - job training Extra Copies:

Submit via email: YES
Requester's email: howard.bernstein@dwd.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Repeal of obsolete DWD rules; rule-making procedures

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>
/?	gmalaise 9/24/2013	csicilia 10/9/2013	jmurphy 10/9/2013	_____			
/1				_____	lparisi 10/9/2013	lparisi 10/29/2013	

FE Sent For:

↳ Not
Needed

<END>

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/?	gmalaise 9/24/2013	csicilia 10/9/2013	jmurphy 10/9/2013	_____			
/1				_____	lparisi 10/9/2013		

FE Sent For:

<END>

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/?	gmalaise	10/5/13	Jim 10/9	self			
FE Sent For:		1 gjs 10/9 13	<END>				

Malaise, Gordon

From: Hanaman, Cathlene
Sent: Thursday, September 12, 2013 3:06 PM
To: Malaise, Gordon
Subject: FW: "Right the Rules" draft proposals from DWD

Gordon:

Should someone else get these as well as you?

From: Bernstein, Howard I - DWD [<mailto:Howard.Bernstein@dwd.wisconsin.gov>]
Sent: Thursday, September 12, 2013 2:52 PM
To: Hanaman, Cathlene
Cc: Schulze, Connie R - DWD
Subject: "Right the Rules" draft proposals from DWD

To: Cathlene Hanaman, Deputy Chief
Legislative Reference Bureau

Hello Cathlene,

As I mentioned when I talked to you yesterday, DWD has been working with Representative Loudenberg on the introduction of "Right the Rules" legislation to repeal and amend certain DWD administrative rules. We would like to request a bill draft for the proposals attached below:



Thank you for your assistance. Please contact me for any questions on these drafts.

Howard Bernstein, Legal Counsel
Wisconsin Department of Workforce Development
(608) 266-9427
Howard.Bernstein@dwd.wisconsin.gov

HB 7/26/13

Draft Bill to Repeal Obsolete DWD Rules

An ACT to amend 35.93(2)(b)4., 35.93(2)(c)1., 35.93(3), 35.93(3)(e)(intro.), 35.93(3)(e)1., 227.01(13)(intro.), and 227.27(2); and to create 227.265 of the statutes, relating to rule-making provisions and repealing various rules promulgated by the Department of Workforce Development.

Analysis

STATUTORY TREATMENTS

[Same analysis as in 2013 LRB-2577/1]

TREATMENTS OF ADMINISTRATIVE RULES

This bill repeals various rules promulgated by the Department of Workforce Development (DWD) as described below:

DWD 82 Mining damage claims

This rule, originally promulgated in 1985, does not relate to the recent proposals for the revision of mining permit laws administered by the Department of Natural Resources. It involves a statute enacted in 1979 under which a person claiming to be damaged by mining activities could file a claim against a state fund. The claims process does not appear to have ever been used. Responsibility for the statute, along with the workplace safety aspects of mining, was transferred to the Department of Commerce in 1996 and is now with the Department of Safety and Professional Services. This rule is not in use.

DWD 805 Allowable costs under the Job Training Partnership Act

This rule, originally promulgated in 1986, sets out policies for the reimbursement of allowable costs under the Job Training Partnership Act of 1982, which has now been replaced by the Workforce Investment Act (WIA) of 1998. WIA is administered under federal regulations found at 20 CFR Parts 652 and 660 – 671. This rule is therefore obsolete.

DWD 811 Performance-based contracting

This rule, originally promulgated in 1986, sets out policies for grant contract provisions under the former Job Training Partnership Act of 1982. The JTPA has now been replaced by the Workforce Investment Act of 1998, which is administered under federal regulations found at 20 CFR Parts 652 and 660 – 671. The rule is therefore obsolete.

DWD 816 Dislocated worker program

This rule, originally promulgated in 1987, sets out policies for grants for programs, services or activities to assist dislocated workers under the former Job Training Partnership Act of 1982. The JTPA has now been replaced by the Workforce Investment Act of 1998, which is administered under federal regulations found at 20 CFR Parts 652 and 660 – 671. The rule is therefore obsolete.

DWD 820 Employment and training assistance for dislocated workers

This rule, originally promulgated in 1990, sets out policies for employment and training grants to assist dislocated workers under the former Job Training Partnership Act of 1982. The JTPA has now been replaced by the Workforce Investment Act of 1998, which is administered under federal regulations found at 20 CFR Parts 652 and 660 – 671. The rule is therefore obsolete.

DWD 830 Wisconsin job opportunity business subsidy program

This rule, originally promulgated in 1989, sets out policies and procedures under a former state job training program. The statutory authority for the program has expired and the program is no longer in operation. The rule is therefore obsolete.

SECTION 1. 35.93(2)(b)4. of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

35.93(2)(b)4. Copies of all rules filed with the legislative reference bureau under s. 227.20(1) or modified under s. 227.265 since the compilation of the preceding register, including emergency rules filed under s. 227.25(3).

SECTION 2. 35.93(2)(c)1. of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

35.93(2)(c)1. Each chapter of the Wisconsin administrative code that has been affected by rules filed with the legislative reference bureau under s. 227.20(1) or modified under s. 227.265, in accordance with sub. (3)(e)1.

SECTION 3. 35.93(3) of the statutes is amended to read:

35.93(3) The legislative reference bureau shall compile and deliver to the department for printing copy for a register which shall contain all the rules filed under s. 227.20 or modified under s. 227.265 since the compilation of rules for the preceding issue of the register was made and those executive orders which are to be in effect for more than 90 days or an informative summary thereof. The complete register shall be compiled and published before the first day of each month and a notice section of the register shall be compiled and published before the 15th day of each month. Each issue of the register shall contain a title page with the name "Wisconsin administrative register", the number and date of the register, and a table of contents. Each page of the register shall also contain the date and number of the register of which it is a part in addition to the other necessary code titles and page numbers. The legislative reference bureau may include in the register such instructions or information as in the bureau's judgment will help the user to correctly make insertions and deletions in the code and to keep the code current.

SECTION 4. 35.93(3)(e)(intro.) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

35.93(3)(e) The legislative reference bureau shall incorporate into the appropriate chapters of the Wisconsin administrative code each permanent rule filed with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265 and, for each chapter of the administrative code affected by a rule, do all of the following:

SECTION 5. 35.93(3)(e)1. of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

35.93(3)(e)1. Publish the chapter in the appropriate end-of-month register in accordance with the filing deadline for publication established in the rules procedures manual published under s. 227.15 (7) or in an end-of-month register agreed to by the submitting agency and the legislative reference bureau, or, in the case of a rule modified under s. 227.265, in the end-of-month register for the month in which the bill modifying the rule is enacted.

SECTION 6. 227.01(13)(intro.) of the statutes is amended to read:

227.01(13) "Rule" means a regulation, standard, statement of policy or general order of general application which has the effect of law and which is issued by an agency to implement, interpret or make specific legislation enforced or administered by the agency or to govern the organization or procedure of the agency. "Rule" includes a modification of a rule under s. 227.265. "Rule" does not include, and s. 227.10 does not apply to, any action or inaction of an agency, whether it would otherwise meet the definition under this subsection, which:

SECTION 7. 227.265 of the statutes is created to read:

227.265 Repeal or modification of rules. If a bill to repeal or modify a rule is enacted, the procedures under s. 227.114 to 227.21 and 227.26 do not apply. Instead, the legislative reference bureau shall publish the repeal or modification in the Wisconsin administrative code and register as required under s. 35.93, and the repeal or modification shall take effect as provided in s. 227.22.

SECTION 8. 227.27(2) of the statutes is amended to read:

227.27(2) The code shall be prima facie evidence in all courts and proceedings as provided by s. 889.01, but this does not preclude reference to or, in case of a discrepancy, control over a rule filed with the legislative reference bureau or the secretary of state under 227.20 or modified under s. 227.265, and the certified copy of a rule shall also and in the same degree be prima facie evidence in all courts and proceedings.

SECTION 9. Chapter DWD 82 of the administrative code is repealed.

SECTION 10. Chapter DWD 805 of the administrative code is repealed.

SECTION 11. Chapter DWD 811 of the administrative code is repealed.

SECTION 12. Chapter DWD 816 of the administrative code is repealed.

SECTION 13. Chapter DWD 820 of the administrative code is repealed.

SECTION 14. Chapter DWD 830 of the administrative code is repealed.

SECTION 15. **Effective dates.** This act takes effect on the day after publication, except that the treatment of section 35.93(2)(b)4. and (c)1. and (3)(e)(intro.) and 1. of the statutes takes effect on January 1, 2015.

(End)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3220/①
GMM.....

IN 9/24

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Wed
or
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St. v.
stat comp
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- 1 AN ACT ...; relating to: rule-making procedures and repealing various rules
- 2 promulgated by the Department of Workforce Development.

Analysis by the Legislative Reference Bureau

STATUTORY TREATMENTS

Rule-making procedures

Current law sets forth a procedure for the promulgation of administrative rules (rules). Generally, that procedure consists of the following steps:

1. The agency planning to promulgate the rule prepares a statement of the scope of the proposed rule, which the governor and the agency head must approve before any state employee or official may perform any activity in connection with the drafting of the proposed rule.

2. The agency drafts the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council Staff for review.

3. Subject to certain exceptions, a public hearing is held on the proposed rule.

4. The final draft of the proposed rule is submitted to the governor for approval.

5. The final draft of the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, are submitted to the legislature for review by one standing committee in each house and by the Joint Committee for Review of Administrative Rules.

6. The proposed rule is filed with the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Code (code) and the Wisconsin Administrative Register (register), and, subject to certain exceptions, the rule becomes effective on the first day of the first month beginning after publication.

Under this bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule-making procedures under current law do not apply. Instead, the LRB must

publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

① TREATMENTS OF ADMINISTRATIVE RULES

Under current law, the Department of Workforce Development (DWD) has promulgated various rules governing the administration in this state of the federal Job Training Partnership Act of 1982 (JTPA). Those rules govern: 1) allowable costs under the JTPA; 2) performance-based contracting by agencies receiving funds under the JTPA; 3) administration of the Dislocated Worker Program under the JTPA; and 4) administration of certain other employment and training programs under the JTPA. The JTPA was replaced by the federal Workforce Investment Act of 1998. This bill repeals those rules.

Under current law, DWD has promulgated rules governing the Wisconsin Job Opportunity Business Subsidy (WISJOBS) Program. Statutory authority for the awarding of grants under the WISJOBS Program expired on June 30, 1993. This bill repeals those rules.

Under current law, DWD has promulgated rules governing the filing and hearing of mining damage claims. Statutory responsibility for the hearing of such claims was transferred to the Department of Commerce in 1996 and, subsequently, to the Department of Safety and Professional Services in 2011. This bill repeals those rules.

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

1 SECTION 1. 13.92 (4) (bm) of the statutes is created to read:
2 13.92 (4) (bm) If 2 or more rules filed under s. 227.20 or modified under s.
3 227.265 affect the same unit of the Wisconsin administrative code without taking
4 cognizance of the effect thereon of the other rules and if the legislative reference
5 bureau finds that there is no mutual inconsistency in the changes made by each such
6 rule, the legislative reference bureau shall incorporate the changes made by each
7 rule into the text of the unit and document the incorporation in a note to the unit.
8 For each such incorporation, the legislative reference bureau shall include in a
9 correction bill a provision formally validating the incorporation. Section 227.27 (2)

1 is not affected by printing decisions made by the legislative reference bureau under
2 this paragraph.

3 **SECTION 2.** 13.92 (4) (c) of the statutes is amended to read:

4 13.92 (4) (c) The legislative reference bureau may insert in the Wisconsin
5 administrative code a note explaining any change made under par. (b) or (bm).

6 **SECTION 3.** 13.92 (4) (d) of the statutes is amended to read:

7 13.92 (4) (d) Sections 227.114, 227.116, 227.135, and 227.14 to 227.24 do not
8 apply to any change made by the legislative reference bureau under par. (b) or (bm).

9 **SECTION 4.** 13.92 (4) (e) of the statutes is amended to read:

10 13.92 (4) (e) The legislative reference bureau shall prepare and keep on file a
11 record of each change made under par. (b) or (bm).

12 **SECTION 5.** 13.92 (4) (f) of the statutes is amended to read:

13 13.92 (4) (f) The legislative reference bureau shall notify the agency involved
14 of each change made under par. (b) or (bm).

✓ 15 **SECTION 6.** 13.94 (4) (a) 5. of the statutes is amended to read:

16 13.94 (4) (a) 5. A local service agency as defined in s. 106.20 (1) (d) designated
17 under s. 101.35 (3), 1991 stats.

History: 1971 c. 270 s. 104; 1971 c. 307; 1973 c. 334; 1975 c. 39, 199, 224, 421; 1977 c. 26, 29; 1977 c. 196 s. 131; 1977 c. 418; 1979 c. 34, 314, 324; 1981 c. 20, 335; 1983 a. 27, 36, 96, 381; 1985 a. 29, 57, 120, 176; 1987 a. 27, 119, 186, 320, 328, 354, 399, 403; 1989 a. 31, 122; 1991 a. 39, 269, 316; 1993 a. 16, 27, 107, 263, 399, 491; 1995 a. 27 ss. 43g to 47n, 9116 (5); 1995 a. 56, 216, 225, 274, 289; 1997 a. 27, 252; 1999 a. 9, 65, 105, 167, 197; 2001 a. 16, 105; 2003 a. 33, 111; 2005 a. 25, 74, 142, 335, 441; 2007 a. 1, 20, 96, 125, 126; 2009 a. 2, 28; 2011 a. 7, 10, 32, 466; 2013 a. 8, 20.

18 - **SECTION 7.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20,
19 is amended to read:

20 35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau
21 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the
22 preceding register, including emergency rules filed under s. 227.24 (3).

1 - SECTION 8. 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20,
2 is amended to read:

3 35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been
4 affected by rules filed with ^{the} legislative reference bureau under s. 227.20 (1) or
5 modified under s. 227.265, in accordance with sub. (3) (e) 1.

6 SECTION 9. 35.93 (3) of the statutes is amended to read:

7 35.93 (3) The legislative reference bureau shall compile and deliver to the
8 department for printing copy for a register which shall contain all the rules filed
9 under s. 227.20 or modified under s. 227.265 since the compilation of rules for the
10 preceding issue of the register was made and those executive orders which are to be
11 in effect for more than 90 days or an informative summary thereof. The complete
12 register shall be compiled and published before the first day of each month and a
13 notice section of the register shall be compiled and published before the 15th day of
14 each month. Each issue of the register shall contain a title page with the name
15 "Wisconsin administrative register", the number and date of the register, and a table
16 of contents. Each page of the register shall also contain the date and number of the
17 register of which it is a part in addition to the other necessary code titles and page
18 numbers. The legislative reference bureau may include in the register such
19 instructions or information as in the bureau's judgment will help the user to correctly
20 make insertions and deletions in the code and to keep the code current.

21 - SECTION 10. 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin
22 Act 20, is amended to read:

23 35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the
24 appropriate chapters of the Wisconsin administrative code each permanent rule filed
25 with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265

1 and, for each chapter of the administrative code affected by a rule, do all of the
2 following:

3 **SECTION 11.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act
4 20, is amended to read:

5 35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register
6 in accordance with the filing deadline for publication established in the rules
7 procedures manual published under s. 227.15 (7) ~~or~~, in an end-of-month register
8 agreed to by the submitting agency and the legislative reference bureau, or, in the
9 case of a rule modified under s. 227.265, in the end-of-month register for the month
10 in which the bill modifying the rule is enacted.

X 11 **SECTION 12.** 106.20 of the statutes is repealed.

12 **SECTION 13.** 227.01 (13) (intro.) of the statutes is amended to read:

13 227.01 (13) (intro.) "Rule" means a regulation, standard, statement of policy,
14 or general order of general application which has the effect of law and which is issued
15 by an agency to implement, interpret, or make specific legislation enforced or
16 administered by the agency or to govern the organization or procedure of the agency.
17 "Rule" includes a modification of a rule under s. 227.265. "Rule" does not include, and
18 s. 227.10 does not apply to, any action or inaction of an agency, whether it would
19 otherwise meet the definition under this subsection, which:

20 **SECTION 14.** 227.11 (2) (intro.) of the statutes is amended to read:

21 227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency
22 as follows:

23 **SECTION 15.** 227.265 of the statutes is created to read:

24 **227.265 Repeal or modification of rules.** If a bill to repeal or modify a rule
25 is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply.

1 Instead, the legislative reference bureau shall publish the repeal or modification in
2 the Wisconsin administrative code and register as required under s. 35.93, and the
3 repeal or modification shall take effect as provided in s. 227.22.

4 **SECTION 16.** ~~227.27~~ 227.27 (2) of the statutes is amended to read:

5 227.27 (2) The code shall be prima facie evidence in all courts and proceedings
6 as provided by s. 889.01, but this does not preclude reference to or, in case of a
7 discrepancy, control over a rule filed with the legislative reference bureau ~~or the~~
8 ~~secretary of state~~ under s. 227.20 or modified under s. 227.265, and the certified copy
9 of a rule shall also and in the same degree be prima facie evidence in all courts and
10 proceedings.

11 **SECTION 17.** Chapter DWD 82 of the administrative code is repealed.

12 **SECTION 18.** Chapter DWD 805 of the administrative code is repealed.

13 **SECTION 19.** Chapter DWD 811 of the administrative code is repealed.

14 **SECTION 20.** Chapter DWD 816 of the administrative code is repealed.

15 **SECTION 21.** Chapter DWD 820 of the administrative code is repealed.

16 **SECTION 22.** Chapter DWD 830 of the administrative code is repealed.

17 **SECTION 23. Effective dates.** This act takes effect on the day after publication,
18 except as follows:

19 (1) The treatment of section 35.93 (2) (b) 4. and (c) 1. and (3) (e) (intro.) and 1.
20 of the statutes takes effect on January 1, 2015.

21 (END)

Handwritten marks on the right margin, including several horizontal lines with checkmarks or ticks, possibly indicating a review or editing process.

Parisi, Lori

From: Tichenor, Tyler L - DWD <Tyler.Tichenor@dwd.wisconsin.gov>
Sent: Tuesday, October 29, 2013 8:45 AM
To: LRB.Legal
Cc: Tichenor, Tyler L - DWD
Subject: Draft Review: LRB -3220/1 Topic: Repeal of obsolete DWD rules; rule-making procedures
Attachments: 13-3220_1.pdf

Please Jacket LRB -3220/1 for the SENATE. When complete please return to me. Thanks,

Tyler

Tyler L. Tichenor
Executive Staff Assistant
Office of the Secretary
Department of Workforce Development
201 E. Washington Avenue
Madison, WI 53707
Wisconsin is Open for Business!!



State of Wisconsin
LEGISLATIVE REFERENCE BUREAU

Appendix A

LRB BILL HISTORY RESEARCH APPENDIX

☞ The drafting file for 2013 LRB-3220/1 (Fic: DWD)

has been copied/added to the drafting file for

2013 LRB-3570 (AB 515) (Fic: DWD)

☞ Are These "Companion Bills" ?? ... Yes



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 11/04/2013 (Per: GMM)

☞ The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as an appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.