



2013 SENATE BILL 515

January 24, 2014 - Introduced by Senator GROTHMAN, cosponsored by Representatives MARKLEIN, KOOYENGA, KLENKE, KAPENGA and LEMAHIEU. Referred to Committee on Government Operations, Public Works, and Telecommunications.

1 **AN ACT** *to amend* 13.92 (4) (c), 13.92 (4) (d), 13.92 (4) (e), 13.92 (4) (f), 35.93 (2)
2 (b) 4., 35.93 (2) (c) 1., 35.93 (3), 35.93 (3) (e) (intro.), 35.93 (3) (e) 1., 227.01 (13)
3 (intro.), 227.11 (2) (intro.), 227.27 (2) and 442.01 (2); and *to create* 13.92 (4)
4 (bm) and 227.265 of the statutes; **relating to:** rule-making procedures and
5 practice standards for certified public accountants.

Analysis by the Legislative Reference Bureau

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

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

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

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

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

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

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

Under this bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule-making procedures under current law do not apply. Instead, the LRB must publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

This bill modifies certain rules published by the Accounting Examining Board that apply to certified public accountants in Wisconsin. Under current law, the board's rules incorporate by reference certain independence standards for certified public accountants published by the American Institute of Certified Public Accountants (AICPA) as of June 1, 2002. Under this bill, the board's rules incorporate those standards as published by AICPA as of January 31, 2013.

Also under current law, the board's rules incorporate certain standards for performing and reporting on peer reviews established by AICPA as of January 1, 2001, and certain standards for auditing, accounting and review, and attestation engagements established by AICPA as of June 1, 2003. Under the bill, the board's rules incorporate all of those standards established by AICPA, as well as auditing standards established by the Public Company Accounting Oversight Board, without regard to date.

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

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

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

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

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

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

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

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

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

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

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

15 **SECTION 6.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20,
16 is amended to read:

17 35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau
18 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the
19 preceding register, including emergency rules filed under s. 227.24 (3).

20 **SECTION 7.** 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20,
21 is amended to read:

22 35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been
23 affected by rules filed with legislative reference bureau under s. 227.20 (1) or
24 modified under s. 227.265, in accordance with sub. (3) (e) 1.

25 **SECTION 8.** 35.93 (3) of the statutes is amended to read:

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1 35.93 (3) The legislative reference bureau shall compile and deliver to the
2 department for printing copy for a register which shall contain all the rules filed
3 under s. 227.20 or modified under s. 227.265 since the compilation of rules for the
4 preceding issue of the register was made and those executive orders which are to be
5 in effect for more than 90 days or an informative summary thereof. The complete
6 register shall be compiled and published before the first day of each month and a
7 notice section of the register shall be compiled and published before the 15th day of
8 each month. Each issue of the register shall contain a title page with the name
9 “Wisconsin administrative register”, the number and date of the register, and a table
10 of contents. Each page of the register shall also contain the date and number of the
11 register of which it is a part in addition to the other necessary code titles and page
12 numbers. The legislative reference bureau may include in the register such
13 instructions or information as in the bureau’s judgment will help the user to correctly
14 make insertions and deletions in the code and to keep the code current.

15 **SECTION 9.** 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin
16 Act 20, is amended to read:

17 35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the
18 appropriate chapters of the Wisconsin administrative code each permanent rule filed
19 with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265
20 and, for each chapter of the administrative code affected by a rule, do all of the
21 following:

22 **SECTION 10.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act
23 20, is amended to read:

24 35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register
25 in accordance with the filing deadline for publication established in the rules

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1 procedures manual published under s. 227.15 (7) ~~or~~, in an end-of-month register
2 agreed to by the submitting agency and the legislative reference bureau, or, in the
3 case of a rule modified under s. 227.265, in the end-of-month register for the month
4 in which the bill modifying the rule is enacted.

5 **SECTION 11.** 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 has the effect of law and which is issued
8 by an agency to implement, interpret, or make specific legislation enforced or
9 administered by the agency or to govern the organization or procedure of the agency.
10 “Rule” includes a modification of a rule under s. 227.265. “Rule” does not include, and
11 s. 227.10 does not apply to, any action or inaction of an agency, whether it would
12 otherwise meet the definition under this subsection, which:

13 **SECTION 12.** 227.11 (2) (intro.) of the statutes is amended to read:

14 227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency
15 as follows:

16 **SECTION 13.** 227.265 of the statutes is created to read:

17 **227.265 Repeal or modification of rules.** If a bill to repeal or modify a rule
18 is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply.
19 Instead, the legislative reference bureau shall publish the repeal or modification in
20 the Wisconsin administrative code and register as required under s. 35.93, and the
21 repeal or modification shall take effect as provided in s. 227.22.

22 **SECTION 14.** 227.27 (2) of the statutes is amended to read:

23 227.27 (2) The code shall be prima facie evidence in all courts and proceedings
24 as provided by s. 889.01, but this does not preclude reference to or, in case of a
25 discrepancy, control over a rule filed with the legislative reference bureau ~~or the~~

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1 ~~secretary of state~~ under s. 227.20 or modified under s. 227.265, and the certified copy
2 of a rule shall also and in the same degree be prima facie evidence in all courts and
3 proceedings.

4 **SECTION 15.** 442.01 (2) of the statutes is amended to read:

5 442.01 (2) ~~No~~ The examining board may not adopt a standard or rule relating
6 to professional conduct or unethical practice may be adopted until the examining
7 board has held a public hearing with reference thereto, subject to the rules
8 promulgated under s. 440.03 (1). ~~No~~ Except for a rule modified under s. 227.265, no
9 rule or standard shall become effective until 60 days after its adoption by the
10 examining board. Any person who has appeared at the public hearing and filed
11 written protest against any a proposed standard or rule may, upon the adoption of
12 such standard or rule by the examining board, obtain a review thereof under ch. 227.
13 Thereafter every person practicing as a certified public accountant in the state shall
14 be governed and controlled by the rules and standards prescribed by the examining
15 board, including any modifications under s. 227.265.

16 **SECTION 16.** Accy 1.003 (1) of the administrative code is amended to read:

17 Accy 1.003 (1) "Attest service" means any of the following, if performed or
18 intended to be performed in accordance with the statements incorporated under s.
19 Accy 1.205:

20 (a) An audit ~~or any other engagement that is performed or intended to be~~
21 ~~performed in accordance with the statements incorporated by reference in s. Accy~~
22 ~~1.205 (1).~~

23 (b) A review of a financial statement ~~that is performed or intended to be~~
24 ~~performed in accordance with the statements incorporated by reference in s. Accy~~
25 ~~1.205 (2).~~

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1 (c) An examination of prospective financial information ~~that is performed or~~
2 ~~intended to be performed in accordance with the statements incorporated by~~
3 ~~reference in s. Acy 1.205 (3).~~

4 **SECTION 17.** Acy 1.101 of the administrative code is amended to read:

5 **Acy 1.101 Independence standards.** The following independence
6 standards of the accounting profession are adopted by reference and shall be used
7 by certified public accountants in Wisconsin:

8 The Code of Professional Conduct ET Section 101, including Sections ET 101.01
9 through ET ~~101.16~~ 101.19, available on the Internet at
10 <http://www.aicpa.org/about/code/et101.htm#101-1>
<http://www.aicpa.org/Research/Standards/CodeofConduct/Pages/sec100.aspx>, as of
12 January 31, 2013, and published by the American Institute of Certified Public
13 Accountants in print form as AICPA Professional Standards Volume 2 3, as of ~~June~~
14 ~~1, 2002~~ January 31, 2013. The printed volume is available at:

15 American Institute of Certified Public Accountants
16 1455 Pennsylvania Ave., NW 1211 Avenue of the Americas
17 Washington, DC 20004-1081 New York, NY 10036-8775

Note: Definitions of terms used in the independence standards, ET Section 101,
are included in ET Section 92 of the Code of Professional Conduct published by the
American Institute of Certified Public Accountants and available at on the Internet site
<http://www.aicpa.org/about/code/def92.htm> at
http://www.aicpa.org/Research/Standards/CodeofConduct/Pages/et_92.aspx and in the
same printed volume as ET Section 101. ~~Copies of the Standards described above are on~~
~~file in the offices of the Accounting Examining Board and the Legislative Reference~~
~~Bureau.~~

18 **SECTION 18.** Acy 1.205 (intro.), (1), (2) and (3) of the administrative code are
19 consolidated, renumbered Acy 1.205 and amended to read:

20 **Acy 1.205 Standards for auditing, accounting and review services,**
21 **and attestation engagements.** The following standards of the accounting and

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1 auditing profession shall be used by that certified public accountants in Wisconsin:
2 ~~(1) The shall use are (1) the Statements on Auditing Standards issued as of June 1,~~
3 ~~2003 by the Auditing Standards Board of the American Institute of Certified Public~~
4 ~~Accountants and published as AICPA Professional Standards, volume 1 by the~~
5 ~~American Institute of Certified Public Accountants, Inc., New York, New York are~~
6 ~~incorporated by reference into this section. (2) The, the Statements on Standards~~
7 ~~for Accounting and Review Services issued as of June 1, 2003 by the Accounting and~~
8 ~~Review Services Committee of the American Institute of Certified Public~~
9 ~~Accountants and published as AICPA Professional Standards, volume 2 by the~~
10 ~~American Institute of Certified Public Accountants, Inc., New York, New York are~~
11 ~~incorporated by reference into this section. (3) The, and the Statements on~~
12 ~~Standards for Attestation Engagements issued as of June 1, 2003, by the Auditing~~
13 ~~Standards Board, the Accounting and Review Services Committee, and the~~
14 ~~Consulting Services Executive Committee of the American Institute of Certified~~
15 ~~Public Accountants and, published as AICPA Professional Standards, volume 2 by~~
16 ~~the American Institute of Certified Public Accountants, Inc., New York, New York is;~~
17 ~~and (2) the auditing standards of the Public Company Accounting Oversight Board.~~
18 ~~All of those Statements and Standards are incorporated by reference into this~~
19 ~~section.~~

Note: Copies of the Statements described above may be purchased from the American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, NY 10036-8775.

~~**Note:** Copies of the Statements described above are on file in the offices of the Accounting Examining Board and the Legislative Reference Bureau.~~

20 **SECTION 19.** Accy 9.01 (4) of the administrative code is repealed.

21 **SECTION 20.** Accy 9.06 of the administrative code is amended to read:

