



## 2013 ASSEMBLY BILL 593

January 2, 2014 - Introduced by Representatives STROEBEL, HINTZ, KAHL, KESTELL, SPIROS, MARKLEIN, KOOYENGA, MURPHY, VRUWINK, T. LARSON, LEMAHIEU, LOUDENBECK, BERCEAU and ZEPNICK, cosponsored by Senator SCHULTZ. Referred to Committee on State and Local Finance.

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.) and 227.27 (2); and *to create* 13.92 (4) (bm) and  
4           227.265 of the statutes; **relating to:** rule-making procedures and repealing  
5           administrative rules relating to the estate tax and the county operating levy  
6           rate limit.

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### *Analysis by the Legislative Reference Bureau*

#### ***Rule-making procedures***

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.

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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.

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.

***Administrative rules relating to the estate tax***

Under current law, the state does not impose an estate tax. This bill repeals the administrative rules that relate to the estate tax.

***Administrative rules relating to the county operating levy rate limit***

Under current law, the county operating levy rate limit does not apply to any county levy that is imposed in December 2011 or any year thereafter.

This bill repeals the administrative rules that relate to the county operating levy rate limit.

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***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:

**ASSEMBLY BILL 593****SECTION 8**

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.** Chapter Tax 10 of the administrative code is repealed.

5 **SECTION 16.** Chapter Tax 21 of the administrative code is repealed.

6 **SECTION 17. Effective dates.** This act takes effect on the day after publication,  
7 except as follows:

8 (1) The treatment of section 35.93 (2) (b) 4. and (c) 1. and (3) (e) (intro.) and 1.  
9 of the statutes takes effect on January 1, 2015.

10 (END)