

Assembly Bill 585

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CHAPTER 191

AN ACT to repeal 227.05 (2) and 227.06 (5); to renumber 227.05 (3), (4) and (5); and to amend 227.06 (1), 227.12 and 227.13 of the statutes, relating to administrative procedure in cases of a dispute in regard to the applicability of a rule or statute enforced by a state agency.

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

SECTION 1. 227.05 (2) of the statutes is repealed.

SECTION 2. 227.05 (3), (4) and (5) of the statutes are renumbered 227.05 (2), (3) and (4), respectively.

SECTION 3. 227.06 (1) of the statutes is amended to read:

227.06 (1) Any agency may, on petition by any interested person, ~~and shall upon reference of a case in accordance with s. 227.05,~~ issue a declaratory ruling with respect to the applicability to any person, property or state of facts of any rule or statute enforced by it. Full opportunity for hearing shall be afforded to interested parties. A declaratory ruling shall bind the agency and all parties to the proceedings on the ~~state~~ *statement* of facts alleged, unless it is altered or set aside by a court. A ruling ~~other than one made upon a reference under s. 227.05 (2)~~ shall be subject to review in the circuit court in the manner provided for the review of administrative decisions ~~in contested cases.~~

SECTION 4. 227.06 (5) of the statutes is repealed.

SECTION 5. 227.12 of the statutes is amended to read:

227.12 Whenever in a contested case, *or upon hearing ordered*, it is impracticable for the members of the agency who participate in the decision to hear or read all the evidence, the final decision shall not be made until a summary of the evidence prepared by the person conducting the hearing, together with his recommendations as to the findings of fact and the decision in the proceeding has been prepared and furnished to each party, and a reasonable opportunity has been afforded to each party to file written exceptions to such summary and proposed findings and decision and to argue with respect to them orally and in writing before all the members who are to participate in the decision. The agency's findings of fact may be made upon the basis of such summary and the filed exceptions thereto as herein provided. *Whenever the ultimate decision of the agency is contrary to the recommendations of the person conducting the hearing, the decision shall include a statement of facts and ultimate conclusions relied upon in rejecting the recommendations of the hearing officer.* The parties may by written stipulation waive compliance with this section.

SECTION 6. 227.13 of the statutes is amended to read:

227.13 Every decision of an agency ~~in a contested case following a hearing~~ shall be in writing accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise and separate statement of the ultimate conclusions upon each ~~contested material~~ issue of fact without recital of evidence.

SECTION 7. The reference to "sub. (3)" in section 227.05 (1) of the statutes is changed to "sub. (2)".

Approved August 5, 1965.