



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0449/1 ✓ 2
ALL:all

**SENATE SUBSTITUTE AMENDMENT ,
TO SENATE BILL 884**

1 **AN ACT** *to repeal* 6.34 (1) (b), 6.87 (4) (a) 2., 16.84 (5) (d), 165.055 (3), 230.08 (2)
2 (sb) and 238.399 (3) (e); *to renumber and amend* 13.90 (3), 165.08, 227.40 (3)
3 (intro.), 227.40 (3) (a) and 343.50 (1) (c); *to consolidate, renumber and*
4 ***amend*** 6.34 (1) (intro.) and (a) and 6.87 (4) (a) (intro.) and 1.; *to amend* 5.02
5 (6m) (f), 5.05 (13) (c), 5.05 (13) (d) 1., 6.22 (2) (b), 6.22 (2) (e), 6.22 (4) (a), 6.22
6 (4) (c), 6.24 (2), 6.24 (4) (c), 6.24 (4) (d), 6.24 (4) (e), 6.25 (1) (b), 6.276 (1), 6.86
7 (1) (b), 6.865 (1), 6.87 (2), 6.87 (3) (d), 6.87 (4) (b) 1., 6.88 (1), 6.97 (1), 7.15 (1)
8 (cm), 7.15 (1) (j), 13.56 (2), 13.90 (2), 13.91 (1) (c), 20.455 (1) (gh), 20.455 (2) (gb),
9 20.455 (3) (g), 45.57, 165.10, 165.25 (1), 165.25 (1m), 227.01 (13) (intro.),
10 subchapter II (title) of chapter 227 [precedes 227.10], 227.11 (title), 227.13,
11 227.40 (1), 227.40 (2) (intro.), 227.40 (2) (e), 227.40 (3) (b) and (c), 227.40 (4) (a),
12 227.40 (6), 227.57 (11), 238.02 (1), 238.02 (2), 238.03 (2) (c), 238.03 (2) (e), 238.16
13 (5) (e), 238.306 (1) (a), 238.308 (5) (b), 238.395 (3) (d), 238.396 (4) (d), 238.399

1 (3) (a), 238.399 (6) (f), 281.665 (5) (d), 343.50 (3) (b), 801.50 (3) (b), 806.04 (11),
2 809.13 and subchapter VIII (title) of chapter 893 [precedes 893.80]; and *to*
3 *create* 5.02 (12n), 6.855 (5), 13.124, 13.127, 13.365, 13.90 (3) (a) and (b), 16.84
4 (2m), 16.973 (15), 35.93 (2) (b) 3. im., 227.01 (3m), 227.05, 227.10 (2g), 227.11
5 (3), 227.112, 227.26 (2) (im), 238.04 (15), 238.399 (3) (am), 301.03 (16), 343.165
6 (8), 343.50 (1) (c) 2., 343.50 (3) (c), 803.09 (2m) and 893.825 of the statutes;
7 **relating to:** legislative powers and duties, state agency and authority
8 composition and operations, absentee ballots, and administrative rule-making
9 process.

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

10 **SECTION 1.** 5.02 (6m) (f) of the statutes is amended to read:

11 5.02 (6m) (f) An unexpired identification card issued by a university or college
12 in this state that is accredited, as defined in s. 39.30 (1) (d), or by a technical college
13 in this state that is a member of and governed by the technical college system under
14 ch. 38, that contains the date of issuance and signature of the individual to whom it
15 is issued and that contains an expiration date indicating that the card expires no
16 later than 2 years after the date of issuance if the individual establishes that he or
17 she is enrolled as a student at the university or college on the date that the card is
18 presented.

19 **SECTION 1b.** 5.02 (12n) of the statutes is created to read:

20 5.02 (12n) "Overseas elector" means a U.S. citizen who is residing outside of
21 the United States, who is not disqualified from voting under s. 6.03, who has attained
22 or will attain the age of 18 by the date of an election at which the citizen proposes to
23 vote, who was last domiciled in this state or whose parent was last domiciled in this

1 state immediately prior to the parent's departure from the United States, and who
2 is not registered to vote or voting in any other state, territory, or possession.

3 **SECTION 1c.** 5.05 (13) (c) of the statutes is amended to read:

4 5.05 (13) (c) The commission shall maintain a freely accessible system under
5 which a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined
6 in s. 6.34 (1) (b), who casts an absentee ballot may ascertain whether the ballot has
7 been received by the appropriate municipal clerk.

8 **SECTION 1d.** 5.05 (13) (d) 1. of the statutes is amended to read:

9 5.05 (13) (d) 1. To permit a military elector, as defined in s. 6.34 (1) (a), or an
10 overseas elector, as defined in s. 6.34 (1) (b), to request a voter registration
11 application or an application for an absentee ballot at any election at which the
12 elector is qualified to vote in this state.

13 **SECTION 1e.** 6.22 (2) (b) of the statutes is amended to read:

14 6.22 (2) (b) A military elector shall make and subscribe to the certification
15 under s. 6.87 (2) before a witness who is an adult U.S. citizen.

16 **SECTION 1f.** 6.22 (2) (e) of the statutes is amended to read:

17 6.22 (2) (e) A military elector may file an application for an absentee ballot by
18 means of electronic mail or facsimile transmission in the manner prescribed in s. 6.86
19 (1) (ac). Upon receipt of a valid application, the municipal clerk shall send the elector
20 an absentee ballot or, if the elector is a military elector, as defined in s. 6.34 (1) (a),
21 and the elector so requests, shall transmit an absentee ballot to the elector by means
22 of electronic mail or facsimile transmission in the manner prescribed in s. 6.87 (3)
23 (d).

24 **SECTION 1fg.** 6.22 (4) (a) of the statutes is amended to read:

1 6.22 (4) (a) Upon receiving a timely request for an absentee ballot under par.
2 (b) by an individual who qualifies as a military elector, the municipal clerk shall send
3 or, if the individual is a military elector as defined in s. 6.34 (1) (a), shall transmit
4 to the elector upon the elector's request an absentee ballot for all elections that occur
5 in the municipality or portion thereof where the elector resides in the same calendar
6 year in which the request is received, unless the individual otherwise requests.

7 **SECTION 1fm.** 6.22 (4) (c) of the statutes is amended to read:

8 6.22 (4) (c) A military elector may indicate an alternate address on his or her
9 absentee ballot application. If the elector's ballot is returned as undeliverable prior
10 to the deadline for return of absentee ballots under s. 6.87 (6), and the elector remains
11 eligible to receive absentee ballots under this section, the municipal clerk shall
12 immediately send or, if the elector is a military elector as defined in s. 6.34 (1) (a),
13 transmit an absentee ballot to the elector at the alternate address.

14 **SECTION 1g.** 6.24 (2) of the statutes is amended to read:

15 6.24 (2) **ELIGIBILITY.** An overseas elector ~~under sub. (1)~~ may vote in any election
16 for national office, including the partisan primary and presidential preference
17 primary and any special primary or election. Such elector may not vote in an election
18 for state or local office unless the elector qualifies as a resident of this state under
19 s. 6.10. An overseas elector shall vote in the ward or election district in which the
20 elector was last domiciled or in which the elector's parent was last domiciled prior
21 to departure from the United States.

22 **SECTION 1gc.** 6.24 (4) (c) of the statutes is amended to read:

23 6.24 (4) (c) Upon receipt of a timely application from an individual who
24 qualifies as an overseas elector and who has registered to vote in a municipality
25 under sub. (3), the municipal clerk of the municipality shall send, or if the individual

1 is an overseas elector, ~~as defined in s. 6.34 (1) (b)~~, shall transmit, an absentee ballot
2 to the individual upon the individual's request for all subsequent elections for
3 national office to be held during the year in which the ballot is requested, except as
4 otherwise provided in this paragraph, unless the individual otherwise requests or
5 until the individual no longer qualifies as an overseas elector of the municipality.
6 The clerk shall not send an absentee ballot for an election if the overseas elector's
7 name appeared on the registration list in eligible status for a previous election
8 following the date of the application but no longer appears on the list in eligible
9 status. The municipal clerk shall ensure that the envelope containing the absentee
10 ballot is clearly marked as not forwardable. If an overseas elector who files an
11 application under this subsection no longer resides at the same address that is
12 indicated on the application form, the elector shall so notify the municipal clerk.

13 **SECTION 1gd.** 6.24 (4) (d) of the statutes is amended to read:

14 6.24 (4) (d) An overseas elector, regardless of whether the elector qualifies as
15 a resident of this state under s. 6.10, who is not registered may request both a
16 registration form and an absentee ballot at the same time, and the municipal clerk
17 shall send or transmit the ballot automatically if the registration form is received
18 within the time prescribed in s. 6.28 (1). The commission shall prescribe a special
19 certificate form for the envelope in which the absentee ballot for such overseas
20 electors is contained, which shall be substantially similar to that provided under s.
21 6.87 (2). An ~~The~~ overseas elector shall make and subscribe to the special certificate
22 form before a witness who is an adult U.S. citizen.

23 **SECTION 1gf.** 6.24 (4) (e) of the statutes is amended to read:

24 6.24 (4) (e) An overseas elector, regardless of whether the elector qualifies as
25 a resident of this state under s. 6.10, may file an application for an absentee ballot

1 by means of electronic mail or facsimile transmission in the manner prescribed in s.
2 6.86 (1) (ac). Upon receipt of a valid application, the municipal clerk shall send the
3 elector an absentee ballot or, if the elector is an overseas elector, as defined in s. 6.34
4 (1) (b) and the elector so requests, shall transmit an absentee ballot to the elector by
5 means of electronic mail or facsimile transmission in the manner prescribed in s. 6.87
6 (3) (d).

7 **SECTION 1h.** 6.25 (1) (b) of the statutes is amended to read:

8 6.25 (1) (b) Any individual who qualifies as an overseas elector under s. 6.24
9 (1), regardless of whether the elector qualifies as a resident of this state under s. 6.10,
10 and who transmits an application for an official absentee ballot for an election for
11 national office, including a primary election, no later than the latest time specified
12 for an elector in s. 6.86 (1) (b) may, in lieu of the official ballot, cast a federal write-in
13 absentee ballot prescribed under 42 USC 1973ff-2 for any candidate or for all
14 candidates of any recognized political party for national office listed on the official
15 ballot at that election, if the federal write-in absentee ballot is received by the
16 appropriate municipal clerk no later than the applicable time prescribed in s. 6.87
17 (6).

18 **SECTION 1i.** 6.276 (1) of the statutes is amended to read:

19 6.276 (1) In this section, “military elector” and “overseas elector” have has the
20 meanings meaning given in s. 6.34 (1).

21 **SECTION 1j.** 6.34 (1) (intro.) and (a) of the statutes are consolidated,
22 renumbered 6.34 (1) and amended to read:

23 6.34 (1) In this section: (a) ~~“Military,~~ “military elector” means a member of a
24 uniformed service on active duty who, by reason of that duty, is absent from the
25 residence where the member is otherwise qualified to vote; a member of the

1 merchant marine, as defined in s. 6.22 (1) (a), who by reason of service in the
2 merchant marine, is absent from the residence where the member is otherwise
3 qualified to vote; or the spouse or dependent of any such member who, by reason of
4 the duty or service of the member, is absent from the residence where the spouse or
5 dependent is otherwise qualified to vote.

6 **SECTION 1jb.** 6.34 (1) (b) of the statutes is repealed.

7 **SECTION 1js.** 6.855 (5) of the statutes is created to read:

8 6.855 (5) A governing body may designate more than one alternate site under
9 sub. (1).

10 **SECTION 1k.** 6.86 (1) (b) of the statutes is amended to read:

11 6.86 (1) (b) Except as provided in this section, if application is made by mail,
12 the application shall be received no later than 5 p.m. on the 5th day immediately
13 preceding the election. If application is made in person, the application shall be
14 made no earlier than ~~the opening of business on the 3rd Monday~~ 14 days preceding
15 the election and no later than ~~7 p.m. on the Friday~~ Sunday preceding the election.
16 No application may be received on a legal holiday. ~~An application made in person~~
17 ~~may only be received Monday to Friday between the hours of 8 a.m. and 7 p.m. each~~
18 ~~day.~~ A municipality shall specify the hours in the notice under s. 10.01 (2) (e). The
19 municipal clerk or an election official shall witness the certificate for any in-person
20 absentee ballot cast. Except as provided in par. (c), if the elector is making written
21 application for an absentee ballot at the partisan primary, the general election, the
22 presidential preference primary, or a special election for national office, and the
23 application indicates that the elector is a military elector, as defined in s. 6.34 (1), the
24 application shall be received by the municipal clerk no later than 5 p.m. on election
25 day. If the application indicates that the reason for requesting an absentee ballot is

1 that the elector is a sequestered juror, the application shall be received no later than
2 5 p.m. on election day. If the application is received after 5 p.m. on the Friday
3 immediately preceding the election, the municipal clerk or the clerk's agent shall
4 immediately take the ballot to the court in which the elector is serving as a juror and
5 deposit it with the judge. The judge shall recess court, as soon as convenient, and
6 give the elector the ballot. The judge shall then witness the voting procedure as
7 provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who
8 shall deliver it to the polling place or, in municipalities where absentee ballots are
9 canvassed under s. 7.52, to the municipal clerk as required in s. 6.88. If application
10 is made under sub. (2) or (2m), the application may be received no later than 5 p.m.
11 on the Friday immediately preceding the election.

12 **SECTION 1L.** 6.865 (1) of the statutes is amended to read:

13 6.865 (1) In this section, "military elector" and "overseas elector" have has the
14 meanings meaning given under s. 6.34 (1).

15 **SECTION 1m.** 6.87 (2) of the statutes is amended to read:

16 6.87 (2) Except as authorized under sub. (3) (d), the municipal clerk shall place
17 the ballot in an unsealed envelope furnished by the clerk. The envelope shall have
18 the name, official title and post-office address of the clerk upon its face. The other
19 side of the envelope shall have a printed certificate which shall include a space for
20 the municipal clerk or deputy clerk to enter his or her initials indicating that if the
21 absentee elector voted in person under s. 6.86 (1) (ar), the elector presented proof of
22 identification to the clerk and the clerk verified the proof presented. The certificate
23 shall also include a space for the municipal clerk or deputy clerk to enter his or her
24 initials indicating that the elector is exempt from providing proof of identification
25 because the individual is a military elector or an overseas elector who does not

1 qualify as a resident of this state under s. 6.10 or is exempted from providing proof
2 of identification under sub. (4) (b) 2. or 3. The certificate shall be in substantially the
3 following form:

4 [STATE OF

5 County of]

6 or

7 [(name of foreign country and city or other jurisdictional unit)]

8 I, ..., certify subject to the penalties of s. 12.60 (1) (b), Wis. Stats., for false
9 statements, that I am a resident of the [... ward of the] (town) (village) of ..., or of
10 the ... aldermanic district in the city of ..., residing at ...* in said city, the county
11 of ..., state of Wisconsin, and am entitled to vote in the (ward) (election district) at
12 the election to be held on ...; that I am not voting at any other location in this election;
13 that I am unable or unwilling to appear at the polling place in the (ward) (election
14 district) on election day or have changed my residence within the state from one ward
15 or election district to another later than 28 days before the election. I certify that I
16 exhibited the enclosed ballot unmarked to the witness, that I then in (his) (her)
17 presence and in the presence of no other person marked the ballot and enclosed and
18 sealed the same in this envelope in such a manner that no one but myself and any
19 person rendering assistance under s. 6.87 (5), Wis. Stats., if I requested assistance,
20 could know how I voted.

21 Signed

22 Identification serial number, if any:

23 The witness shall execute the following:

24 I, the undersigned witness, subject to the penalties of s. 12.60 (1) (b), Wis.
25 Stats., for false statements, certify that I am an adult U.S. citizen** and that the

1 above statements are true and the voting procedure was executed as there stated.
2 I am not a candidate for any office on the enclosed ballot (except in the case of an
3 incumbent municipal clerk). I did not solicit or advise the elector to vote for or against
4 any candidate or measure.

5(Name Printed name)

6(Address)***_

7 Signed

8 * — An elector who provides an identification serial number issued under s.
9 6.47 (3), Wis. Stats., need not provide a street address.

10 ** — An individual who serves as a witness for a military elector or an overseas
11 elector voting absentee, regardless of whether the elector qualifies as a resident of
12 Wisconsin under s. 6.10, Wis. Stats., need not be a U.S. citizen but must be 18 years
13 of age or older.

14 **_* — If this form is executed before 2 special voting deputies under s. 6.875 (6),
15 Wis. Stats., both deputies shall witness and sign.

16 **SECTION 1mg.** 6.87 (3) (d) of the statutes is amended to read:

17 6.87 (3) (d) A municipal clerk shall, if the clerk is reliably informed by a military
18 elector, as defined in s. 6.34 (1) (a), or an overseas elector, ~~as defined in s. 6.34 (1) (b)~~
19 regardless of whether the elector qualifies as a resident of this state under s. 6.10,
20 of a facsimile transmission number or electronic mail address where the elector can
21 receive an absentee ballot, transmit a facsimile or electronic copy of the elector's
22 ballot to that elector in lieu of mailing under this subsection. An elector may receive
23 an absentee ballot only if the elector is a military elector or an overseas elector ~~under~~
24 ~~s. 6.34 (1)~~ and has filed a valid application for the ballot as provided in s. 6.86 (1).
25 If the clerk transmits an absentee ballot to a military or overseas elector

1 electronically, the clerk shall also transmit a facsimile or electronic copy of the text
2 of the material that appears on the certificate envelope prescribed in sub. (2),
3 together with instructions prescribed by the commission. The instructions shall
4 require the military or overseas elector to make and subscribe to the certification as
5 required under sub. (4) (b) and to enclose the absentee ballot in a separate envelope
6 contained within a larger envelope, that shall include the completed certificate. The
7 elector shall then affix sufficient postage unless the absentee ballot qualifies for
8 mailing free of postage under federal free postage laws and shall mail the absentee
9 ballot to the municipal clerk. Except as authorized in s. 6.97 (2), an absentee ballot
10 received from a military or overseas elector who receives the ballot electronically
11 shall not be counted unless it is cast in the manner prescribed in this paragraph and
12 sub. (4) and in accordance with the instructions provided by the commission.

13 **SECTION 1mp.** 6.87 (4) (a) (intro.) and 1. of the statutes are consolidated,
14 renumbered 6.87 (4) (a) and amended to read:

15 6.87 (4) (a) In this subsection: 1. ~~“Military,~~ “military elector” has the meaning
16 given in s. 6.34 (1) (a).

17 **SECTION 1mq.** 6.87 (4) (a) 2. of the statutes is repealed.

18 **SECTION 1ms.** 6.87 (4) (b) 1. of the statutes is amended to read:

19 6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, ~~the an~~ elector voting
20 absentee, other than a military elector or an overseas elector, shall make and
21 subscribe to the certification before one witness who is an adult U.S. citizen. A
22 military elector or an overseas elector voting absentee, regardless of whether the
23 elector qualifies as a resident of this state under s. 6.10, shall make and subscribe
24 to the certification before one witness who is an adult but who need not be a U.S.
25 citizen. The absent elector, in the presence of the witness, shall mark the ballot in

1 a manner that will not disclose how the elector's vote is cast. The elector shall then,
2 still in the presence of the witness, fold the ballots so each is separate and so that the
3 elector conceals the markings thereon and deposit them in the proper envelope. If
4 a consolidated ballot under s. 5.655 is used, the elector shall fold the ballot so that
5 the elector conceals the markings thereon and deposit the ballot in the proper
6 envelope. If proof of residence under s. 6.34 is required and the document enclosed
7 by the elector under this subdivision does not constitute proof of residence under s.
8 6.34, the elector shall also enclose proof of residence under s. 6.34 in the envelope.
9 Except as provided in s. 6.34 (2m), proof of residence is required if the elector is not
10 a military elector or an overseas elector and the elector registered by mail or by
11 electronic application and has not voted in an election in this state. If the elector
12 requested a ballot by means of facsimile transmission or electronic mail under s. 6.86
13 (1) (ac), the elector shall enclose in the envelope a copy of the request which bears an
14 original signature of the elector. The elector may receive assistance under sub. (5).
15 The return envelope shall then be sealed. The witness may not be a candidate. The
16 envelope shall be mailed by the elector, or delivered in person, to the municipal clerk
17 issuing the ballot or ballots. If the envelope is mailed from a location outside the
18 United States, the elector shall affix sufficient postage unless the ballot qualifies for
19 delivery free of postage under federal law. Failure to return an unused ballot in a
20 primary does not invalidate the ballot on which the elector's votes are cast. Return
21 of more than one marked ballot in a primary or return of a ballot prepared under s.
22 5.655 or a ballot used with an electronic voting system in a primary which is marked
23 for candidates of more than one party invalidates all votes cast by the elector for
24 candidates in the primary.

25 **SECTION 1mt.** 6.88 (1) of the statutes is amended to read:

1 6.88 (1) When an absentee ballot arrives at the office of the municipal clerk,
2 or at an alternate site under s. 6.855, if applicable, the clerk shall enclose it,
3 unopened, in a carrier envelope which shall be securely sealed and endorsed with the
4 name and official title of the clerk, and the words "This envelope contains the ballot
5 of an absent elector and must be opened in the same room where votes are being cast
6 at the polls during polling hours on election day or, in municipalities where absentee
7 ballots are canvassed under s. 7.52, stats., at a meeting of the municipal board of
8 absentee ballot canvassers under s. 7.52, stats.": If the elector is a military elector,
9 as defined in s. 6.34 (1) (a), or an overseas elector, ~~as defined in s. 6.34 (1) (b)~~
10 regardless of whether the elector qualifies as a resident of this state under s. 6.10,
11 and the ballot was received by the elector by facsimile transmission or electronic mail
12 and is accompanied by a separate certificate, the clerk shall enclose the ballot in a
13 certificate envelope and securely append the completed certificate to the outside of
14 the envelope before enclosing the ballot in the carrier envelope. The clerk shall keep
15 the ballot in the clerk's office or at the alternate site, if applicable until delivered, as
16 required in sub. (2).

17 **SECTION 1mv.** 6.97 (1) of the statutes is amended to read:

18 6.97 (1) Whenever any individual who is required to provide proof of residence
19 under s. 6.34 in order to be permitted to vote appears to vote at a polling place and
20 cannot provide the required proof of residence, the inspectors shall offer the
21 opportunity for the individual to vote under this section. Whenever any individual,
22 other than a military elector, as defined in s. 6.34 (1) (a), ~~or, an overseas elector, as~~
23 ~~defined in s. 6.34 (1) (b),~~ or an elector who has a confidential listing under s. 6.47 (2),
24 appears to vote at a polling place and does not present proof of identification under
25 s. 6.79 (2), whenever required, the inspectors or the municipal clerk shall similarly

1 offer the opportunity for the individual to vote under this section. If the individual
2 wishes to vote, the inspectors shall provide the elector with an envelope marked
3 "Ballot under s. 6.97, stats." on which the serial number of the elector is entered and
4 shall require the individual to execute on the envelope a written affirmation stating
5 that the individual is a qualified elector of the ward or election district where he or
6 she offers to vote and is eligible to vote in the election. The inspectors shall, before
7 giving the elector a ballot, write on the back of the ballot the serial number of the
8 individual corresponding to the number kept at the election on the poll list or other
9 list maintained under s. 6.79 and the notation "s. 6.97". If voting machines are used
10 in the municipality where the individual is voting, the individual's vote may be
11 received only upon an absentee ballot furnished by the municipal clerk which shall
12 have the corresponding number from the poll list or other list maintained under s.
13 6.79 and the notation "s. 6.97" written on the back of the ballot by the inspectors
14 before the ballot is given to the elector. When receiving the individual's ballot, the
15 inspectors shall provide the individual with written voting information prescribed
16 by the commission under s. 7.08 (8). The inspectors shall indicate on the list the fact
17 that the individual is required to provide proof of residence or proof of identification
18 under s. 6.79 (2) but did not do so. The inspectors shall notify the individual that he
19 or she may provide proof of residence or proof of identification to the municipal clerk
20 or executive director of the municipal board of election commissioners. The
21 inspectors shall also promptly notify the municipal clerk or executive director of the
22 name, address, and serial number of the individual. The inspectors shall then place
23 the ballot inside the envelope and place the envelope in a separate carrier envelope.

24 **SECTION 1n.** 7.15 (1) (cm) of the statutes is amended to read:

1 7.15 (1) (cm) Prepare official absentee ballots for delivery to electors requesting
2 them, and except as provided in this paragraph, send an official absentee ballot to
3 each elector who has requested a ballot by mail, and to each military elector, as
4 defined in s. 6.34 (1) (a), and overseas elector, ~~as defined in s. 6.34 (1) (b)~~, who has
5 requested a ballot by mail, electronic mail, or facsimile transmission, no later than
6 the 47th day before each partisan primary and general election and no later than the
7 21st day before each other primary and election if the request is made before that
8 day; otherwise, the municipal clerk shall send or transmit an official absentee ballot
9 within one business day of the time the elector's request for such a ballot is received.
10 The clerk shall send or transmit an absentee ballot for the presidential preference
11 primary to each elector who has requested that ballot no later than the 47th day
12 before the presidential preference primary if the request is made before that day, or,
13 if the request is not made before that day, within one business day of the time the
14 request is received. For purposes of this paragraph, "business day" means any day
15 from Monday to Friday, not including a legal holiday under s. 995.20.

16 **SECTION 1ng.** 7.15 (1) (j) of the statutes is amended to read:

17 7.15 (1) (j) Send an absentee ballot automatically to each elector and send or
18 transmit an absentee ballot to each military elector, as defined in s. 6.34 (1) (a), and
19 each overseas elector, ~~as defined in s. 6.34 (1) (b)~~, making an authorized request
20 therefor in accordance with s. 6.22 (4), 6.24 (4) (e), or 6.86 (2) or (2m).

21 **SECTION 3.** 13.124 of the statutes is created to read:

22 **13.124 Legal representation.** (1) (a) The speaker of the assembly, in his or
23 her sole discretion, may authorize a representative to the assembly or assembly
24 employee who requires legal representation to obtain legal counsel other than from
25 the department of justice, with the cost of representation paid from the appropriation

1 under s. 20.765 (1) (a), if the acts or allegations underlying the action are arguably
2 within the scope of the representative's or employee's duties. The speaker shall
3 approve all financial costs and terms of representation.

4 (b) The speaker of the assembly, in his or her sole discretion, may obtain legal
5 counsel other than from the department of justice, with the cost of representation
6 paid from the appropriation under s. 20.765 (1) (a), in any action in which the
7 assembly is a party or in which the interests of the assembly are affected, as
8 determined by the speaker. The speaker shall approve all financial costs and terms
9 of representation.

10 (2) (a) The senate majority leader, in his or her sole discretion, may authorize
11 a senator or senate employee who requires legal representation to obtain legal
12 counsel other than from the department of justice, with the cost of representation
13 paid from the appropriation under s. 20.765 (1) (b), if the acts or allegations
14 underlying the action are arguably within the scope of the senator's or employee's
15 duties. The senate majority leader shall approve all financial costs and terms of
16 representation.

17 (b) The senate majority leader, in his or her sole discretion, may obtain legal
18 counsel other than from the department of justice, with the cost of representation
19 paid from the appropriation under s. 20.765 (1) (b), in any action in which the senate
20 is a party or in which the interests of the senate are affected, as determined by the
21 senate majority leader. The senate majority leader shall approve all financial costs
22 and terms of representation.

23 (3) (a) The cochairpersons of the joint committee on legislative organization,
24 in their sole discretion, may authorize an employee of a legislative service agency, as
25 defined in s. 13.90 (1m) (a), who requires legal representation to obtain legal counsel

1 other than from the department of justice, with the cost of representation paid from
2 the appropriation under s. 20.765 (1) (a) or (b), as determined by the cochairpersons,
3 if the acts or allegations underlying the action are arguably within the scope of the
4 employee's duties. The cochairpersons shall approve all financial costs and terms of
5 representation.

6 (b) The cochairpersons of the joint committee on legislative organization, in
7 their sole discretion, may obtain legal counsel other than from the department of
8 justice, with the cost of representation paid from the appropriation under s. 20.765
9 (1) (a) or (b), as determined by the cochairpersons, in any action in which the
10 legislature is a party or in which the interests of the legislature are affected, as
11 determined by the cochairpersons. The cochairpersons shall approve all financial
12 costs and terms of representation.

13 **SECTION 4.** 13.127 of the statutes is created to read:

14 **13.127 Advice and consent of the senate.** Any individual nominated by the
15 governor or another state officer or agency, and with the advice and consent of the
16 senate appointed, to any office or position may not hold the office or position, be
17 nominated again for the office or position, or perform any duties of the office or
18 position during the legislative session biennium if the individual's confirmation for
19 the office or position is rejected by the senate.

20 **SECTION 5.** 13.365 of the statutes is created to read:

21 **13.365 Intervention.** Pursuant to s. 803.09 (2m), when a party to an action
22 challenges in state or federal court the constitutionality of a statute, facially or as
23 applied, challenges a statute as violating or preempted by federal law, or otherwise
24 challenges the construction or validity of a statute, as part of a claim or affirmative
25 defense:

1 (1) The committee on assembly organization may intervene at any time in the
2 action on behalf of the assembly. The committee on assembly organization may
3 obtain legal counsel other than from the department of justice, with the cost of
4 representation paid from the appropriation under s. 20.765 (1) (a), to represent the
5 assembly in any action in which the assembly intervenes.

6 (2) The committee on senate organization may intervene at any time in the
7 action on behalf of the senate. The committee on senate organization may obtain
8 legal counsel other than from the department of justice, with the cost of
9 representation paid from the appropriation under s. 20.765 (1) (b), to represent the
10 senate in any action in which the senate intervenes.

11 (3) The joint committee on legislative organization may intervene at any time
12 in the action on behalf of the legislature. The joint committee on legislative
13 organization may obtain legal counsel other than from the department of justice,
14 with the cost of representation paid from the appropriation under s. 20.765 (1) (a) or
15 (b), as determined by the cochairpersons, to represent the legislature in any action
16 in which the joint committee on legislative organization intervenes.

17 **SECTION 7.** 13.56 (2) of the statutes is amended to read:

18 **13.56 (2) PARTICIPATION IN CERTAIN PROCEEDINGS.** The cochairpersons of the joint
19 committee for review of administrative rules or their designated agents shall accept
20 service made under ss. 227.40 (5) and 806.04 (11). If the committee determines that
21 the legislature should be represented in the proceeding, it shall request the joint
22 committee on legislative organization to ~~designate the legislature's representative~~
23 for intervene in the proceeding as provided under s. 806.04 (11). The costs of
24 participation in the proceeding shall be paid equally from the appropriations under

1 s. 20.765 (1) (a) and (b), except that such costs incurred by the department of justice
2 shall be paid from the appropriation under s. 20.455 (1) (d).

3 **SECTION 8.** 13.90 (2) of the statutes is amended to read:

4 13.90 (2) The cochairpersons of the joint committee on legislative organization
5 or their designated agent shall accept service made under ~~s. ss.~~ ss. 806.04 (11) and
6 893.825 (2). If the committee, the senate organization committee, or the assembly
7 organization committee, determines that the legislature should be represented
8 intervene in the proceeding, ~~that committee shall designate the legislature's~~
9 ~~representative for the proceeding. as provided under s. 803.09 (2m), the assembly~~
10 shall represent the assembly, the senate shall represent the senate, and the joint
11 committee on legislative organization shall represent the legislature. The costs of
12 participation in the proceeding shall be paid equally from the appropriations under
13 s. 20.765 (1) (a) and (b), except that such costs incurred by the department of justice
14 shall be paid from the appropriation under s. 20.455 (1) (d).

15 **SECTION 9.** 13.90 (3) of the statutes is renumbered 13.90 (3) (c) and amended
16 to read:

17 13.90 (3) (c) The joint committee on legislative organization shall assign office
18 space for legislative offices and the offices of the legislative service agencies as
19 ~~defined in sub. (1m)~~. The joint committee may assign any space in the capitol not
20 reserved for other uses under s. 16.835. Except as provided in ss. 13.09 (6) and 13.45
21 (4) (c), the joint committee may locate any legislative office or the office of any
22 legislative service agency outside the capitol at another suitable building in the city
23 of Madison.

24 **SECTION 10.** 13.90 (3) (a) and (b) of the statutes are created to read:

1 13.90 (3) (a) In this subsection, “legislative service agency” has the meaning
2 given in sub. (1m).

3 (b) The cochairpersons of the joint committee on legislative organization shall
4 lease or acquire office space for legislative offices or legislative service agencies under
5 par. (c).

6 **SECTION 11.** 13.91 (1) (c) of the statutes is amended to read:

7 13.91 (1) (c) Perform the functions prescribed in ~~s. 227.15 for the review and~~
8 ~~resolution of problems~~ ch. 227 relating to administrative rules and guidance
9 documents.

10 **SECTION 16.** 16.84 (2m) of the statutes is created to read:

11 16.84 (2m) Send notice to the joint committee on legislative organization of any
12 proposed changes to security at the capitol, including the posting of a firearm
13 restriction under s. 943.13 (1m) (c) 2. or 4. If, within 14 working days after the date
14 of the notice, the cochairpersons of the joint committee on legislative organization do
15 not notify the department that the committee has scheduled a meeting to review the
16 department’s proposal, the department may implement the changes as proposed in
17 the notice. If, within 14 working days after the date of the department’s notice, the
18 cochairpersons of the committee notify the department that the committee has
19 scheduled a meeting to review the department’s proposal, the department may
20 implement the proposed changes only upon approval of the committee. If there is a
21 risk of imminent danger, the department may take any action related to security at
22 the capitol that is necessary to prevent or mitigate the danger and the cochairpersons
23 may review the action later if the cochairpersons determine review is necessary.

24 **SECTION 17.** 16.84 (5) (d) of the statutes is repealed.

25 **SECTION 18.** 16.973 (15) of the statutes is created to read:

1 16.973 (15) By October 1 of each year, submit to the joint committee on finance
2 and the legislature under s. 13.172 (2) a report on the administration of the
3 information technology and communication services self-funded portal. The report
4 shall include the following information regarding the portal for the immediately
5 preceding fiscal year:

6 (a) A financial statement of state revenues and expenditures.

7 (b) A list of services available through the portal, identifying services added
8 since the previous reporting period.

9 (c) Fees charged for each service available through the portal.

10 (d) The activity level of each service available through the portal.

11 (e) Any other information the department determines to be appropriate to
12 include.

13 **SECTION 19.** 20.455 (1) (gh) of the statutes is amended to read:

14 20.455 (1) (gh) *Investigation and prosecution.* Moneys received under ss. 23.22
15 (9) (c), 49.49 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b), 291.97 (3),
16 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., 295.79 (4) (b), and 299.97 (2), for the
17 expenses of investigation and prosecution of violations, including attorney fees, and
18 for expenses related to s. 165.055 (3).

19 **SECTION 20.** 20.455 (2) (gb) of the statutes is amended to read:

20 20.455 (2) (gb) *Gifts and grants.* The amounts in the schedule to carry out the
21 purposes for which gifts and grants are made and received. All moneys received from
22 gifts and grants, other than moneys received for and credited to another
23 appropriation account under this subsection, ~~to carry out the purposes for which~~
24 ~~made and received shall be credited to this appropriation account.~~

25 **SECTION 21.** 20.455 (3) (g) of the statutes is amended to read:

1 20.455 (3) (g) *Gifts, grants and proceeds.* The amounts in the schedule to carry
2 out the purposes for which gifts and grants are made and collected. All moneys
3 received from gifts and grants and all proceeds from services, conferences, and sales
4 of publications and promotional materials ~~to carry out the purposes for which made~~
5 ~~or collected~~, except as provided in sub. (2) (gm) and (gp) and to transfer to s. 20.505
6 (1) (kg), at the discretion of the attorney general, an amount not to exceed \$98,300
7 annually, shall be credited to this appropriation account.

8 **SECTION 22.** 35.93 (2) (b) 3. im. of the statutes is created to read:

9 35.93 (2) (b) 3. im. Notices of public comment periods on proposed guidance
10 documents under s. 227.112 (1) (a).

11 **SECTION 23.** 45.57 of the statutes is amended to read:

12 **45.57 Veterans homes; transfer of funding.** The department may transfer
13 all or part of the unencumbered balance of any of the appropriations under s. 20.485
14 (1) (g), (gd), (gk), or (i) to the veterans trust fund or to the veterans mortgage loan
15 repayment fund. The department shall notify the joint committee on finance in
16 writing of any balance transferred under this section.

17 **SECTION 24.** 165.055 (3) of the statutes is repealed.

18 **SECTION 26.** 165.08 of the statutes is renumbered 165.08 (1) and amended to
19 read:

20 165.08 (1) Any civil action prosecuted by the department by direction of any
21 officer, department, board, or commission, shall be compromised or discontinued
22 when so directed by such officer, department, board or commission. Any or any civil
23 action prosecuted by the department on the initiative of the attorney general, or at
24 the request of any individual may be compromised or discontinued with the approval
25 of the governor only by submission of a proposed plan to the joint committee on

skt an intervenor under s. 803.09(2m)
or, if there is no intervenor,

1 finance for the approval of the committee. The compromise or discontinuance may
2 occur only if the joint committee on finance approves the proposed plan. No proposed
3 plan may be submitted to the joint committee on finance if the plan concedes the
4 unconstitutionality or other invalidity of a statute, facially or as applied, or concedes
5 that a statute violates or is preempted by federal law, without the approval of the
6 joint committee on legislative organization.

7 (2) In any criminal action prosecuted by the attorney general, the department
8 shall have the same powers with reference to such action as are vested in district
9 attorneys.

10 SECTION 27. 165.10 of the statutes, as created by 2017 Wisconsin Act 59, is
11 amended to read:

12 **165.10 Limits on expenditure Deposit of discretionary settlement**
13 **funds.** Notwithstanding s. 20.455 (3), before the The attorney general may expend
14 shall deposit all settlement funds under s. 20.455 (3) (g) that are not committed
15 under the terms of the settlement, the attorney general shall submit to the joint
16 committee on finance a proposed plan for the expenditure of the funds. If the
17 cochairpersons of the committee do not notify the attorney general within 14 working
18 days after the submittal that the committee has scheduled a meeting for the purpose
19 of reviewing the proposed plan, the attorney general may expend the funds to
20 implement the proposed plan. If, within 14 working days after the submittal, the
21 cochairpersons of the committee notify the attorney general that the committee has
22 scheduled a meeting for the purpose of reviewing the proposed plan, the attorney
23 general may expend the funds only to implement the plan as approved by the
24 committee into the general fund.

25 SECTION 28. 165.25 (1) of the statutes is amended to read:

1 165.25 (1) REPRESENT STATE IN APPEALS AND ON REMAND. Except as provided in
2 ss. 5.05 (2m) (a), 19.49 (2) (a), and 978.05 (5), appear for the state and prosecute or
3 defend all actions and proceedings, civil or criminal, in the court of appeals and the
4 supreme court, in which the state is interested or a party, and attend to and prosecute
5 or defend all civil cases sent or remanded to any circuit court in which the state is
6 a party. The joint committee on legislative organization may intervene as permitted
7 under s. 803.09 (2m) at any time. Nothing in this subsection deprives or relieves the
8 attorney general or the department of justice of any authority or duty under this
9 chapter.

10 **SECTION 29.** 165.25 (1m) of the statutes is amended to read:

11 165.25 (1m) REPRESENT STATE IN OTHER MATTERS. If requested by the governor
12 or either house of the legislature, appear for and represent the state, any state
13 department, agency, official, employee or agent, whether required to appear as a
14 party or witness in any civil or criminal matter, and prosecute or defend in any court
15 or before any officer, any cause or matter, civil or criminal, in which the state or the
16 people of this state may be interested. The joint committee on legislative
17 organization may intervene as permitted under s. 803.09 (2m) at any time. The
18 public service commission may request under s. 196.497 (7) that the attorney general
19 intervene in federal proceedings. All expenses of the proceedings shall be paid from
20 the appropriation under s. 20.455 (1) (d).

21 **SECTION 31.** 227.01 (3m) of the statutes is created to read:

22 227.01 (3m) (a) "Guidance document" means, except as provided in par. (b), any
23 formal or official document or communication issued by an agency, including a
24 manual, handbook, directive, or informational bulletin, that does any of the
25 following:

1 1. Explains the agency's implementation of a statute or rule enforced or
2 administered by the agency, including the current or proposed operating procedure
3 of the agency.

4 2. Provides guidance or advice with respect to how the agency is likely to apply
5 a statute or rule enforced or administered by the agency, if that guidance or advice
6 is likely to apply to a class of persons similarly affected.

7 (b) "Guidance document" does not include any of the following:

8 1. A rule that has been promulgated and that is currently in effect or a proposed
9 rule that is in the process of being promulgated.

10 2. A standard adopted, or a statement of policy or interpretation made, whether
11 preliminary or final, in the decision of a contested case, in a private letter ruling
12 under s. 73.035, or in an agency decision upon or disposition of a particular matter
13 as applied to a specific set of facts.

14 3. Any document or activity described in sub. (13) (a) to (zz), except that
15 "guidance document" includes a pamphlet or other explanatory material described
16 under sub. (13) (r) that otherwise satisfies the definition of "guidance document"
17 under par. (a).

18 4. Any document that any statute specifically provides is not required to be
19 promulgated as a rule.

20 5. A declaratory ruling issued under s. 227.41.

21 6. A pleading or brief filed in court by the state, an agency, or an agency official.

22 7. A letter or written legal advice of the department of justice or a formal or
23 informal opinion of the attorney general, including an opinion issued under s.
24 165.015 (1).

1 8. Any document or communication for which a procedure for public input,
2 other than that provided under s. 227.112 (1), is provided by law.

3 9. Any document or communication that is not subject to the right of inspection
4 and copying under s. 19.35 (1).

5 **SECTION 32.** 227.01 (13) (intro.) of the statutes is amended to read:

6 227.01 (13) (intro.) "Rule" means a regulation, standard, statement of policy,
7 or general order of general application ~~which~~ that has the effect ~~of~~ force of law and
8 ~~which~~ that is issued by an agency to implement, interpret, or make specific
9 legislation enforced or administered by the agency or to govern the organization or
10 procedure of the agency. "Rule" includes a modification of a rule under s. 227.265.
11 "Rule" does not include, and s. 227.10 does not apply to, any action or inaction of an
12 agency, whether it would otherwise meet the definition under this subsection, ~~which~~
13 that:

14 **SECTION 33.** 227.05 of the statutes is created to read:

15 **227.05 Agency publications.** An agency, other than the Board of Regents of
16 the University of Wisconsin System, the Technical College System Board, or the
17 department of employee trust funds, shall identify the applicable provision of federal
18 law or the applicable state statutory or administrative code provision that supports
19 any statement or interpretation of law that the agency makes in any publication,
20 whether in print or on the agency's Internet site, including guidance documents,
21 forms, pamphlets, or other informational materials, regarding the laws the agency
22 administers.

23 **SECTION 34.** Subchapter II (title) of chapter 227 [precedes 227.10] of the
24 statutes is amended to read:

25

CHAPTER 227

1 SUBCHAPTER II

2 ADMINISTRATIVE RULES AND3 GUIDANCE DOCUMENTS4 **SECTION 35.** 227.10 (2g) of the statutes is created to read:5 227.10 (2g) No agency may seek deference in any proceeding based on the
6 agency's interpretation of any law.7 **SECTION 36.** 227.11 (title) of the statutes is amended to read:8 **227.11 (title) ~~Extent to which chapter confers~~ Agency rule-making**
9 **authority.**10 **SECTION 37.** 227.11 (3) of the statutes is created to read:11 227.11 (3) (a) A plan that is submitted to the federal government for the
12 purpose of complying with a requirement of federal law does not confer rule-making
13 authority and cannot be used by an agency as authority to promulgate rules. No
14 agency may agree to promulgate a rule as a component of a compliance plan unless
15 the agency has explicit statutory authority to promulgate the rule at the time the
16 compliance plan is submitted.17 (b) A settlement agreement, consent decree, or court order does not confer
18 rule-making authority and cannot be used by an agency as authority to promulgate
19 rules. No agency may agree to promulgate a rule as a term in any settlement
20 agreement, consent decree, or stipulated order of a court unless the agency has
21 explicit statutory authority to promulgate the rule at the time the settlement
22 agreement, consent decree, or stipulated order of a court is executed.23 **SECTION 38.** 227.112 of the statutes is created to read:24 **227.112 Guidance documents. (1)** (a) Before adopting a guidance document,
25 an agency shall submit to the legislative reference bureau the proposed guidance

1 document with a notice of a public comment period on the proposed guidance
2 document under par. (b), in a format approved by the legislative reference bureau,
3 for publication in the register. The notice shall specify the place where comments
4 should be submitted and the deadline for submitting those comments.

5 (b) The agency shall provide for a period for public comment on a proposed
6 guidance document submitted under par. (a), during which any person may submit
7 written comments to the agency with respect to the proposed guidance document.
8 Except as provided in par. (c), the period for public comment shall end no sooner than
9 the 21st day after the date on which the proposed guidance document is published
10 in the register under s. 35.93 (2) (b) 3. im. The agency may not adopt the proposed
11 guidance document until the comment period has concluded and the agency has
12 complied with par. (d).

13 (c) An agency may hold a public comment period shorter than 21 days with the
14 approval of the governor.

15 (d) An agency shall retain all written comments submitted during the public
16 comment period under par. (b) and shall consider those comments in determining
17 whether to adopt the guidance document as originally proposed, modify the proposed
18 guidance document, or take any other action.

19 **(2)** An agency shall post each guidance document that the agency has adopted
20 on the agency's Internet site and shall permit continuing public comment on the
21 guidance document. The agency shall ensure that each guidance document that the
22 agency has adopted remains on the agency's Internet site as provided in this
23 subsection until the guidance document is no longer in effect, is no longer valid, or
24 is superseded or until the agency otherwise rescinds its adoption of the guidance
25 document.

1 **(3)** A guidance document does not have the force of law and does not provide
2 the authority for implementing or enforcing a standard, requirement, or threshold,
3 including as a term or condition of any license. An agency that proposes to rely on
4 a guidance document to the detriment of a person in any proceeding shall afford the
5 person an adequate opportunity to contest the legality or wisdom of a position taken
6 in the guidance document. An agency may not use a guidance document to foreclose
7 consideration of any issue raised in the guidance document.

8 **(4)** If an agency proposes to act in any proceeding at variance with a position
9 expressed in a guidance document, it shall provide a reasonable explanation for the
10 variance. If an affected person in any proceeding may have relied reasonably on the
11 agency's position, the explanation must include a reasonable justification for the
12 agency's conclusion that the need for the variance outweighs the affected person's
13 reliance interest.

14 **(5)** Persons that qualify under s. 227.12 to petition an agency to promulgate
15 a rule may, as provided in s. 227.12, petition an agency to promulgate a rule in place
16 of a guidance document.

17 **(6)** Any guidance document shall be signed by the secretary or head of the
18 agency below the following certification: "I have reviewed this guidance document
19 or proposed guidance document and I certify that it complies with sections 227.10
20 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document
21 or proposed guidance document contains no standard, requirement, or threshold
22 that is not explicitly required or explicitly permitted by a statute or a rule that has
23 been lawfully promulgated. I further certify that the guidance document or proposed
24 guidance document contains no standard, requirement, or threshold that is more

1 restrictive than a standard, requirement, or threshold contained in the Wisconsin
2 Statutes.”

3 (7) ^(a) This section does not apply to guidance documents adopted before the first ^{9 paragraph}
4 day of the 7th month beginning after the effective date of this subsection [LRB
5 inserts date], but on that date any guidance document that has not been adopted in
6 accordance with sub. (1) or that does not contain the certification required under sub.

Insert
7 (6) shall be considered rescinded.

8 (8) The legislative council staff shall provide agencies with assistance in
9 determining whether documents and communications are guidance documents that
10 are subject to the requirements under this section.

11 SECTION 39. 227.13 of the statutes is amended to read:

12 **227.13 Advisory committees and informal consultations.** An agency may
13 use informal conferences and consultations to obtain the viewpoint and advice of
14 interested persons with respect to contemplated rule making. An agency also may
15 also appoint a committee of experts, interested persons or representatives of the
16 public to advise it with respect to any contemplated rule making. The Such a
17 committee shall have advisory powers only. Whenever an agency appoints a
18 committee under this section, the agency shall submit a list of the members of the
19 committee to the joint committee for review of administrative rules.

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

21 227.26 (2) (im) *Multiple suspensions.* Notwithstanding pars. (i) and (j), the
22 committee may act to suspend a rule as provided under this subsection multiple
23 times.

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

1 227.40 (1) Except as provided in sub. (2), the exclusive means of judicial review
2 of the validity of a rule or guidance document shall be an action for declaratory
3 judgment as to the validity of the rule or guidance document brought in the circuit
4 court for the county where the party asserting the invalidity of the rule or guidance
5 document resides or has its principal place of business or, if that party is a
6 nonresident or does not have its principal place of business in this state, in the circuit
7 court for the county where the dispute arose. The officer or other agency whose rule
8 or guidance document is involved shall be the party defendant. The summons in the
9 action shall be served as provided in s. 801.11 (3) and by delivering a copy to that
10 officer or, if the agency is composed of more than one person, to the secretary or clerk
11 of the agency or to any member of the agency. The court shall render a declaratory
12 judgment in the action only when it appears from the complaint and the supporting
13 evidence that the rule or guidance document or its threatened application interferes
14 with or impairs, or threatens to interfere with or impair, the legal rights and
15 privileges of the plaintiff. A declaratory judgment may be rendered whether or not
16 the plaintiff has first requested the agency to pass upon the validity of the rule or
17 guidance document in question.

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

19 227.40 (2) (intro.) The validity of a rule or guidance document may be
20 determined in any of the following judicial proceedings when material therein:

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

22 227.40 (2) (e) Proceedings under s. 66.191, 1981 stats., or s. 40.65 (2), 106.50,
23 106.52, 303.07 (7) or 303.21 or ss. 227.52 to 227.58 or under ch. 102, 108 or 949 for
24 review of decisions and orders of administrative agencies if the validity of the rule

1 or guidance document involved was duly challenged in the proceeding before the
2 agency in which the order or decision sought to be reviewed was made or entered.

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

5 227.40 (3) (ag) In any judicial proceeding other than one ~~set out above~~ under
6 sub. (1) or (2), in which the invalidity of a rule or guidance document is material to
7 the cause of action or any defense thereto, the assertion of ~~such~~ that invalidity shall
8 be set forth in the pleading of the party ~~so~~ maintaining the invalidity of ~~such~~ the rule
9 or guidance document in that proceeding. The party ~~so~~ asserting the invalidity of
10 ~~such~~ the rule or guidance document shall, within 30 days after the service of the
11 pleading in which the party sets forth ~~such~~ the invalidity, apply to the court in which
12 ~~such~~ the proceedings are had for an order suspending the trial of ~~said~~ the proceeding
13 until after a determination of the validity of ~~said~~ the rule or guidance document in
14 an action for declaratory judgment under sub. (1) hereof.

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

17 227.40 (3) (ar) Upon the hearing of ~~such~~ the application, if the court is satisfied
18 that the validity of ~~such~~ the rule or guidance document is material to the issues of
19 the case, an order shall be entered staying the trial of said proceeding until the
20 rendition of a final declaratory judgment in proceedings to be instituted forthwith
21 by the party asserting the invalidity of ~~such~~ the rule or guidance document. If the
22 court ~~shall find~~ finds that the asserted invalidity of a the rule or guidance document
23 is not material to the case, an order shall be entered denying the application for stay.

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

1 227.40 (3) (b) Upon the entry of a final order in said the declaratory judgment
2 action, it shall be the duty of the party who asserts the invalidity of the rule or
3 guidance document to formally advise the court of the outcome of the declaratory
4 judgment action so brought as ordered by the court. After the final disposition of the
5 declaratory judgment action the court shall be bound by and apply the judgment so
6 entered in the trial of the proceeding in which the invalidity of the rule or guidance
7 document is asserted.

8 (c) Failure to set forth the invalidity of a rule or guidance document in a
9 pleading or to commence a declaratory judgment proceeding within a reasonable
10 time pursuant to such the order of the court or to prosecute such the declaratory
11 judgment action without undue delay shall preclude such the party from asserting
12 or maintaining such that the rule or guidance document is invalid.

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

14 227.40 (4) (a) In any proceeding pursuant to this section for judicial review of
15 a rule or guidance document, the court shall declare the rule or guidance document
16 invalid if it finds that it violates constitutional provisions or exceeds the statutory
17 authority of the agency or was promulgated or adopted without compliance with
18 statutory rule-making or adoption procedures.

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

20 227.40 (6) Upon entry of a final order in a declaratory judgment action under
21 sub. (1) with respect to a rule, the court shall send an electronic notice to the
22 legislative reference bureau of the court's determination as to the validity or
23 invalidity of the rule, in a format approved by the legislative reference bureau, and
24 the legislative reference bureau shall publish a notice of that determination in the

1 Wisconsin administrative register under s. 35.93 (2) and insert an annotation of that
2 determination in the Wisconsin administrative code under s. 13.92 (4) (a).

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

4 227.57 (11) Upon review of an agency action or decision affecting a property
5 owner's use of the property owner's property, the court shall accord no deference to
6 the agency's interpretation of law if the agency action or decision restricts the
7 property owner's free use of the property owner's property.

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

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

10 238.02 (1) There is created an authority, which is a public body corporate and
11 politic, to be known as the "Wisconsin Economic Development Corporation." The
12 members of the board shall consist of 6 members nominated by the governor, and
13 with the advice and consent of the senate appointed, to serve at the pleasure of the
14 governor; ~~3~~ 4 members appointed by the speaker of the assembly, consisting of one
15 majority and one minority party representative to the assembly, appointed as are the
16 members of standing committees in the assembly, and one person employed in the
17 private sector, to serve at the speaker's pleasure; and ~~3~~ 4-year terms; one member
18 appointed by the minority leader of the assembly to serve a 4-year term; 4 members
19 appointed by the senate majority leader, ~~consisting of one majority and one minority~~
20 ~~party senator, appointed as are members of standing committees in the senate, and~~
21 ~~one person employed in the private sector, to serve at the majority leader's pleasure~~
22 4-year terms; and one member appointed by the minority leader of the senate to
23 serve a 4-year term. Neither the speaker of the assembly nor the senate majority
24 leader may appoint more than 2 members of the legislature to the board. The
25 secretary of administration and the secretary of revenue shall also serve on the board

1 as nonvoting members. The board shall elect a chairperson from among its
2 nonlegislative voting members. A vacancy on the board shall be filled in the same
3 manner as the original appointment to the board for the remainder of the unexpired
4 term, if any.

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

6 238.02 (2) A majority of the ~~voting~~ appointed members of the board currently
7 serving constitutes a quorum for the purpose of conducting its business and
8 exercising its powers and for all other purposes, ~~notwithstanding the existence of any~~
9 ~~vacancies.~~ Action may be taken by the board upon a vote of a majority of the ~~voting~~
10 appointed members present.

11 **SECTION 84e.** 238.03 (2) (c) of the statutes is amended to read:

12 238.03 (2) (c) Require that each recipient of a grant ~~or~~, loan award, or tax credit
13 under the program submit a report to the corporation. Each contract with a recipient
14 of a grant ~~or~~, loan award, or tax credit under the program must specify the frequency
15 and format of the report to be submitted to the corporation and the performance
16 measures to be included in the report. Each recipient shall submit a statement to
17 the corporation signed by the recipient or the director or principal officer of the
18 recipient attesting to the accuracy and truthfulness of the information.

19 **SECTION 84f.** 238.03 (2) (e) of the statutes is amended to read:

20 238.03 (2) (e) Annually and independently verify, from a sample of grants and
21 loans, loan awards, and tax credits, the accuracy of the information required to be
22 reported under par. (c).

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

24 238.04 (15) Appoint and supervise the economic development liaison project
25 position created in 2017 Wisconsin Act 58, section 61 (1).