

SENATE BILL 884**SECTION 53**

1 **SECTION 53.** 227.137 (4) of the statutes is amended to read:

2 227.137 (4) On the same day that the agency submits the economic impact
3 analysis to the legislative council staff under s. 227.15 (1), the agency shall also
4 submit that analysis to the department of administration, to the governor, and to the
5 chief clerks of each house of the legislature, who shall distribute the analysis to the
6 presiding officers of their respective houses, to the chairpersons of the appropriate
7 standing committees of their respective houses, as designated by those presiding
8 officers, and to the cochairpersons of the joint committee for review of administrative
9 rules. If a proposed rule is modified after the economic impact analysis is submitted
10 under this subsection so that the economic impact of the proposed rule is
11 significantly changed, the agency shall prepare a revised economic impact analysis
12 for the proposed rule as modified. For purposes of this subsection, a significant
13 change includes an increase or a decrease of at least 10 percent or \$50,000, whichever
14 is greater, in the expected implementation and compliance costs reasonably expected
15 to be incurred by or passed along to a majority of the businesses, local governmental
16 units, and individuals as a result of the proposed rule, as identified under sub. (3) (b),
17 or a significant change in the persons expected to be affected by the proposed rule.
18 A revised economic impact analysis shall be prepared and submitted in the same
19 manner as an original economic impact analysis is prepared and submitted.

20 **SECTION 54.** 227.138 (1) (intro.) of the statutes is renumbered 227.138 (1) and
21 amended to read:

22 227.138 (1) The joint committee for review of administrative rules may direct
23 an agency to prepare a retrospective economic impact analysis for any of an agency's
24 rules that are published in the code. The committee may identify one or more specific
25 chapters, sections, or other subunits in the code that are administered by the agency

SENATE BILL 884

1 as the rules that are to be the subject of the analysis and may specify a deadline for
2 the preparation of the analysis.

3 **(1r)** A retrospective economic impact analysis shall contain information on the
4 economic effect of the rules on specific businesses, business sectors, public utility
5 ratepayers, local governmental units, and the state's economy as a whole. When
6 preparing the analysis, the agency or person preparing the analysis shall solicit
7 information and advice from businesses, associations representing businesses, local
8 governmental units, and individuals that have been affected by the rules. The
9 agency or person shall prepare the retrospective economic impact analysis in
10 coordination with local governmental units that have been affected by the rules. The
11 agency or person may request information that is reasonably necessary for the
12 preparation of a retrospective economic impact analysis from other businesses,
13 associations, local governmental units, and individuals and from other agencies.
14 The retrospective economic impact analysis shall include all of the following:

15 **SECTION 55.** 227.138 (1) (a) to (h) of the statutes are renumbered 227.138 (1r)
16 (a) to (h).

17 **SECTION 56.** 227.138 (1g) of the statutes is created to read:

18 227.138 **(1g)** Within 90 days after an agency submits a retrospective economic
19 impact analysis under sub. (2), either cochairperson of the joint committee for review
20 of administrative rules may request an independent retrospective economic impact
21 analysis to be prepared using the same procedure and payment methods described
22 under s. 227.137 (4m) (am) and (b). A person preparing an independent retrospective
23 economic impact analysis under this subsection shall prepare the independent
24 retrospective economic impact analysis for the same rules that were the subject of

SENATE BILL 884**SECTION 56**

1 the agency's analysis under sub. (1) and shall include the information that is
2 required under sub. (1r).

3 **SECTION 57.** 227.138 (2) of the statutes is amended to read:

4 227.138 (2) An agency or person that prepares a retrospective economic impact
5 analysis under sub. (1) or (1g) shall submit that analysis to the department of
6 administration, to the governor, and to the chief clerks of each house of the
7 legislature, who shall distribute the analysis to the presiding officers of their
8 respective houses, to the chairpersons of the appropriate standing committees of
9 their respective houses, as designated by those presiding officers, and to the
10 cochairpersons of the joint committee for review of administrative rules. The agency
11 or person shall also send an electronic copy of the analysis to the legislative reference
12 bureau, in a format approved by the legislative reference bureau, for publication in
13 the register.

14 **SECTION 58.** 227.18 (3m) of the statutes is created to read:

15 227.18 (3m) If, after holding a hearing under this section, an agency makes any
16 changes to the proposed rule, the agency shall do all of the following:

17 (a) Review the statement of scope of the proposed rule prepared under s.
18 227.135 to determine whether a revised statement of scope is required under s.
19 227.135 (4).

20 (b) Review the economic impact analysis for the proposed rule prepared under
21 s. 227.137 to determine whether a revised economic impact analysis is required
22 under s. 227.137 (4).

23 **SECTION 59.** 227.185 of the statutes is amended to read:

24 **227.185 Approval by governor.** After a proposed rule is in final draft form,
25 the agency shall submit the proposed rule to the governor for approval. The governor,

SENATE BILL 884

1 in his or her discretion, may approve or reject the proposed rule. If the governor
2 approves a proposed rule, the governor shall provide the agency with a written notice
3 of that approval. No proposed rule may be submitted to the legislature for review
4 under s. 227.19 (2) unless the governor has approved the proposed rule in writing.
5 The agency shall notify the joint committee for review of administrative rules
6 whenever it submits a proposed rule for approval under this section. This section
7 does not apply to proposed rules prepared by the department of public instruction.

8 **SECTION 60.** 227.20 (3) (a) of the statutes is amended to read:

9 227.20 (3) (a) That the rule was duly promulgated by the agency.

10 **SECTION 61.** 227.20 (3) (c) of the statutes is repealed.

11 **SECTION 62.** 227.24 (1) (e) 1d. of the statutes is amended to read:

12 227.24 (1) (e) 1d. Prepare a statement of the scope of the proposed emergency
13 rule as provided in s. 227.135 (1), obtain approval of the statement as provided in s.
14 227.135 (2), send the statement to the legislative reference bureau for publication in
15 the register as provided in s. 227.135 (3), and hold a preliminary public hearing and
16 comment period if directed under s. 227.136 (1). If the agency changes the scope of
17 a proposed emergency rule as described in s. 227.135 (4), the agency shall prepare
18 and obtain approval of a revised statement of the scope of the proposed emergency
19 rule as provided in s. 227.135 (4). No state employee or official may perform any
20 activity in connection with the drafting of a proposed emergency rule, except for an
21 activity necessary to prepare the statement of the scope of the proposed emergency
22 rule, until the governor approves the statement, if such approval is required, and the
23 individual or body with policy-making powers over the subject matter of the
24 proposed emergency rule approve approves the statement.

25 **SECTION 63.** 227.24 (1) (e) 1g. of the statutes is amended to read:

SENATE BILL 884

SECTION 63

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

9 **SECTION 64.** 227.26 (2) (im) of the statutes is created to read:

10 227.26 (2) (im) *Multiple suspensions.* Notwithstanding pars. (i) and (j), the
 11 committee may act to suspend a rule as provided under this subsection multiple
 12 times.

13 **SECTION 65.** 227.40 (1) of the statutes is amended to read:

14 227.40 (1) Except as provided in sub. (2), the exclusive means of judicial review
 15 of the validity of a rule or guidance document shall be an action for declaratory
 16 judgment as to the validity of the rule or guidance document brought in the circuit
 17 court for the county where the party asserting the invalidity of the rule or guidance
 18 document resides or has its principal place of business or, if that party is a
 19 nonresident or does not have its principal place of business in this state, in the circuit
 20 court for the county where the dispute arose. The officer or other agency whose rule
 21 or guidance document is involved shall be the party defendant. The summons in the
 22 action shall be served as provided in s. 801.11 (3) and by delivering a copy to that
 23 officer or, if the agency is composed of more than one person, to the secretary or clerk
 24 of the agency or to any member of the agency. The court shall render a declaratory
 25 judgment in the action only when it appears from the complaint and the supporting

SENATE BILL 884

1 evidence that the rule or guidance document or its threatened application interferes
2 with or impairs, or threatens to interfere with or impair, the legal rights and
3 privileges of the plaintiff. A declaratory judgment may be rendered whether or not
4 the plaintiff has first requested the agency to pass upon the validity of the rule or
5 guidance document in question.

6 **SECTION 66.** 227.40 (2) (intro.) of the statutes is amended to read:

7 227.40 (2) (intro.) The validity of a rule or guidance document may be
8 determined in any of the following judicial proceedings when material therein:

9 **SECTION 67.** 227.40 (2) (e) of the statutes is amended to read:

10 227.40 (2) (e) Proceedings under s. 66.191, 1981 stats., or s. 40.65 (2), 106.50,
11 106.52, 303.07 (7) or 303.21 or ss. 227.52 to 227.58 or under ch. 102, 108 or 949 for
12 review of decisions and orders of administrative agencies if the validity of the rule
13 or guidance document involved was duly challenged in the proceeding before the
14 agency in which the order or decision sought to be reviewed was made or entered.

15 **SECTION 68.** 227.40 (3) (intro.) of the statutes is renumbered 227.40 (3) (ag) and
16 amended to read:

17 227.40 (3) (ag) In any judicial proceeding other than one ~~set out above~~ under
18 sub. (1) or (2), in which the invalidity of a rule or guidance document is material to
19 the cause of action or any defense thereto, the assertion of ~~such~~ that invalidity shall
20 be set forth in the pleading of the party so maintaining the invalidity of ~~such~~ the rule
21 or guidance document in that proceeding. The party so asserting the invalidity of
22 ~~such~~ the rule or guidance document shall, within 30 days after the service of the
23 pleading in which the party sets forth ~~such~~ the invalidity, apply to the court in which
24 ~~such~~ the proceedings are had for an order suspending the trial of said the proceeding

SENATE BILL 884**SECTION 68**

1 until after a determination of the validity of said the rule or guidance document in
2 an action for declaratory judgment under sub. (1) hereof.

3 **SECTION 69.** 227.40 (3) (a) of the statutes is renumbered 227.40 (3) (ar) and
4 amended to read:

5 227.40 (3) (ar) Upon the hearing of ~~such~~ the application, if the court is satisfied
6 that the validity of ~~such~~ the rule or guidance document is material to the issues of
7 the case, an order shall be entered staying the trial of said proceeding until the
8 rendition of a final declaratory judgment in proceedings to be instituted forthwith
9 by the party asserting the invalidity of ~~such~~ the rule or guidance document. If the
10 court ~~shall find~~ finds that the asserted invalidity of ~~a~~ the rule or guidance document
11 is not material to the case, an order shall be entered denying the application for stay.

12 **SECTION 70.** 227.40 (3) (b) and (c) of the statutes are amended to read:

13 227.40 (3) (b) Upon the entry of a final order in said the declaratory judgment
14 action, it shall be the duty of the party who asserts the invalidity of the rule or
15 guidance document to formally advise the court of the outcome of the declaratory
16 judgment action so brought as ordered by the court. After the final disposition of the
17 declaratory judgment action the court shall be bound by and apply the judgment so
18 entered in the trial of the proceeding in which the invalidity of the rule or guidance
19 document is asserted.

20 (c) Failure to set forth the invalidity of a rule or guidance document in a
21 pleading or to commence a declaratory judgment proceeding within a reasonable
22 time pursuant to ~~such~~ the order of the court or to prosecute ~~such~~ the declaratory
23 judgment action without undue delay shall preclude ~~such~~ the party from asserting
24 or maintaining ~~such~~ that the rule or guidance document is invalid.

25 **SECTION 71.** 227.40 (4) (a) of the statutes is amended to read:

SENATE BILL 884**SECTION 71**

1 227.40 (4) (a) In any proceeding pursuant to this section for judicial review of
2 a rule or guidance document, the court shall declare the rule or guidance document
3 invalid if it finds that it violates constitutional provisions or exceeds the statutory
4 authority of the agency or was promulgated or adopted without compliance with
5 statutory rule-making or adoption procedures.

6 **SECTION 72.** 227.40 (6) of the statutes is amended to read:

7 227.40 (6) Upon entry of a final order in a declaratory judgment action under
8 sub. (1) with respect to a rule, the court shall send an electronic notice to the
9 legislative reference bureau of the court's determination as to the validity or
10 invalidity of the rule, in a format approved by the legislative reference bureau, and
11 the legislative reference bureau shall publish a notice of that determination in the
12 Wisconsin administrative register under s. 35.93 (2) and insert an annotation of that
13 determination in the Wisconsin administrative code under s. 13.92 (4) (a).

14 **SECTION 73.** 227.46 (1) (h) of the statutes is amended to read:

15 227.46 (1) (h) ~~Make or recommend~~ Recommend findings of fact, conclusions of
16 law and decisions to the extent permitted by law.

17 **SECTION 74.** 227.46 (2) of the statutes is amended to read:

18 227.46 (2) Except as provided in sub. (2m) and s. 227.47 (2), in any contested
19 case which is a class 2 or class 3 proceeding, where a majority of the officials of the
20 agency who are to render the final decision are not present for the hearing, the
21 hearing examiner presiding at the hearing shall prepare a proposed decision,
22 including findings of fact, conclusions of law, order and opinion, in a form that may
23 be adopted by the agency as the final decision in the case under s. 227.47 (3). The
24 proposed decision shall be a part of the record and shall be served by the agency on
25 all parties. Each party adversely affected by the proposed decision shall be given an

SENATE BILL 884**SECTION 74**

1 opportunity to file objections to the proposed decision, briefly stating the reasons and
2 authorities for each objection, and to argue with respect to them before the officials
3 who are to participate in the decision. The agency may direct whether such
4 argument shall be written or oral. If an agency's decision varies in any respect from
5 the proposed decision of the hearing examiner, the agency's decision shall include an
6 explanation of the basis for each variance.

7 **SECTION 75.** 227.46 (2m) of the statutes is amended to read:

8 227.46 (2m) In any hearing or review assigned to a hearing examiner under
9 s. 227.43 (1) (bg), the hearing examiner presiding at the hearing shall prepare a
10 proposed decision, including findings of fact, conclusions of law, order and opinion,
11 in a form that may be adopted by the agency as the final decision in the case under
12 s. 227.47 (3). The proposed decision shall be a part of the record and shall be served
13 by the division of hearings and appeals in the department of administration on all
14 parties. Each party adversely affected by the proposed decision shall be given an
15 opportunity to file objections to the proposed decision within 15 days, briefly stating
16 the reasons and authorities for each objection, and to argue with respect to them
17 before the administrator of the division of hearings and appeals. The administrator
18 of the division of hearings and appeals may direct whether such argument shall be
19 written or oral. If the decision of the administrator of the division of hearings and
20 appeals varies in any respect from the proposed decision of the hearing examiner, the
21 decision of the administrator of the division of hearings and appeals shall include an
22 explanation of the basis for each variance. The decision of the administrator of the
23 division of hearings and appeals is a final decision of the agency subject to judicial
24 review under s. 227.52. The department of transportation may petition for judicial
25 review.

SENATE BILL 884

1 **SECTION 76.** 227.46 (3) (a) of the statutes is repealed.

2 **SECTION 77.** 227.46 (8) of the statutes is repealed.

3 **SECTION 78.** 227.47 (1) of the statutes is amended to read:

4 227.47 (1) Except as provided in sub. (2), every proposed ~~or final~~ decision of an
5 agency ~~or a~~ hearing examiner following a hearing and every final decision of an
6 agency shall be in writing accompanied by findings of fact and conclusions of law.
7 The findings of fact shall consist of a concise and separate statement of the ultimate
8 conclusions upon each material issue of fact without recital of evidence. Every
9 proposed or final decision shall include a list of the names and addresses of all
10 persons who appeared before the agency in the proceeding who are considered
11 parties for purposes of review under s. 227.53. The agency shall by rule establish a
12 procedure for determination of parties.

13 **SECTION 79.** 227.47 (3) of the statutes is created to read:

14 227.47 (3) Every final decision of an agency in a contested case shall be
15 approved, signed, and dated by the agency head and shall include a signed
16 certification stating as follows: "I hereby certify that this decision complies with the
17 requirements of chapter 227 of the Wisconsin Statutes and constitutes the final
18 agency action in this matter. I further certify that this decision contains no standard,
19 requirement, or threshold that is not explicitly required or explicitly permitted by
20 statute or a rule that has been lawfully promulgated and that this decision contains
21 no standard, requirement, or threshold that is more restrictive than a standard,
22 requirement, or threshold contained in the Wisconsin Statutes."

23 **SECTION 80.** 227.57 (11) of the statutes is amended to read:

24 227.57 (11) Upon review of an agency action or decision ~~affecting a property~~
25 owner's use of the property owner's property, the court shall accord no deference to

SENATE BILL 884

SECTION 80

1 the agency's interpretation of law if the agency action or decision restricts the
2 property owner's free use of the property owner's property.

3 **SECTION 81.** 230.08 (2) (sb) of the statutes is repealed.

4 **SECTION 82.** 238.02 (1) of the statutes is amended to read:

5 238.02 (1) There is created an authority, which is a public body corporate and
6 politic, to be known as the "Wisconsin Economic Development Corporation." The
7 members of the board shall consist of ~~6~~ 4 members nominated by the governor, and
8 with the advice and consent of the senate appointed, to serve at the pleasure of the
9 governor; 3 members appointed by the speaker of the assembly, consisting of one
10 majority and one minority party representative to the assembly, appointed as are the
11 members of standing committees in the assembly, and one person employed in the
12 private sector, to serve at the speaker's pleasure; and 3 4-year terms; one member
13 appointed by the minority leader of the assembly to serve a 4-year term; 3 members
14 appointed by the senate majority leader, consisting of one majority and one minority
15 party senator, appointed as are members of standing committees in the senate, and
16 one person employed in the private sector, to serve at the majority leader's pleasure
17 4-year terms; and one member appointed by the minority leader of the senate to
18 serve a 4-year term. The secretary of administration and the secretary of revenue
19 shall also serve on the board as nonvoting members. The board shall elect a
20 chairperson from among its nonlegislative voting members. A vacancy on the board
21 shall be filled in the same manner as the original appointment to the board for the
22 remainder of the unexpired term, if any.

23 **SECTION 83.** 238.02 (2) of the statutes is amended to read:

24 238.02 (2) A majority of the voting appointed members of the board currently
25 serving constitutes a quorum for the purpose of conducting its business and

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SENATE BILL 884

1 exercising its powers and for all other purposes, notwithstanding the existence of any
2 vacancies. Action may be taken by the board upon a vote of a majority of the voting
3 appointed members present.

4 **SECTION 84.** 238.02 (3) of the statutes is amended to read:

5 238.02 (3) A chief executive officer shall be nominated by the governor board,
6 and with the advice and consent of the senate appointed, to serve at the pleasure of
7 the governor board. The board may delegate to the chief executive officer any powers
8 and duties the board considers proper. The chief executive officer shall receive such
9 compensation as may be determined by the board.

10 **SECTION 85.** 238.04 (15) of the statutes is created to read:

11 238.04 (15) Appoint and supervise the economic development liaison project
12 position created in 2017 Wisconsin Act 58, section 61 (1).

13 **SECTION 86.** 238.399 (3) (a) of the statutes is amended to read:

14 238.399 (3) (a) The corporation may designate ~~not more than 30~~ any number
15 of enterprise zones in this state.

16 **SECTION 87.** 238.399 (3) (am) of the statutes is created to read:

17 238.399 (3) (am) The corporation may not designate a new enterprise zone
18 under par. (a) except as follows:

19 1. Before the corporation designates a new enterprise zone, the corporation
20 shall notify the joint committee on finance in writing of the corporation's intention
21 to designate a new enterprise zone. The notice shall describe the new zone and the
22 purposes for which the corporation proposes to designate the new zone.

23 2. If, within 14 working days after the date of the corporation's notice under
24 subd. 1., the cochairpersons of the joint committee on finance do not notify the
25 corporation that the committee has scheduled a meeting to review the corporation's

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SENATE BILL 884**SECTION 87**

1 proposal, the corporation may designate the new enterprise zone as proposed in the
2 corporation's notice. If, within 14 working days after the date of the corporation's
3 notice under subd. 1., the cochairpersons of the committee notify the corporation that
4 the committee has scheduled a meeting to review the corporation's proposal, the
5 corporation may designate the new enterprise zone only upon approval of the
6 committee.

7 **SECTION 88.** 238.399 (3) (e) of the statutes is repealed.

8 **SECTION 89.** 281.665 (5) (d) of the statutes is amended to read:

9 281.665 (5) (d) Notwithstanding pars. (a) to (c), during the 2017-19 and
10 2019-21 fiscal ~~biennium~~ bienniums, the department shall consider an applicant to
11 be eligible for a cost-sharing grant for a project under this section if the project is
12 funded or executed in whole or in part by the U.S. army corps of engineers under 33
13 USC 701s.

14 **SECTION 90.** 301.03 (16) of the statutes is created to read:

15 301.03 (16) At the request of the legislature, submit to the legislature under
16 s. 13.172 (2) a report that includes the following information and post the report on
17 the department's website:

18 (a) If, since the previous report was submitted or during a date range specified
19 in the request, an individual was pardoned for a crime or was released from a term
20 of imprisonment without completing his or her sentence, the name of the individual,
21 the pertinent crime, and the name of the person who authorized the action.

22 (b) If an individual who appears on a report submitted under this subsection
23 is convicted of a crime, the name of that individual and the crime for which he or she
24 was convicted.

25 **SECTION 91.** 343.165 (8) of the statutes is created to read:

SENATE BILL 884

1 343.165 (8) Notwithstanding subs. (1) to (4), for an applicant requesting that
2 an identification card be provided without charge for purposes of voting, all of the
3 following apply:

4 (a) Except as provided in par. (b), if a person is unable to provide proof of name
5 and date of birth, and the documents are unavailable to the person, the person may
6 make a written petition to the department for an exception to the requirements of
7 sub. (1) (a) or (b). The application shall include proof of identity and all of the
8 following:

9 1. A certification of the person's name, date of birth, and current residence
10 street address on the department's form.

11 2. An explanation of the circumstances by which the person is unable to provide
12 proof of name and date of birth.

13 3. Whatever documentation is available that states the person's name and date
14 of birth.

15 (b) 1. If a person applies for and requests an identification card without charge
16 for the purposes of voting and the person's proof of name and date of birth or of proof
17 of citizenship, legal permanent resident status, conditional resident status, or legal
18 presence is unavailable, the person may make a written petition to the department
19 for an exception to the requirement for which proof is unavailable. The department
20 shall provide appropriate translation for any person who is unable to read or
21 understand the petition process instructions and related communications under this
22 subsection or s. 343.50 (1) (c) 2. The petition shall include the person's statement
23 under oath or affirmation of all of the following:

SENATE BILL 884**SECTION 91**

1 a. That the person is unable to provide proof of name and date of birth or proof
2 of citizenship, legal permanent resident status, conditional resident status, or legal
3 presence.

4 b. That the documents are unavailable to the person.

5 c. His or her name, date of birth, place of birth, and such other birth record
6 information requested by the department, or the person's alien or U.S. citizenship
7 and immigration service number or U.S. citizenship certificate number.

8 2. Upon receiving a petition that meets the requirements under subd. 1., the
9 department of transportation shall forward the petition to the central office of its
10 division of motor vehicles for processing. The department of transportation shall
11 provide the person's birth record information to the department of health services,
12 for the sole purpose of verification by the department of health services of the
13 person's birth certificate information or the equivalent document from another
14 jurisdiction, other than a province of the Dominion of Canada, or to a federal agency
15 for the sole purpose of verifying the person's certificate of birth abroad issued by the
16 federal department of state, or of verifying the person's alien or U.S. citizenship and
17 immigration service number or U.S. citizenship certificate number. The department
18 of transportation shall open a file containing the petition and shall create therein a
19 report with a dated record of events, including all communication to or with the
20 applicant. The department of transportation may not complete processing of the
21 application prior to receiving verification under this subdivision, except as provided
22 in subd. 3.

23 3. If the department does not receive verification under subd. 2. within 30 days
24 or receives notice under subd. 2. that the birth information provided in the
25 application does not match that of the birth record custodian, the department shall

SENATE BILL 884**SECTION 91**

1 promptly notify the person in writing of that failure to verify and request the person
2 contact the department within 10 days. If the person does not respond within 10
3 days, the department shall send the person a 2nd letter with substantially similar
4 contents. If the person does not respond to the 2nd letter within 10 days and the
5 department knows the person's telephone number, the department shall call the
6 person on the telephone and notify the person that the birth information was not
7 verified and request the person provide additional information within 10 days. If 30
8 days have elapsed since the date of the first letter sent under this subdivision without
9 contact from the person, the department shall suspend the investigation and send
10 written notice that the person has not responded, that the department has no further
11 leads for it to locate or obtain secondary documentation or verification of birth
12 information, that the department has suspended its investigation or research until
13 such time as the person contacts the department, and that if within 180 days after
14 the date of the written notice the person fails to contact the department the petition
15 will be denied and no further identification card receipts will be issued under s.
16 343.50 (1) (c) 2. If the person fails to contact the department within 180 days after
17 the department suspends the investigation, the department shall deny the petition
18 in writing and shall inform the person that the department will resume the
19 investigation if the person contacts the department to discuss the petition.
20 Whenever the applicant contacts the department to discuss the petition, the
21 investigation under this subdivision shall begin anew, notwithstanding any prior
22 denial due to the person's failure to timely respond. The applicant shall act in good
23 faith and use reasonable efforts to provide additional information that could
24 reasonably lead the department to discover correct birth information or secondary
25 documentation as described in subd. 3g., to assist the department in processing the

SENATE BILL 884**SECTION 91**

1 application. The department shall investigate the petition and any additional
2 information provided under this subdivision with prompt and due diligence and shall
3 use reasonable efforts to locate and obtain the secondary documentation by pursuing
4 leads provided by the person. Investigations may only be completed within the
5 division of motor vehicles' central office by employees whose regular job duties
6 include investigation and fraud detection and prevention. If the investigation
7 discovers new or corrected birth information, the department of transportation shall
8 resubmit the new or corrected birth information to the department of health services
9 for verification under subd. 2. The department of transportation shall pay any
10 actual, necessary fees required by the record custodian to obtain the secondary
11 documentation.

12 3g. If the department of health services does not verify the birth record
13 information within 30 days, the department of transportation may issue an
14 identification card to the person only if the department of transportation receives
15 verification under subd. 2., if the person provides proof of name and date of birth or
16 proof of citizenship, legal permanent resident status, conditional resident status or
17 legal presence, or if the department of transportation receives other secondary
18 documentation acceptable to the department of transportation and deemed
19 sufficient under subd. 3., which may include the following:

- 20 a. Baptismal certificate.
- 21 b. Hospital birth certificate.
- 22 c. Delayed birth certificate.
- 23 d. Census record.
- 24 e. Early school record.
- 25 f. Family Bible record.

SENATE BILL 884

1 g. Doctor's record of post-natal care.

2 h. Other documentation deemed acceptable to the department of
3 transportation, within the department's reasonable discretion.

4 4. In this paragraph, "proof of citizenship, legal permanent resident status,
5 conditional resident status or legal presence" means any of the following:

6 a. A U.S. state or local government issued certificate of birth.

7 b. Valid U.S. passport.

8 c. Valid foreign passport with appropriate immigration documents, which shall
9 include or be accompanied by federal form I-94, arrival and departure record.

10 d. Certificate of U.S. citizenship.

11 e. A U.S. Certificate of naturalization.

12 f. Valid department of homeland security/U.S. citizenship and immigration
13 services federal form I-551, resident alien registration receipt card, issued since
14 1997.

15 g. Valid department of homeland security/U.S. citizenship and immigration
16 services federal form I-688, temporary resident identification card.

17 h. Valid department of homeland security/U.S. citizenship and immigration
18 services federal form I-688B or I-766, employment authorization document.

19 i. Valid department of homeland security/U.S. citizenship and immigration
20 services federal form I-571, refugee travel document.

21 j. Department of homeland security/U.S. citizenship and immigration services
22 federal form I-797, notice of action.

23 k. Department of homeland security/transportation security administration
24 transportation worker identification credential.

SENATE BILL 884**SECTION 91**

1 L. A U.S. department of state reception and placement program assurance
2 form (refugee version), which shall include or be accompanied by federal form I-94,
3 arrival and departure record.

4 m. Documentary proof specified in s. 343.14 (2) (es), that is approved by the
5 appropriate federal authority.

6 5. In this paragraph, "proof of identity" means a supporting document
7 identifying the person by name and bearing the person's signature, a reproduction
8 of the person's signature, or a photograph of the person. Acceptable supporting
9 documents include:

10 a. A valid operator's license, including a license from another jurisdiction,
11 except a province of the Dominion of Canada, bearing a photograph of the person.

12 b. Military discharge papers.

13 c. A U.S. government and military dependent identification card.

14 d. A valid photo identification card issued by Wisconsin or another jurisdiction,
15 except a province of the Dominion of Canada, bearing a photograph of the person.

16 e. A marriage certificate or certified copy of judgment of divorce.

17 f. A social security card issued by the social security administration.

18 g. Any document described under subd. 6., if it bears a photograph of the person
19 and was not used as proof of name and date of birth.

20 h. Department of homeland security/transportation security administration
21 transportation worker identification credential.

22 6. In this paragraph, "proof of name and date of birth" means any of the
23 following:

24 a. For a person born in Wisconsin, a copy of the person's Wisconsin birth
25 certificate issued and certified in accordance with s. 69.21.

SENATE BILL 884

1 b. For a person born in another jurisdiction, other than a province of the
2 Dominion of Canada, a certified copy of his or her birth certificate or the equivalent
3 document from that other jurisdiction or a certificate of birth abroad issued by the
4 federal department of state.

5 c. A U.S. passport.

6 d. A valid, unexpired passport issued by a foreign country with federal I-551
7 resident alien registration receipt card or federal I-94 arrival and departure record
8 that bears a photograph of the person and identifies the person's first and last names,
9 and the person's day, month, and year of birth.

10 e. A Wisconsin operator's license bearing a photograph of the person.

11 f. A Wisconsin identification card issued under s. 343.50, bearing a photograph
12 of the person, other than an identification card issued under s. 343.50 (1) (c) 2.

13 g. A federal I-551 "permanent resident alien registration receipt card."

14 h. A federal I-94 "parole edition" or "refugees version" arrival-departure
15 record, together with a certification, on the department's form, by the person, of the
16 person's name and date of birth, a copy of a federal department of state refugee data
17 center reception and placement program assurance form and a letter from the
18 person's sponsoring agency on its letterhead, supporting the person's application for
19 a Wisconsin identification card or operator's license and confirming the person's
20 identification. Applicants who are unable to provide a reception and placement
21 program assurance form may be issued a Wisconsin identification card or operator's
22 license, but only after their identification has been confirmed by the U.S. citizenship
23 and immigration services.

24 i. A U.S. certificate of naturalization.

25 j. A certificate of U.S. citizenship.

SENATE BILL 884**SECTION 91**

1 k. A federal temporary resident card or employment authorization card, I-688,
2 I-688A, I-688B, and I-766.

3 L. A Native American identification card that is issued by a federally
4 recognized tribe or a band of a federally recognized tribe, is issued in Wisconsin,
5 includes a photograph and signature or reproduction of a signature of the person, and
6 has been approved by the secretary for use as identification.

7 m. A court order under seal related to the adoption or divorce of the individual
8 or to a name or gender change that includes the person's current full legal name, date
9 of birth, and, in the case of a name change or divorce order, the person's prior name.

10 n. An armed forces of the U.S. common access card or DD Form 2 identification
11 card issued to military personnel.

12 o. Department of homeland security/transportation security administration
13 transportation worker identification credential.

14 7. In this paragraph, "unavailable" means that the applicant does not have the
15 document and would be required to pay a government agency to obtain it.

16 (c) The administrator may delegate to the deputy administrator or to a bureau
17 director, as described in s. 15.02 (3) (c) 2., whose regular responsibilities include
18 driver licensing and identification card issuance, the authority to accept or reject
19 such extraordinary proof of name, date of birth, or U.S. citizenship under this
20 subsection.

21 (e) The denial of a petition under par. (b) is subject to judicial review in the
22 manner provided in ch. 227 for the review of administrative decisions.

23 (f) If the administrator, or delegate described in par. (c), determines that an
24 applicant has knowingly made a false statement or knowingly concealed a material
25 fact or otherwise committed a fraud in an application, petition, or additional

SENATE BILL 884

1 information, the department shall immediately suspend the investigation, shall
2 notify the person in writing of the suspension and the reason for the suspension, and
3 refer any suspected fraud to law enforcement.

4 (g) A person whose petition is suspended or denied due to a failure to respond
5 timely may revive the petition at any time by contacting the department to discuss
6 the petition application. If a person revives a petition, the department shall
7 immediately issue, and shall continue to reissue, an identification card receipt to the
8 person as provided in s. 343.50 (1) (c) 2., except that the department shall first
9 require the person to take a photograph if required under s. 343.50 (1) (c) 2.

10 (h) The department shall grant a petition if the department concludes, on the
11 basis of secondary documentation or other corroborating information, that it is more
12 likely than not that the name, date of birth, and U.S. citizenship provided in the
13 application is correct.

14 **SECTION 92.** 343.50 (1) (c) of the statutes is renumbered 343.50 (1) (c) 1. and
15 amended to read:

16 343.50 (1) (c) 1. The department may issue a receipt to any applicant for an
17 identification card, and shall issue a receipt to an applicant requesting an
18 identification card under sub. (5) (a) 3., which receipt shall constitute a temporary
19 identification card while the application is being processed and shall be valid for a
20 period not to exceed 60 days. If the application for an identification card is processed
21 under the exception specified in s. 343.165 (7) or (8), the receipt shall include the
22 marking specified in sub. (3) (b).

23 **SECTION 93.** 343.50 (1) (c) 2. of the statutes is created to read:

24 343.50 (1) (c) 2. If the department issues a receipt to an applicant petitioning
25 the department under s. 343.165 (8), all of the following apply:

SENATE BILL 884**SECTION 93**

1 a. The department shall issue the receipt not later than the 6th working day
2 after the person made the petition and shall deliver the receipt by 1st class mail,
3 except that if a petition is filed or revived within 7 days before or 2 days after a
4 statewide election the department shall issue a receipt not later than 24 hours after
5 the petition is filed or revived and shall deliver the receipt by overnight or next-day
6 mail. The department shall issue a new receipt to the person not later than 10 days
7 before the expiration date of the prior receipt, and having a date of issuance that is
8 the same as the expiration date of the prior receipt. The department shall issue no
9 receipt to a person after the denial of a petition under s. 343.165 (8), unless the person
10 revives an investigation. The department shall continue to reissue identification
11 card receipts to a person unless the department cancels the identification card
12 receipt upon the circumstances specified in sub. (10), upon the issuance of an
13 operator's license or identification card to the person, upon the person's request,
14 upon the denial of the application, upon return to the department of a receipt as
15 nondeliverable, upon the person's failure to contact the department to discuss the
16 petition for a period of 180 days or more, or whenever the department receives
17 information that prohibits issuance of an identification card under sub. (1) (c). The
18 department shall require the person to take a photograph prior to reissuing an
19 identification card receipt if the photograph of the person on file with the department
20 is 8 or more years old.

21 b. An identification card receipt issued under this subdivision shall constitute
22 a temporary identification card while the application is being processed under s.
23 343.165 (8) and shall be valid for a period not to exceed the period specified in sub.
24 (1) (c). The department shall clearly mark the receipt "FOR VOTING PURPOSES
25 ONLY" as validated for use for voting as provided in ss. 5.02 (6m) (d) and 6.79 (2) (a).

SENATE BILL 884

1 A receipt issued under this subsection shall contain the information specified under
2 s. 343.17 (3), including the date of issuance, the expiration date, the name and
3 signature of the person to whom it was issued, and, except as authorized in sub. (4g),
4 a photograph of the individual to whom it was issued, and may contain such further
5 information as the department deems necessary.

6 c. The department shall issue a replacement identification card receipt under
7 subd 1. a. upon request of the person to whom it is issued if the receipt is lost or
8 destroyed.

9 d. Notwithstanding subd. 2. a., the department shall cancel or refuse to issue
10 an identification card receipt under this subsection upon the circumstances specified
11 in sub. (10), upon the issuance of an operator's license or identification card to the
12 person, upon the person's request, upon the denial of the application, upon return to
13 the department of a receipt as nondeliverable, or whenever the department receives
14 information that prohibits issuance of an identification card under subd. 1.

15 e. Whenever any person, after receiving an identification card receipt under
16 this subdivision, moves from the address named in the application or in the receipt
17 issued to him or her or is notified by the local authorities or by the postal authorities
18 that the address so named has been changed, the person shall, within 30 days, notify
19 the department of his or her change of address. Upon receiving a notice of change of
20 address, the department shall promptly issue a new receipt under subd. 2. a. showing
21 the correct address and having the expiration date of the prior receipt.

22 **SECTION 94.** 343.50 (3) (b) of the statutes is amended to read:

23 343.50 (3) (b) If an identification card is issued based upon the exception
24 specified in s. 343.165 (7) or (8), the card shall, in addition to any other required

SENATE BILL 884**SECTION 94**

1 legend or design, be of the design specified under s. 343.17 (3) (a) 14. and include a
2 marking similar or identical to the marking described in s. 343.03 (3r).

3 **SECTION 95.** 343.50 (3) (c) of the statutes is created to read:

4 343.50 (3) (c) 1. Notwithstanding par. (a), the department may issue an
5 identification card bearing a name other than the name that appears on a supporting
6 document if the person provides evidence acceptable to the department that the
7 person has used the name in a manner that qualifies the name as being legally
8 changed under the common law of Wisconsin, including evidence of the person's prior
9 name, changed name, the length of time the person has consistently and
10 continuously used the changed name, an affirmation that the person no longer uses
11 the prior name, and an affirmation that the person did not change his or her name
12 for a dishonest or fraudulent purpose or to the injury of any other person. The
13 department shall mark an identification card issued under this subdivision in the
14 manner described in s. 343.03 (3r).

15 2. Notwithstanding par. (a), the department shall approve a name change
16 requested by a person who cannot provide supporting documentation of a lawful
17 change of name but who does one of the following:

18 a. Provides proof of identity in the new name, and the department receives from
19 the federal social security administration evidence or confirmation of the name
20 change.

21 b. Applies for an identification card and provides an affidavit declaring all facts
22 required under subd. 1. to prove a name change under the common law of Wisconsin.

23 **SECTION 96.** 801.50 (3) (b) of the statutes is amended to read:

24 801.50 (3) (b) All actions relating to the validity or invalidity of a rule or
25 guidance document shall be venued as provided in s. 227.40 (1).

SENATE BILL 884

SECTION 97

1 SECTION 97. 803.09 (2m) of the statutes is created to read:

2 803.09 (2m) When a party to an action challenges in state or federal court the
3 constitutionality of a statute, facially or as applied, or challenges a statute as
4 violating or preempted by federal law, ^{INS 62-4} as part of a claim or affirmative defense, the
5 assembly, the senate, and the ^{as set forth under s. 13.365} state legislature may intervene at any time in the
6 action as a matter of right by serving a motion upon the parties as provided in s.
7 801.14.

8 SECTION 98. 806.04 (11) of the statutes is amended to read:

9 806.04 (11) PARTIES. When declaratory relief is sought, all persons shall be
10 made parties who have or claim any interest which would be affected by the
11 declaration, and no declaration may prejudice the right of persons not parties to the
12 proceeding. In any proceeding which involves the validity of a municipal ordinance
13 or franchise, the municipality shall be made a party, and shall be entitled to be heard.
14 If a statute, ordinance or franchise is alleged to be unconstitutional, or to be in
15 violation of or preempted by federal law, ^{INS 62-5} the attorney general shall also be served
16 with a copy of the proceeding and, except as provided under this subsection, be
17 entitled to be heard. If a statute is alleged to be unconstitutional, or to be in violation
18 of or preempted by federal law, ^{INS 62-14} the speaker of the assembly, the president of the
19 senate, and the senate majority leader shall also be served with a copy of the
20 proceeding, and the assembly, the senate, and the state legislature are entitled to be
21 heard. If the assembly, the senate, or the joint committee on legislative organization
22 intervenes as provided under s. 803.09 (2m), the assembly shall represent the
23 assembly, the senate shall represent the senate, and the joint committee on
24 legislative organization shall represent the state. ^{Legislature} ~~In an action involving the~~
25 constitutionality of a statute, or challenging a statute as violating or preempted by

SENATE BILL 884

SECTION 98

*in consultation with
the department of justice*

1 federal law, if the joint committee on legislative organization determines at any time
2 that the interests of the state will be best represented by special counsel appointed
3 by the legislature, it shall appoint special counsel to represent state defendants and
4 act instead of the attorney general and the attorney general may not participate in
5 the action. Special counsel appointed under this subsection shall have the powers
6 of the attorney general with respect to the litigation to which special counsel has been
7 appointed. In any proceeding under this section in which the constitutionality,
8 construction or application of any provision of ch. 227, or of any statute allowing a
9 legislative committee to suspend, or to delay or prevent the adoption of, a rule as
10 defined in s. 227.01 (13) is placed in issue by the parties, the joint committee for
11 review of administrative rules shall be served with a copy of the petition and, with
12 the approval of the joint committee on legislative organization, shall be made a party
13 and be entitled to be heard. ~~In any proceeding under this section in which the~~
14 ~~constitutionality, construction or application of any provision of ch. 13, 20, 111, 227~~
15 ~~or 230 or subch. I, III or IV of ch. 16 or s. 753.075, or of any statute allowing a~~
16 ~~legislative committee to suspend, or to delay or prevent the adoption of, a rule as~~
17 ~~defined in s. 227.01 (13) is placed in issue by the parties, the joint committee on~~
18 ~~legislative organization shall be served with a copy of the petition and the joint~~
19 ~~committee on legislative organization, the senate committee on organization or the~~
20 ~~assembly committee on organization may intervene as a party to the proceedings and~~
21 ~~be heard.~~

22 **SECTION 99.** 809.13 of the statutes is amended to read:

23 **809.13 Rule (Intervention).** A person who is not a party to an appeal may
24 file in the court of appeals a petition to intervene in the appeal. A party may file a
25 response to the petition within 11 days after service of the petition. The court may

SENATE BILL 884

1 grant the petition upon a showing that the petitioner's interest meets the
2 requirements of s. 803.09 (1) or (2), or (2m).

3 SECTION 100. Subchapter VIII (title) of chapter 893 [precedes 893.80] of the
4 statutes is amended to read:

5 CHAPTER 893

6 SUBCHAPTER VIII

7 CLAIMS AGAINST GOVERNMENTAL
8 BODIES, OFFICERS AND EMPLOYEES;

9 ACTIONS ALLEGING A STATUTE IS
10 UNCONSTITUTIONAL OR
11 OTHERWISE INVALID

STATUTORY
CHALLENGES

12 SECTION 101. 893.825 of the statutes is created to read:

13 **893.825 Actions alleging a statute is unconstitutional or in violation of**
14 **or preempted by federal law** (1) In an action in which a statute is alleged to be
15 unconstitutional, or to be in violation of or preempted by federal law, the attorney
16 general shall be served with a copy of the proceeding and, except as provided in sub.
17 (2), is entitled to represent the state and be heard.

STATUTORY
CHALLENGES
65

INS 65-15

and
who is entitled to

18 (2) In an action in which a statute is alleged to be unconstitutional, or to be in
19 violation of or preempted by federal law, the speaker of the assembly, the president
20 of the senate, and the senate majority leader shall also be served with a copy of the
21 proceeding and the assembly, the senate, and the joint committee on legislative
22 organization are entitled to be heard.

INS 65-19

23 SECTION 102. Nonstatutory provisions.

24 (1) INTERVENTION BY ASSEMBLY, SENATE, AND JOINT COMMITTEE ON LEGISLATIVE
25 ORGANIZATION. The assembly, senate, and joint committee on legislative organization

SENATE BILL 884**SECTION 102**

1 may intervene as permitted under s. 803.09 (2m) in any litigation pending in state
2 or federal court on the effective date of this subsection. If the joint committee on
3 legislative organization intervenes and appoints special counsel to represent state
4 defendants as set forth under s. 806.04 (11) or 893.825, the attorney general shall
5 notify the court of the substitution of counsel by special counsel appointed by the joint
6 committee on legislative organization to represent the state defendants and may not
7 participate in the action.

8 (2) WEDC; STAGGERING OF INITIAL TERMS. Notwithstanding the length of terms
9 specified for the members of the board of directors of the Wisconsin Economic
10 Development Corporation under s. 238.02 (1), the initial members appointed by the
11 speaker and minority leader of the assembly and the majority leader and minority
12 leader of the senate beginning on the effective date of this subsection shall be
13 appointed for terms expiring as follows:

14 (a) The terms of 2 members appointed by the speaker of the assembly, the
15 member appointed by the assembly minority leader, 2 members appointed by the
16 senate majority leader, and the member appointed by the senate minority leader,
17 shall expire on October 1, 2022.

18 (b) The terms of one member appointed by the speaker of the assembly and one
19 member appointed by the senate majority leader shall expire on October 1, 2024.

20 (3) WEDC; CURRENT BOARD MEMBERS. The members of the board of directors of
21 the Wisconsin Economic Development Corporation serving at the pleasure of the
22 speaker of the assembly and senate majority leader on the day before the effective
23 date of this subsection shall continue to serve at pleasure pending the appointment
24 of members under sub. (2), but may not serve after January 6, 2019, unless appointed
25 under sub. (2).

SENATE BILL 884**SECTION 103. Fiscal changes.**

(1) SETTLEMENT FUNDS. Notwithstanding s. 20.001 (3) (c), from the appropriation account under s. 20.455 (3) (g), on the effective date of this subsection, there is lapsed to the general fund the unencumbered balance of any settlement funds in that appropriation account, as determined by the attorney general.

(2) OFFICE OF SOLICITOR GENERAL POSITIONS. In the schedule under s. 20.005 (3) for the appropriation to the department of justice under s. 20.455 (1) (gh), the dollar amount for fiscal year 2018-19 is decreased by \$320,000 to decrease the authorized FTE positions for the department by 1.0 PR solicitor general position and 3.0 PR deputy solicitor general positions on January 1, 2019.

(3) DEPARTMENT OF JUSTICE GIFTS AND GRANTS. Notwithstanding s. 20.001 (2) (b), any moneys encumbered under the appropriation accounts under s. 20.455 (2) (gb) and (3) (g) before the effective date of this subsection may be expended pursuant to the terms of the encumbrance.

SECTION 104. Initial applicability.

(1) AGENCY PUBLICATIONS. The treatment of s. 227.05 with respect to printed publications first applies to guidance documents, forms, pamphlets, or other informational materials that are printed 60 days after the effective date of this subsection.

(2) GROUP INSURANCE BOARD. The treatment of s. 15.07 (1) (b) 24. first applies to a member of the group insurance board who is appointed by the governor on the effective date of this subsection.

(3) GUBERNATORIAL APPROVALS OF PROPOSED RULES. The treatment of ss. 227.135 (3), 227.185, and 227.24 (1) (e) 1d. and 1g., the renumbering and amendment of s. 227.135 (2), and the creation of s. 227.135 (2) (a) 2. first apply to a proposed rule or

SENATE BILL 884

SECTION 104

1 emergency rule whose statement of scope is submitted to the legislative reference
2 bureau for publication under s. 227.135 (3) on the effective date of this subsection.

3 (4) **FINAL DECISION OF AN AGENCY.** The treatment of ss. 227.46 (1) (h), (2), (2m),
4 (3) (a) and (8) and 227.47 (1) and (3) first applies to requests for hearings made on
5 the effective date of this subsection.

6 **SECTION 105. Effective date.**

7 (1) **AGENCY PUBLICATIONS**
~~FINAL DECISIONS IN CONTESTED CASES.~~ The treatment of s. 227.05 takes effect
8 on the first day of the 7th month beginning after publication.

9 (END)