



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2990/1
GMM:wlj:rs

2011 ASSEMBLY BILL 389

November 23, 2011 - Introduced by Representatives C. TAYLOR, HEBL, BEWLEY, BERCEAU, FIELDS, GRIGSBY, ROYS, SINICKI and TURNER, cosponsored by Senators RISSER and TAYLOR. Referred to Committee on Judiciary and Ethics.

1 **AN ACT** *to repeal* 227.10 (2m), 227.11 (2) (a) 1. to 3., 227.135 (4), 227.137 (3) (d),
2 227.137 (3) (e), 227.137 (3) (f), 227.15 (1m) (bm), 227.17 (3) (em), 227.185, 227.19
3 (4) (b) 1m., 227.19 (4) (d) 7., 227.19 (5) (b) 1m., 227.19 (5) (dm), 227.19 (5) (em),
4 227.19 (5) (fm), 227.24 (1) (e) 1d., 227.24 (1) (e) 1g. and 227.40 (6); **to renumber**
5 227.137 (5), 227.137 (6) (b), 227.137 (6) (c), 227.137 (6) (d) and 227.24 (1) (e) 1m.;
6 **to renumber and amend** 227.11 (2) (a) (intro.), 227.137 (2), 227.137 (6)
7 (intro.), 227.137 (6) (a) and 227.137 (7); **to amend** 13.92 (4) (a), 35.93 (4),
8 227.135 (2), 227.135 (3), 227.137 (title), 227.137 (3) (intro.), 227.137 (3) (a),
9 227.137 (3) (b), 227.137 (3) (c), 227.137 (4), 227.14 (2) (a) 6., 227.15 (1), 227.19
10 (2), 227.19 (3) (intro.), 227.19 (4) (b) 1. (intro.), 227.19 (4) (b) 2., 227.19 (4) (b)
11 2m., 227.19 (4) (b) 3., 227.19 (4) (b) 3m., 227.19 (4) (b) 5., 227.19 (4) (b) 6., 227.19
12 (4) (c), 227.19 (4) (d) (intro.), 227.19 (4) (e), 227.19 (5) (a), 227.19 (5) (b) 1. (intro.),
13 227.19 (5) (b) 2., 227.19 (5) (b) 4., 227.19 (5) (c), 227.19 (5) (d), 227.19 (5) (e),
14 227.19 (5) (f), 227.19 (5) (g) (intro.), 227.19 (6) (title), 227.19 (6) (a) (intro.),

ASSEMBLY BILL 389

1 227.19 (6) (a) 1., 227.19 (6) (a) 4., 227.40 (1) and 801.50 (3); and **to create**
2 227.135 (5), 227.137 (1), 227.137 (2) (a) and (b), 227.137 (6) (cm) and 227.19 (5)
3 (b) 3. of the statutes; **relating to:** the authority of a state agency to promulgate
4 rules interpreting the provisions of a statute enforced or administered by the
5 agency and to implement or enforce standards, requirements, and thresholds;
6 elimination of gubernatorial approval of proposed administrative rules;
7 economic impact reports of proposed rules; elimination of statements of scope
8 for emergency rules; legislative review of proposed rules; legislative
9 authorization for certain proposed rules; and venue in a declaratory judgment
10 action seeking judicial review of the validity of an administrative rule.

Analysis by the Legislative Reference Bureau***Introduction***

2011 Wisconsin Act 21 made various changes relating to the administrative rule-making process. The act: 1) limited the authority of a state agency (agency) to promulgate administrative rules (rules) interpreting the provisions of a statute enforced or administered by the agency and to implement or enforce standards, requirements, and thresholds; 2) required gubernatorial approval of a proposed rule; 3) expanded the scope of the requirement that an economic impact analysis be prepared for a proposed rule; 4) made various changes relating to legislative review of a proposed rule; and 5) changed the venue of declaratory judgment actions seeking judicial review of the validity of a rule. In addition, 2011 Wisconsin Act 32 required legislative authorization for a rule that would increase the cost of construction or remodeling of a one- or two-family dwelling by more than \$1,000.

This bill eliminates those changes, thereby restoring prior law.

Agency authority to promulgate rules and implement standards

2011 Wisconsin Act 21 limited the authority of an agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency by providing that all of the following apply to the promulgation of such a rule:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.

2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's

ASSEMBLY BILL 389

rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.

3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

This bill eliminates those limitations on an agency's authority to promulgate rules interpreting the provisions of a statute enforced or administered by the agency.

2011 Wisconsin Act 21 also prohibited an agency from implementing or enforcing any standard, requirement, or threshold, including as a term or condition of any license issued by the agency, unless the standard, requirement, or threshold is explicitly required or permitted by statute or by a rule that has been promulgated in accordance with statutory rule-making procedures. This bill eliminates that prohibition.

Gubernatorial approval of proposed rules

2011 Wisconsin Act 21 made certain changes with respect to the statement of the scope of a proposed rule (statement of scope) that must be approved before any state employee or official may perform any activity in connection with the drafting of the proposed rule. The act:

1. Required a statement of scope to be approved by the governor before a state employee or official may perform any activity in connection with the drafting of a proposed rule. Prior law required only the individual or body with policy-making powers over the subject matter of the proposed rule (policy-making individual or body) to approve a statement of scope before those activities may be performed.

2. Eliminated automatic approval of a statement of scope if the policy-making individual or body does not disapprove the statement of scope within 30 days after it is presented to that individual or body, or by the eleventh day after its publication in the Wisconsin Administrative Register (register), whichever is later. Prior law permitted automatic approval of a statement of scope if the policy-making individual or body did not disapprove the statement of scope within that period.

3. Required an agency to prepare and obtain approval of a revised statement of scope if after a statement of scope is approved the agency changes the scope of the proposed rule in any meaningful or measurable way. Prior law did not require a revised statement of scope if the scope of a proposed rule changed after approval of the original statement of scope.

4. Required an agency to prepare and obtain approval of a statement of scope for a proposed emergency rule in the same manner as a statement of scope is prepared and approved for a nonemergency rule. Prior law did not require a statement of scope for an emergency rule.

This bill eliminates those changes, thereby restoring prior law.

In addition, 2011 Wisconsin Act 21 required an agency to submit a proposed rule in final draft form to the governor for approval before the rule may be submitted to the legislature for review and to submit a proposed emergency rule in final draft form to the governor for approval before the emergency rule may be filed with the

ASSEMBLY BILL 389

Legislative Reference Bureau (LRB) for publication. This bill eliminates those requirements.

Economic impact reports for proposed rules

When report must be prepared. 2011 Wisconsin Act 21 required an economic impact analysis, which is an analysis of the economic effect of a proposed rule on specific businesses, business sectors, public utility ratepayers, local governmental units, and the state's economy as a whole, to be prepared for all rules proposed by any agency. The act also required the Department of Administration to issue a report on a proposed rule, and the secretary of administration (secretary) to approve a proposed rule, if the economic impact analysis indicates that a total of \$20,000,000 or more in implementation and compliance costs are reasonably expected to be incurred by or passed along to businesses and individuals as a result of the proposed rule. In addition, the act required an agency to prepare a revised economic impact analysis if a proposed rule is modified after the original economic impact analysis is submitted so as to significantly change the economic impact of the proposed rule.

Prior law required only the Department of Agriculture, Trade and Consumer Protection, the Department of Commerce (which has since been replaced by the Wisconsin Economic Development Corporation), the Department of Natural Resources, the Department of Transportation, or the Department of Workforce Development to prepare an economic impact *report*, rather than *analysis*, and only if the secretary directed the report to be prepared on the petition of a municipality, an association that represents a farm, labor, business, or professional group, or five or more persons who would be affected by the proposed rule. Prior law permitted the secretary to direct the preparation of an economic impact report in any case and required the secretary to direct the preparation of such a report if: 1) the proposed rule would cost affected persons \$20,000,000 or more during each of the first five years after the rule's implementation to comply with the rule; or 2) the rule would adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.

This bill eliminates the changes made by 2011 Wisconsin Act 21 and restores prior law with respect to when an economic impact report must be prepared.

Content of report. 2011 Wisconsin Act 21 also required certain additional information to be included in an economic impact analysis. Specifically, in addition to the information that was required to be included in an economic impact report under prior law, the act required an economic impact analysis to also include:

1. Information on the effect of a proposed rule on public utility ratepayers.
2. An analysis of alternatives to the proposed rule, including the alternative of not promulgating the rule.
3. A determination made in consultation with the businesses and that individuals who may be affected by the proposed rule as to whether the proposed rule would adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of this state.
4. Comparisons with the approaches used by the federal government and by Illinois, Iowa, Michigan, and Minnesota to address the policy problem that the

ASSEMBLY BILL 389

proposed rule is intending to address and, if the approach chosen by the agency to address that policy problem is different from those approaches, a statement as to why the agency chose a different approach.

5. An assessment of how effective the proposed rule will be in addressing the policy problem that the rule is intended to address.

Under prior law, an economic impact report was required to contain information on the effect of the proposed rule on specific businesses, business sectors, and the state's economy and to include all of the following: 1) an analysis and quantification of the problem, including any risks to public health or the environment, that the rule is intending to address; 2) an analysis and quantification of the economic impact of the rule, including costs reasonably expected to be incurred by the state, governmental units, associations, businesses, and affected individuals; and 3) an analysis of benefits of the rule, including how the rule reduces the risks and addresses the problems that the rule is intended to address.

This bill eliminates the changes made by 2011 Wisconsin Act 21 and restores prior law with respect to the information that must be included in an economic impact report.

Legislative review of proposed rules

Under current law, when a proposed rule is in final form, the agency must notify the legislature as to that fact and the presiding officer of each house of the legislature must then direct the proposed rule to be referred to one standing committee of his or her house for review. 2011 Wisconsin Act 21 changed the date by which a proposed rule must be submitted to the legislature in order for the proposed rule to be reviewed by the current legislature to the last day of the legislature's final general-business floorperiod of the biennial session. The act, however, permitted the presiding officers of both houses of the legislature to refer a proposed rule submitted to the legislature after that date for review during the current legislative session.

Prior law required a rule to be submitted to the legislature by September 1 of an even-numbered year in order for the proposed rule to be reviewed during the current legislative session and did not permit a proposed rule submitted after that date to be reviewed during the current legislative session.

This bill restores prior law with respect to the date by which a proposed rule must be submitted to the legislature in order for the proposed rule to be reviewed during the current legislative session.

In addition, 2011 Wisconsin Act 21 required *all* proposed rules reviewed by a standing committee to be referred to the Joint Committee for Review of Administrative Rules (JCRAR) for review. Moreover, the act permitted JCRAR to request modifications to a proposed rule, nonconcur in a standing committee's objection to a proposed rule, concur in a standing committee's approval of a proposed rule, otherwise approve a proposed rule, waive its jurisdiction over a proposed rule, or object to a proposed rule and to take any of those actions with respect to only a part of a proposed rule. Prior law required JCRAR to review a proposed rule only if a standing committee objected to the proposed rule; permitted JCRAR only to request modifications to a proposed rule, nonconcur in a standing committee's objection to a

ASSEMBLY BILL 389

proposed rule, or object to a proposed rule; and did not permit JCRAR to take action on only a part of a proposed rule.

This bill restores prior law with respect to JCRAR review of a proposed rule.

Declaratory judgments as to validity of rules

2011 Wisconsin Act 21 provided that, subject to certain exceptions, the exclusive means of judicial review of the validity of a rule is by an action for declaratory judgment as to the validity of the rule brought in the circuit court for the county where the party asserting the invalidity of the rule resides or has its principal place of business or, if that party is a nonresident or does not have its principal place of business in this state, in the county where the dispute arose. Prior law required those actions to be brought in the circuit court for Dane County. This bill restores prior law.

2011 Wisconsin Act 21 also required a court that enters a declaratory judgment order determining the validity of a rule to notify the LRB of the court's determination and the LRB to publish a notice of that determination in the register and to insert an annotation of that determination in the Wisconsin Administrative Code. This bill eliminates those requirements.

Rules increasing dwelling construction costs

2011 Wisconsin Act 32 required legislative authorization for a rule that would increase the cost of construction or remodeling of a one- or two-family dwelling by more than \$1,000. Specifically, the act provided that if JCRAR objects to a proposed rule because the proposed rule would so increase that cost, the Department of Safety and Professional Services may not promulgate the proposed rule until a bill authorizing promulgation of the proposed is enacted into law (rule authorization bill). For all other types of rules, however, if JCRAR objects to a proposed rule, the department proposing the rule may not promulgate the proposed rule until a bill to *prevent* promulgation of the proposed rule *fails* to be enacted. This bill eliminates the requirement that a rule authorization bill be enacted before a proposed rule that would increase the cost of construction or remodeling of a one- or two-family dwelling by more than \$1,000 may be promulgated, thereby restoring for such a rule the requirement that a bill to prevent promulgation of the rule fail to be enacted before the rule may be promulgated.

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

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

1 **SECTION 1.** 13.92 (4) (a) of the statutes, as affected by 2011 Wisconsin Act 21,
2 is amended to read:

ASSEMBLY BILL 389

1 13.92 (4) (a) The legislative reference bureau shall prepare copy for publication
2 in the Wisconsin administrative code. ~~Whenever the legislative reference bureau~~
3 ~~receives notice under s. 227.40 (6) of the entry of a declaratory judgment determining~~
4 ~~the validity or invalidity of a rule, the legislative reference bureau shall insert an~~
5 ~~annotation of that determination in the Wisconsin administrative code under the~~
6 ~~rule that was the subject of the determination.~~

7 **SECTION 2.** 35.93 (4) of the statutes, as affected by 2011 Wisconsin Act 21, is
8 amended to read:

9 35.93 (4) Each issue of the Wisconsin administrative register shall contain a
10 notice section in which shall be printed the notices of hearings on rule making which
11 agencies have transmitted to the legislative reference bureau for that purpose,
12 statements of scope of proposed rules under s. 227.135, notices of submittal to the
13 legislative council staff under s. 227.14 (4m), notices of intent to promulgate rules
14 without a public hearing under s. 227.16 (2) (e), notices of referrals of proposed rules
15 to presiding officers under s. 227.19 (2), notices of emergency rules in effect, fiscal
16 estimates for rule-making orders under s. 227.14 (4), ~~notices of declaratory~~
17 ~~judgments received under s. 227.40 (6),~~ and such other notices as may be required
18 by law or determined by the legislative reference bureau to be appropriate.

19 **SECTION 3.** 227.10 (2m) of the statutes, as created by 2011 Wisconsin Act 21,
20 is repealed.

21 **SECTION 4.** 227.11 (2) (a) (intro.) of the statutes, as affected by 2011 Wisconsin
22 Act 21, is renumbered 227.11 (2) (a) and amended to read:

23 227.11 (2) (a) Each agency may promulgate rules interpreting the provisions
24 of any statute enforced or administered by the agency, if the agency considers it
25 necessary to effectuate the purpose of the statute, but a rule is not valid if the rule

ASSEMBLY BILL 389

1 exceeds the bounds of correct interpretation. ~~All of the following apply to the~~
2 ~~promulgation of a rule interpreting the provisions of a statute enforced or~~
3 ~~administered by an agency:~~

4 **SECTION 5.** 227.11 (2) (a) 1. to 3. of the statutes, as created by 2011 Wisconsin
5 Act 21, are repealed.

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

8 227.135 (2) An agency that has prepared a statement of the scope of the
9 proposed rule shall present the statement ~~to the governor and to the individual or~~
10 ~~body with policy-making powers over the subject matter of the proposed rule for~~
11 ~~approval. The agency may not send the statement to the legislative reference bureau~~
12 ~~for publication under sub. (3) until the governor issues a written notice of approval~~
13 ~~of the statement. The individual or body with policy-making powers may not~~
14 ~~approve the statement until at least 10 days after publication of the statement under~~
15 ~~sub. (3). If the individual or body with policy-making powers does not disapprove~~
16 ~~the statement within 30 days after the statement is presented to the individual or~~
17 ~~body or by the 11th day after publication of the statement in the register, whichever~~
18 ~~is later, the statement is considered to be approved. No state employee or official may~~
19 ~~perform any activity in connection with the drafting of a proposed rule except for an~~
20 ~~activity necessary to prepare the statement of the scope of the proposed rule until the~~
21 ~~governor and the individual or body with policy-making powers over the subject~~
22 ~~matter of the proposed rule approves the statement.~~

23 **SECTION 7.** 227.135 (3) of the statutes, as affected by 2011 Wisconsin Act 21,
24 is amended to read:

ASSEMBLY BILL 389

1 227.135 (3) ~~If the governor approves a statement of the scope of a proposed rule~~
2 ~~under sub. (2), the~~ The agency shall send the statement to the legislative reference
3 bureau for publication in the register. On the same day that the agency sends the
4 statement to the legislative reference bureau, the agency shall send a copy of the
5 statement to the secretary of administration.

6 **SECTION 8.** 227.135 (4) of the statutes, as affected by 2011 Wisconsin Act 21,
7 is repealed.

8 **SECTION 9.** 227.135 (5) of the statutes is created to read:

9 227.135 (5) This section does not apply to emergency rules.

10 **SECTION 10.** 227.137 (title) of the statutes, as affected by 2011 Wisconsin Act
11 21, is amended to read:

12 **227.137 (title) Economic impact analyses reports of proposed rules.**

13 **SECTION 11.** 227.137 (1) of the statutes is created to read:

14 227.137 (1) In this section, “agency” means the departments of agriculture,
15 trade, and consumer protection; safety and professional services; natural resources;
16 transportation; and workforce development.

17 **SECTION 12.** 227.137 (2) of the statutes, as affected by 2011 Wisconsin Act 21,
18 is renumbered 227.137 (2) (intro.) and amended to read:

19 227.137 (2) (intro.) An After an agency publishes a statement of the scope of
20 a proposed rule under s. 227.135, and before the agency submits the proposed rule
21 to the legislature for review under s. 227.19 (2), a municipality, an association that
22 represents a farm, labor, business, or professional group, or 5 or more persons who
23 would be directly and uniquely affected by the proposed rule may submit a petition
24 to the department of administration asking the secretary of administration to direct
25 the agency to prepare an economic impact report for the proposed rule. If the

ASSEMBLY BILL 389**SECTION 12**

1 secretary of administration directs the agency to prepare an economic impact report
2 for a proposed rule, the agency shall prepare an ~~the~~ economic impact analysis for a
3 proposed rule ~~report~~ before submitting the proposed rule to the legislative council
4 staff under s. 227.15. legislature for review under s. 227.19 (2). The secretary of
5 administration shall direct an agency to prepare an economic impact report for a
6 proposed rule before submitting the proposed rule to the legislature for review under
7 s. 227.19 (2) if the secretary determines that all of the following apply:

8 **SECTION 13.** 227.137 (2) (a) and (b) of the statutes are created to read:

9 227.137 (2) (a) The petition was submitted to the department of administration
10 no later than 90 days after publication of the statement of the scope of the proposed
11 rule under s. 227.135 (3) or no later than 10 days after publication of the notice for
12 a public hearing under s. 227.17, whichever is later.

13 (b) The proposed rule would cost affected persons \$20,000,000 or more during
14 each of the first 5 years after the rule's implementation to comply with the rule or the
15 proposed rule would adversely affect in a material way the economy, a sector of the
16 economy, productivity, competition, jobs, the environment, public health or safety, or
17 state, local, or tribal governments or communities.

18 **SECTION 14.** 227.137 (3) (intro.) of the statutes, as affected by 2011 Wisconsin
19 Act 21, is amended to read:

20 227.137 (3) (intro.) An economic impact analysis report of a proposed rule shall
21 contain information on the economic effect of the proposed rule on specific
22 businesses, business sectors, public utility ratepayers, local governmental units, and
23 the state's economy as a whole. When preparing the analysis report, the agency shall
24 solicit information and advice from the Wisconsin Economic Development
25 Corporation and from businesses, associations representing businesses, local,

ASSEMBLY BILL 389

1 governmental units, and individuals that may be affected by the proposed rule. The
2 ~~agency shall prepare the economic impact analysis in coordination with local~~
3 ~~governmental units that may be affected by the proposed rule.~~ The agency may
4 request information that is reasonably necessary for the preparation of an economic
5 impact analysis report from other state agencies and from businesses, associations,
6 local governmental units, and individuals ~~and from other agencies.~~ The economic
7 impact analysis report shall include all of the following:

8 **SECTION 15.** 227.137 (3) (a) of the statutes, as affected by 2011 Wisconsin Act
9 21, is amended to read:

10 227.137 (3) (a) An analysis and quantification of the policy problem, including
11 any risks to public health or the environment, that the proposed rule is intending to
12 address, ~~including comparisons with the approaches used by the federal government~~
13 ~~and by Illinois, Iowa, Michigan, and Minnesota to address that policy problem and,~~
14 ~~if the approach chosen by the agency to address that policy problem is different from~~
15 ~~those approaches, a statement as to why the agency chose a different approach.~~

16 **SECTION 16.** 227.137 (3) (b) of the statutes, as affected by 2011 Wisconsin Act
17 21, is amended to read:

18 227.137 (3) (b) An analysis and detailed quantification of the economic impact
19 of the proposed rule, including the ~~implementation and compliance costs that are~~
20 reasonably expected to be incurred by ~~or passed along to the~~ state, businesses, local
21 governmental units, and affected individuals ~~that may be affected by the proposed~~
22 ~~rule.~~

23 **SECTION 17.** 227.137 (3) (c) of the statutes, as affected by 2011 Wisconsin Act
24 21, is amended to read:

ASSEMBLY BILL 389**SECTION 17**

1 227.137 (3) (c) ~~An analysis of the actual and quantifiable benefits of the~~
2 ~~proposed rule, including an assessment of how effective the proposed rule will be in~~
3 ~~addressing the policy problem~~ how the rule reduces the risks and addresses the
4 problems that the rule is intended to address.

5 **SECTION 18.** 227.137 (3) (d) of the statutes, as created by 2011 Wisconsin Act
6 21, is repealed.

7 **SECTION 19.** 227.137 (3) (e) of the statutes, as created by 2011 Wisconsin Act
8 21, is repealed.

9 **SECTION 20.** 227.137 (3) (f) of the statutes, as created by 2011 Wisconsin Act
10 32, is repealed.

11 **SECTION 21.** 227.137 (4) of the statutes, as affected by 2011 Wisconsin Act 21,
12 is amended to read:

13 227.137 (4) ~~On the same day that the agency submits the economic impact~~
14 ~~analysis to the legislative council staff under s. 227.15 (1), the~~ The agency shall also
15 ~~submit that analysis~~ the economic impact report to the legislative council staff under
16 s. 227.15 (1), to the department of administration, to the governor, and to the chief
17 ~~clerks of each house of the legislature, who shall distribute the analysis to the~~
18 ~~presiding officers of their respective houses, to the chairpersons of the appropriate~~
19 ~~standing committees of their respective houses, as designated by those presiding~~
20 ~~officers, and to the cochairpersons of the joint committee for review of administrative~~
21 ~~rules. If a proposed rule is modified after the economic impact analysis is submitted~~
22 ~~under this subsection so that the economic impact of the proposed rule is~~
23 ~~significantly changed, the agency shall prepare a revised economic impact analysis~~
24 ~~for the proposed rule as modified. A revised economic impact analysis shall be~~

ASSEMBLY BILL 389

1 prepared and submitted in the same manner as an original economic impact analysis
2 is prepared and submitted and to the petitioner.

3 **SECTION 22.** 227.137 (5) of the statutes is renumbered 227.137 (8).

4 **SECTION 23.** 227.137 (6) (intro.) of the statutes, as affected by 2011 Wisconsin
5 Act 21, is renumbered 227.137 (6) (a) (intro.) and amended to read:

6 227.137 (6) (a) (intro.) If an economic impact analysis report regarding a
7 proposed rule indicates that a total of \$20,000,000 or more in implementation and
8 compliance costs are reasonably expected to be incurred by or passed along to
9 businesses, local governmental units, and individuals as a result of the proposed rule
10 is prepared under sub. (2), the department of administration shall review the
11 proposed rule and issue a report. The agency may not submit a proposed rule to the
12 legislature for review under s. 227.19 (2) until the agency receives a copy of the
13 department's report and the approval of the secretary of administration. The report
14 shall include all of the following findings:

15 **SECTION 24.** 227.137 (6) (a) of the statutes, as affected by 2011 Wisconsin Act
16 21, is renumbered 227.137 (6) (a) 1. and amended to read:

17 227.137 (6) (a) 1. That the economic impact report and the analysis is required
18 under sub. (3) are supported by related documentation contained ~~or referenced~~ in the
19 economic impact analysis report.

20 **SECTION 25.** 227.137 (6) (b) of the statutes, as affected by 2011 Wisconsin Act
21 21, is renumbered 227.137 (6) (a) 2.

22 **SECTION 26.** 227.137 (6) (c) of the statutes, as affected by 2011 Wisconsin Act
23 21, is renumbered 227.137 (6) (a) 3.

24 **SECTION 27.** 227.137 (6) (cm) of the statutes is created to read:

ASSEMBLY BILL 389**SECTION 27**

1 227.137 (6) (cm) No person is entitled to judicial review of any action taken by
2 the department of administration under this subsection.

3 **SECTION 28.** 227.137 (6) (d) of the statutes, as affected by 2011 Wisconsin Act
4 21, is renumbered 227.137 (6) (a) 4.

5 **SECTION 29.** 227.137 (7) of the statutes, as affected by 2011 Wisconsin Act 21,
6 is renumbered 227.137 (6) (bm) and amended to read:

7 227.137 (6) (bm) Before issuing a report under ~~sub. (6)~~ par. (a), the department
8 of administration may return a proposed rule to the agency for further consideration
9 and revision with a written explanation of why the proposed rule is being returned.
10 If the agency head disagrees with the department's reasons for returning the
11 proposed rule, the agency head shall so notify the department in writing. The
12 secretary of administration shall approve the proposed rule when the agency has
13 adequately addressed the issues raised during the department's review of the rule.

14 **SECTION 30.** 227.14 (2) (a) 6. of the statutes, as affected by 2011 Wisconsin Act
15 21, is amended to read:

16 227.14 (2) (a) 6. Any analysis and supporting documentation that the agency
17 used in support of the agency's determination of the rule's effect on small businesses
18 under s. 227.114 or that was used when the agency prepared an economic impact
19 analysis report under s. 227.137 (3).

20 **SECTION 31.** 227.15 (1) of the statutes, as affected by 2011 Wisconsin Act 21,
21 is amended to read:

22 227.15 (1) SUBMITTAL TO LEGISLATIVE COUNCIL STAFF. Prior to a public hearing
23 on a proposed rule or, if no public hearing is required, prior to notice under s. 227.19,
24 an agency shall submit the proposed rule to the legislative council staff for review.
25 The proposed rule shall be in the form required under s. 227.14 (1), and shall include

ASSEMBLY BILL 389

1 the material required under s. 227.14 (2), (3), and (4), ~~the economic impact analysis~~
2 ~~required under s. 227.137 (2), and any revised economic impact analysis required~~
3 ~~under s. 227.137 (4).~~ An agency may not hold a public hearing on a proposed rule or
4 give notice under s. 227.19 until after it has received a written report of the
5 legislative council staff review of the proposed rule or until after the initial review
6 period of 20 working days under sub. (2) (intro.), whichever comes first. An agency
7 may give notice of a public hearing prior to receipt of the legislative council staff
8 report. This subsection does not apply to rules promulgated under s. 227.24.

9 **SECTION 32.** 227.15 (1m) (bm) of the statutes, as created by 2011 Wisconsin Act
10 21, is repealed.

11 **SECTION 33.** 227.17 (3) (em) of the statutes, as created by 2011 Wisconsin Act
12 21, is repealed.

13 **SECTION 34.** 227.185 of the statutes, as created by 2011 Wisconsin Act 21, is
14 repealed.

15 **SECTION 35.** 227.19 (2) of the statutes, as affected by 2011 Wisconsin Act 21,
16 is amended to read:

17 227.19 (2) NOTIFICATION OF LEGISLATURE. An agency shall submit a notice to the
18 chief clerk of each house of the legislature when a proposed rule is in final draft form.
19 The notice shall be submitted in triplicate and shall be accompanied by a report in
20 the form specified under sub. (3). A notice received under this subsection on or after
21 ~~the last day of the legislature's final general-business floor period in the biennial~~
22 ~~session as established in the joint resolution required under s. 13.02 (3) September~~
23 1 of an even-numbered year shall be considered received on the first day of the next
24 regular session of the legislature, ~~unless the presiding officers of both houses direct~~
25 ~~referral of the notice and report under this subsection before that day.~~ The presiding

ASSEMBLY BILL 389**SECTION 35**

1 officer of each house of the legislature shall, within 10 working days following the day
2 on which the notice and report are received, direct the appropriate chief clerk to refer
3 the notice and report to one standing committee. The agency shall submit to the
4 legislative reference bureau for publication in the register a statement that a
5 proposed rule has been submitted to the chief clerk of each house of the legislature.
6 Each chief clerk shall enter a similar statement in the journal of his or her house.

7 **SECTION 36.** 227.19 (3) (intro.) of the statutes, as affected by 2011 Wisconsin
8 Act 21, is amended to read:

9 227.19 (3) FORM OF REPORT. (intro.) The report required under sub. (2) shall be
10 in writing and shall include the proposed rule in the form specified in s. 227.14 (1),
11 the material specified in s. 227.14 (2), (3), and (4), a copy of any economic impact
12 analysis report prepared by the agency under s. 227.137 (2), ~~a copy of any revised~~
13 ~~economic impact analysis prepared by the agency under s. 227.137 (4),~~ a copy of any
14 report prepared by the department of administration under s. 227.137 (6), a copy of
15 any energy impact report received from the public service commission under s.
16 227.117 (2), and a copy of any recommendations of the legislative council staff. The
17 report shall also include all of the following:

18 **SECTION 37.** 227.19 (4) (b) 1. (intro.) of the statutes, as affected by 2011
19 Wisconsin Act 21, is amended to read:

20 227.19 (4) (b) 1. (intro.) Except as provided under ~~subds. 1m. and~~ subd. 5., the
21 committee review period for each committee extends for 30 days after referral of the
22 proposed rule to the committee under sub. (2). If the chairperson or the
23 cochairpersons of a committee take either of the following actions within the 30-day
24 period, the committee review period for that committee is continued for 30 days from
25 the date on which the first 30-day review period would have expired:

ASSEMBLY BILL 389

1 **SECTION 38.** 227.19 (4) (b) 1m. of the statutes, as created by 2011 Wisconsin Act
2 21, is repealed.

3 **SECTION 39.** 227.19 (4) (b) 2. of the statutes, as affected by 2011 Wisconsin Act
4 21, is amended to read:

5 227.19 (4) (b) 2. If a committee, by a majority vote of a quorum of the committee,
6 requests modifications in a proposed rule, and the agency, in writing, agrees to
7 consider making modifications, the review period for both committees to which the
8 proposed rule is referred is extended either to the 10th working day following receipt
9 by those committees of the modified proposed rule or a written statement to those
10 committees that the agency will not make the modifications or to the expiration of
11 the review period under subd. 1. ~~or, if applicable, subd. 1m.~~, whichever is later. There
12 is no limit either on the number of modification agreements that may be entered into
13 or on the time within which modifications may be made.

14 **SECTION 40.** 227.19 (4) (b) 2m. of the statutes, as affected by 2011 Wisconsin
15 Act 21, is amended to read:

16 227.19 (4) (b) 2m. If a committee requests in writing that the public service
17 commission determine the rule's impact on the cost or reliability of electricity
18 generation, transmission, or distribution or of fuels used in generating electricity, the
19 commission shall prepare an energy impact report in the manner provided under s.
20 227.117 (1). The commission shall submit a copy of the report to the committee and
21 to the agency that proposed the rule within 30 days after the written request is
22 submitted to the commission. The review period for both committees to which the
23 proposed rule is referred is extended to the 10th working day following receipt by
24 those committees of the report, to the expiration of the review period under subd. 1.

ASSEMBLY BILL 389**SECTION 40**

1 or, if applicable, ~~subd. 1m.~~, or to the expiration of the review period under subd. 2.,
2 whichever is later.

3 **SECTION 41.** 227.19 (4) (b) 3. of the statutes, as affected by 2011 Wisconsin Act
4 21, is amended to read:

5 227.19 (4) (b) 3. An agency may, on its own initiative, submit a germane
6 modification to a proposed rule to a committee during its review period. If a germane
7 modification is submitted within the final 10 days of a committee review period
8 ~~under subd. 1.~~, the review period for both committees to which the proposed rule is
9 referred is extended for 10 working days. If a germane modification is submitted to
10 a committee after the committee in the other house has concluded its jurisdiction
11 over the proposed rule, the jurisdiction of the committee of the other house is revived
12 for 10 working days. In this subdivision, an agency's proposal to delete part of a
13 proposed rule under committee review shall be treated as a germane modification of
14 the proposed rule.

15 **SECTION 42.** 227.19 (4) (b) 3m. of the statutes, as affected by 2011 Wisconsin
16 Act 21, is amended to read:

17 227.19 (4) (b) 3m. An agency may, during the committee review period,
18 reconsider its action by recalling the proposed rule from the chief clerk of each house
19 of the legislature. If the agency decides to continue the rule-making process with
20 regard to the proposed rule, the agency shall resubmit the proposed rule, either in
21 its recalled form or with one or more germane modifications, to the chief clerk in each
22 house of the legislature as provided in sub. (2) and the committee review period
23 under subd. 1. ~~or, if applicable, subd. 1m.~~ shall begin again.

24 **SECTION 43.** 227.19 (4) (b) 5. of the statutes, as affected by 2011 Wisconsin Act
25 21, is amended to read:

ASSEMBLY BILL 389

1 227.19 (4) (b) 5. If a committee in one house votes to object to a proposed rule
2 ~~or to a part of the proposed rule~~ under par. (d), the chairperson or cochairpersons of
3 the committee shall immediately notify the chairperson or cochairpersons of the
4 committee in the other house to which the proposed rule was referred. Upon receipt
5 of the notice, the review period for the committee in the other house immediately
6 ceases and no further action on the proposed rule ~~or part of the proposed rule~~ objected
7 to may be taken under this paragraph by that committee, but the committee may
8 proceed under par. (d) to object to the proposed rule ~~or part of the proposed rule~~.

9 **SECTION 44.** 227.19 (4) (b) 6. of the statutes, as affected by 2011 Wisconsin Act
10 21, is amended to read:

11 227.19 (4) (b) 6. If a committee has not concluded its jurisdiction over a
12 proposed rule ~~or a part of a proposed rule~~ before the day specified under s. 13.02 (1)
13 for the next legislature to convene, that jurisdiction immediately ceases and, within
14 10 working days after that date, the presiding officer of the appropriate house shall
15 refer the proposed rule ~~or part of the proposed rule~~ to the appropriate standing
16 committee of the next legislature as provided under sub. (2). If a committee review
17 period is interrupted by the loss of jurisdiction under this subdivision, a new
18 committee review period as provided in subd. 1. shall begin for the committee to
19 which the proposed rule ~~or part of the proposed rule~~ is referred under this subdivision
20 beginning on the date of referral under this subdivision.

21 **SECTION 45.** 227.19 (4) (c) of the statutes, as affected by 2011 Wisconsin Act 21,
22 is amended to read:

23 227.19 (4) (c) Waiver of Agency not to promulgate rule during committee review.
24 An agency may not promulgate a proposed rule during the committee review period
25 unless both committees to which the proposed rule is referred waive jurisdiction over

ASSEMBLY BILL 389**SECTION 45**

1 the proposed rule prior to the expiration of the review period. A committee may
2 waive its jurisdiction over a proposed rule prior to the expiration of the committee
3 review period by adopting, by a majority vote of a quorum of the committee, a motion
4 waiving the committee's jurisdiction.

5 **SECTION 46.** 227.19 (4) (d) (intro.) of the statutes, as affected by 2011 Wisconsin
6 Act 21, is amended to read:

7 227.19 (4) (d) *Committee action.* (intro.) A committee, by a majority vote of a
8 quorum of the committee during the applicable review period under par. (b), may
9 object to a proposed rule or to a part of a proposed rule for one or more of the following
10 reasons:

11 **SECTION 47.** 227.19 (4) (d) 7. of the statutes, as created by 2011 Wisconsin Act
12 32, is repealed.

13 **SECTION 48.** 227.19 (4) (e) of the statutes, as affected by 2011 Wisconsin Act 21,
14 is amended to read:

15 227.19 (4) (e) ~~*Conclusion of committee jurisdiction*~~ *Part of a proposed rule.*
16 ~~Subject to par. (b) 3., a committee's jurisdiction over~~ An agency may promulgate any
17 part of a proposed rule is concluded when the that is not objected to by a committee
18 ~~objects to, approves, or waives its jurisdiction over the proposed rule or when the~~
19 ~~committee review period ends, whichever occurs first. When a committee's~~
20 ~~jurisdiction over a proposed rule is concluded, the committee shall report the~~
21 ~~proposed rule and any objection as provided in sub. (5) (a).~~

22 **SECTION 49.** 227.19 (5) (a) of the statutes, as affected by 2011 Wisconsin Act 21,
23 is amended to read:

24 227.19 (5) (a) *Referral.* ~~When a committee's jurisdiction over a proposed rule~~
25 ~~is concluded as provided in sub. (4) (e)~~ If a committee objects to a proposed rule, the

ASSEMBLY BILL 389

1 committee shall report the proposed rule and ~~any~~ the objection to the chief clerk of
2 the appropriate house within 5 working days after ~~that jurisdiction is concluded~~
3 making the objection. The chief clerk shall refer the proposed rule and ~~any~~ the
4 objection to the joint committee for review of administrative rules within 5 working
5 days after receiving the committee report.

6 **SECTION 50.** 227.19 (5) (b) 1. (intro.) of the statutes, as affected by 2011
7 Wisconsin Act 21, is amended to read:

8 227.19 (5) (b) 1. (intro.) ~~Except as provided in subd. 1m., the~~ The review period
9 for the joint committee for review of administrative rules extends for 30 days after
10 ~~the last referral of a proposed rule and any objection~~ are referred to that committee,
11 ~~and during that review period that committee may take any action on the proposed~~
12 ~~rule in whole or in part permitted under this subsection.~~ The joint committee for
13 review of administrative rules shall meet and take action in executive session during
14 that period ~~with respect to any proposed rule or any part of a proposed rule to which~~
15 ~~a committee has objected and may meet and take action in executive session during~~
16 ~~that period with respect to any proposed rule or any part of a proposed rule to which~~
17 ~~no committee has objected,~~ except that if the cochairpersons take either of the
18 following actions within the 30-day period, the joint committee review period is
19 continued for 30 days from the date on which the first 30-day review period would
20 have expired:

21 **SECTION 51.** 227.19 (5) (b) 1m. of the statutes, as created by 2011 Wisconsin Act
22 21, is repealed.

23 **SECTION 52.** 227.19 (5) (b) 2. of the statutes, as affected by 2011 Wisconsin Act
24 21, is amended to read:

ASSEMBLY BILL 389**SECTION 52**

1 227.19 (5) (b) 2. If the joint committee for review of administrative rules, by a
2 majority vote of a quorum of the committee, requests modifications in a proposed
3 rule, and the agency, in writing, agrees to consider making modifications, the review
4 period for the joint committee is extended either to the 10th working day following
5 receipt by the joint committee of the modified proposed rule or a written statement
6 to the joint committee that the agency will not make the modifications or to the
7 expiration of the review period under subd. 1. ~~or, if applicable, subd. 1m.~~, whichever
8 is later. There is no limit either on the number of modification agreements that may
9 be entered into or on the time within which modifications may be made.

10 **SECTION 53.** 227.19 (5) (b) 3. of the statutes is created to read:

11 227.19 (5) (b) 3. If both committees to which a proposed rule is referred object
12 to the proposed rule, each objection has a separate review period beginning on the
13 date of its receipt by the joint committee for review of administrative rules.

14 **SECTION 54.** 227.19 (5) (b) 4. of the statutes, as affected by 2011 Wisconsin Act
15 21, is amended to read:

16 227.19 (5) (b) 4. If the joint committee for review of administrative rules has
17 not concluded its jurisdiction over a proposed rule ~~or a part of a proposed rule~~ before
18 the day specified under s. 13.02 (1) for the next legislature to convene, that
19 jurisdiction immediately ceases and, within 10 working days after that date, the
20 presiding officer of the appropriate house shall refer the proposed rule ~~or part of the~~
21 ~~proposed rule~~ to the joint committee for review of administrative rules of the next
22 legislature. If a committee review period is interrupted by the loss of jurisdiction
23 under this subdivision, a new committee review period as provided in subd. 1. shall
24 begin for the joint committee for review of administrative rules to which the proposed

ASSEMBLY BILL 389

1 rule ~~or part of the proposed rule~~ is referred under this subdivision beginning on the
2 date of referral under this subdivision.

3 **SECTION 55.** 227.19 (5) (c) of the statutes, as affected by 2011 Wisconsin Act 32,
4 is amended to read:

5 227.19 (5) (c) *Agency not to promulgate rule during joint committee review.* An
6 agency may not promulgate a proposed rule ~~or a part of a proposed rule until~~ to which
7 a committee has objected unless the joint committee for review of administrative
8 rules nonconcur in the objection action of the committee, ~~concur in the approval of~~
9 ~~the committee, otherwise approves the proposed rule or part of the proposed rule, or~~
10 ~~waives its jurisdiction over the proposed rule or part of the proposed rule under par.~~
11 ~~(d), until the expiration of the review period under par. (b) 1., if no committee has~~
12 ~~objected to the proposed rule or the part of the proposed rule, under par. (d) or until~~
13 ~~a bill introduced under par. (e) fails to be enacted, or until a bill introduced under par.~~
14 ~~(em) is enacted.~~ An agency may promulgate any part of a proposed rule to which no
15 objection has been made.

16 **SECTION 56.** 227.19 (5) (d) of the statutes, as affected by 2011 Wisconsin Act 32,
17 is amended to read:

18 227.19 (5) (d) *Joint committee action.* The joint committee for review of
19 administrative rules may nonconcur in a committee's objection to a proposed rule ~~or~~
20 ~~a part of a proposed rule, concur in a committee's approval of a proposed rule or a part~~
21 ~~of a proposed rule, otherwise approve a proposed rule or a part of a proposed rule, or~~
22 ~~waive its jurisdiction over a proposed rule or a part of a proposed rule by voting to~~
23 ~~nonconcur, concur, or approve, or to waive its jurisdiction, during the applicable~~
24 ~~review period under par. (b). Except as provided in par. (dm), if~~ If the joint committee
25 for review of administrative rules objects to a proposed rule ~~or a part of a proposed~~

ASSEMBLY BILL 389**SECTION 56**

1 rule, an agency may not promulgate the proposed rule ~~or part of the proposed rule~~
2 ~~objected to~~ until a bill introduced under par. (e) fails to be enacted. The joint
3 committee for review of administrative rules may object to a proposed rule ~~or a part~~
4 ~~of a proposed rule~~ only for one or more of the reasons specified under sub. (4) (d).

5 **SECTION 57.** 227.19 (5) (dm) of the statutes, as created by 2011 Wisconsin Act
6 32, is repealed.

7 **SECTION 58.** 227.19 (5) (e) of the statutes, as affected by 2011 Wisconsin Act 32,
8 is amended to read:

9 227.19 (5) (e) *Bills to prevent promulgation.* When the joint committee for
10 review of administrative rules objects to a proposed rule ~~or a part of a proposed rule~~
11 under par. (d) it shall, within 30 days of the date of the objection, meet and take
12 executive action regarding the introduction, in each house of the legislature, of a bill
13 to support the objection. The joint committee shall introduce the bills within 5
14 working days after taking executive action in favor of introduction of the bills unless
15 the bills cannot be introduced during this time period under the joint rules of the
16 legislature.

17 **SECTION 59.** 227.19 (5) (em) of the statutes, as created by 2011 Wisconsin Act
18 32, is repealed.

19 **SECTION 60.** 227.19 (5) (f) of the statutes, as affected by 2011 Wisconsin Act 21,
20 is amended to read:

21 227.19 (5) (f) *Timely introduction of bills; effect.* If both bills required under par.
22 (e) are defeated, or fail to be enacted in any other manner, the agency may
23 promulgate the proposed rule ~~or part of the proposed rule~~ that was objected to. If
24 either bill becomes law, the agency may not promulgate the proposed rule ~~or part of~~
25 ~~the proposed rule~~ that was objected to unless a subsequent law specifically

ASSEMBLY BILL 389

1 authorizes its promulgation. This paragraph applies to bills introduced on or after
2 the day specified under s. 13.02 (1) for the legislature to convene and before February
3 1 of an even-numbered year.

4 **SECTION 61.** 227.19 (5) (fm) of the statutes, as created by 2011 Wisconsin Act
5 32, is repealed.

6 **SECTION 62.** 227.19 (5) (g) (intro.) of the statutes, as affected by 2011 Wisconsin
7 Act 21, is amended to read:

8 227.19 (5) (g) *Introduction of bills in next session; effect.* (intro.) If the bills
9 required under par. (e) are introduced on or after February 1 of an even-numbered
10 year and before the next regular session of the legislature commences, as provided
11 under s. 13.02 (2), or if the bills cannot be introduced during this time period under
12 the joint rules of the legislature, the joint committee for review of administrative
13 rules shall introduce the bills on the first day of the next regular session of the
14 legislature, unless either house adversely disposes of either bill. If the joint
15 committee for review of administrative rules is required to introduce the bills, the
16 agency may not promulgate the proposed rule ~~or part of the proposed rule~~ to which
17 the bills pertain except as provided in par. (f). If either house adversely disposes of
18 either bill, the agency may promulgate the proposed rule ~~or part of the proposed rule~~
19 that was objected to. In this paragraph, “adversely disposes of” means that one house
20 has voted in one of the following ways:

21 **SECTION 63.** 227.19 (6) (title) of the statutes, as affected by 2011 Wisconsin Act
22 32, is amended to read:

23 227.19 (6) (title) PROMULGATION PREVENTION ~~OR AUTHORIZATION~~ PROCEDURE.

24 **SECTION 64.** 227.19 (6) (a) (intro.) of the statutes, as affected by 2011 Wisconsin
25 Act 32, is amended to read:

ASSEMBLY BILL 389**SECTION 64**

1 227.19 (6) (a) (intro.) The legislature may not consider a bill required ~~or~~
2 permitted under sub. (5) (e) ~~or (em)~~ until the joint committee for review of
3 administrative rules has submitted a written report on the bill. The report shall be
4 printed as an appendix to each bill and shall contain:

5 **SECTION 65.** 227.19 (6) (a) 1. of the statutes, as affected by 2011 Wisconsin Act
6 21, is amended to read:

7 227.19 (6) (a) 1. An explanation of the issue involving the proposed rule ~~or part~~
8 of the proposed rule objected to and the factual situation out of which the issue arose.

9 **SECTION 66.** 227.19 (6) (a) 4. of the statutes, as affected by 2011 Wisconsin Act
10 21, is amended to read:

11 227.19 (6) (a) 4. A statement and analysis of the grounds upon which the joint
12 committee for review of administrative rules relies for objecting to the proposed rule
13 ~~or part of the proposed rule.~~

14 **SECTION 67.** 227.24 (1) (e) 1d. of the statutes, as affected by 2011 Wisconsin Act
15 32, is repealed.

16 **SECTION 68.** 227.24 (1) (e) 1g. of the statutes, as affected by 2011 Wisconsin Act
17 32, is repealed.

18 **SECTION 69.** 227.24 (1) (e) 1m. of the statutes, as affected by 2011 Wisconsin
19 Act 21, is renumbered 227.24 (1) (e) 1.

20 **SECTION 70.** 227.40 (1) of the statutes, as affected by 2011 Wisconsin Act 21,
21 is amended to read:

22 227.40 (1) Except as provided in sub. (2), the exclusive means of judicial review
23 of the validity of a rule shall be an action for declaratory judgment as to the validity
24 of the rule brought in the circuit court for the county where the party asserting the
25 invalidity of the rule resides or has its principal place of business or, if that party is

ASSEMBLY BILL 389

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

12 **SECTION 71.** 227.40 (6) of the statutes, as created by 2011 Wisconsin Act 21, is
13 repealed.

14 **SECTION 72.** 801.50 (3) of the statutes, as affected by 2011 Wisconsin Act 21,
15 is amended to read:

16 801.50 (3) ~~Except as provided in this subsection, all~~ All actions in which the
17 sole defendant is the state, any state board or commission, or any state officer,
18 employee, or agent in an official capacity shall be venued in Dane County unless
19 another venue is specifically authorized by law. ~~All actions relating to the validity~~
20 ~~or invalidity of a rule shall be venued as provided in s. 227.40 (1).~~

21 **SECTION 73. Initial applicability.**

22 (1) DECLARATORY JUDGMENT ACTIONS.

23 (a) *Venue in declaratory judgment actions.* The treatment of sections 227.40
24 (1) and 801.50 (3) of the statutes first applies to an action for declaratory judgment
25 commenced on the effective date of this subsection.

ASSEMBLY BILL 389**SECTION 73**

1 (b) *Declaratory judgment orders.* The treatment of sections 13.92 (4) (a), 35.93
2 (4), and 227.40 (6) of the statutes first applies to an action commenced on the effective
3 date of this subsection.

4 (2) **RULE-MAKING AUTHORITY; RULES INTERPRETING STATUTES.** The renumbering
5 and amendment of section 227.11 (2) (a) (intro.) of the statutes and the repeal of
6 section 227.11 (2) (a) 1. to 3. of the statutes first apply to a proposed administrative
7 rule submitted to the legislative council staff under section 227.15 of the statutes on
8 the effective date of this subsection.

9 (3) **ECONOMIC IMPACT REPORTS.** The treatment of sections 227.137 (title), (1), (3)
10 (intro.), (a), (b), (c), (d), (e), and (f), (4), (5), and (6) (intro.), (a), (b), (c), (cm), (d), and
11 (7), 227.14 (2) (a) 6., 227.15 (1) and (1m) (bm), 227.17 (3) (em), and 227.19 (3) (intro.)
12 of the statutes, the renumbering and amendment of section 227.137 (2) of the
13 statutes, and the creation of section 227.137 (2) (a) and (b) of the statutes first apply
14 to a proposed administrative rule submitted to the legislature under section 227.19
15 (2) of the statutes, as affected by this act, on the effective date of this subsection.

16 (4) **GUBERNATORIAL APPROVAL OF RULES.** The treatment of sections 227.135 (2),
17 (3), (4), and (5), 227.185, and 227.24 (1) (e) 1d., 1g., and 1m. of the statutes first
18 applies to a proposed rule whose statement of scope is published in the Wisconsin
19 administrative register on the effective date of this subsection.

20 (5) **LEGISLATIVE APPROVAL OR AUTHORIZATION OF RULES.** The treatment of section
21 227.19 (2), (4) (b) 1. (intro.), 1m., 2., 2m., 3., 3m., 5., and 6., (c), (d) (intro.) and 7., and
22 (e), (5) (a), (b) 1. (intro.), 1m., 2., 3., and 4., (c), (d), (dm), (e), (em), (f), (fm), and (g)
23 (intro.), and (6) (a) (intro.), 1., and 4. of the statutes first applies to a proposed rule

ASSEMBLY BILL 389

1 submitted to the legislature under section 227.19 (2) of the statutes, as affected by
2 this act, on the effective date of this subsection.

3 (END)