

No. 5, S.]

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CHAPTER 221

AN ACT to revise parts of Chapter 227 of the statutes and certain other sections of the statutes, all relating to administrative rules or rule making, publication of administrative rules, administrative procedure, or legislative or judicial review of administrative rules, and making appropriations.

The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. 20.005 (1) (b) (line 86a) of the statutes is created to read:

20.005 (1) (b)	1955-56	1956-57
86a Admin. rules, committee for review of ----20.126	\$3,000	\$3,000

SECTION 2. 20.005 (1) (b) (line 265a) of the statutes is created to read:

20.005 (1) (b)	1955-56
265a Printing Wis. admin. code, etc. ----- (10)	\$37,500

SECTION 3. 20.005 (1) (b) (line 273a) of the statutes is repealed and recreated to read:

20.005 (1) (b)		
273a Admin. rules publication ----- (2)	10,215	7,975

SECTION 4. 20.005 (1) (b) lines 273b to 273d of the statutes are created to read:

20.005 (1) (b)	1955-56	1956-57
273b Personal Services -----	\$6,500	\$6,500
273c Materials and expense -----	1,475	1,475
273d Capital outlay -----	2,240	

SECTION 5. 20.10 (10) of the statutes is created to read:

20.10 (10) On July 1, 1955, for the biennium ending June 30, 1957, \$37,500 for printing or duplicating the Wisconsin administrative code and register.

SECTION 6. 20.126 of the statutes is created to read:

20.126 COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES. There is appropriated from the general fund annually for the years beginning July 1, 1955, and July 1, 1956, \$3,000 to the committee for review of administrative rules created by s. 227.041 for the performance of its functions.

SECTION 7. 20.64 (2) of the statutes is repealed and recreated to read:

20.64 (2) On July 1, 1955, \$10,215, and annually, beginning July 1, 1956, \$7,975 for the execution of his functions relative to the publication and distribution of the Wisconsin administrative code and register. Of this appropriation there is allotted for the following purposes:

	1955-56	1956-57
Personal services -----	\$6,500	\$6,500
Materials and expense -----	1,475	1,475
Capital outlay -----	2,240	

SECTION 8. 35.35 (1a) of the statutes is created to read:

35.35 (1a) Of the Wisconsin administrative code and register, pages which are 9 inches high and 6 inches wide, with type which is 8-point on a 9-point base and 4 inches wide on the page, except chapter and other titles, lists, forms, tables of contents, indexes, tabulations and notes or other explanatory material which shall be printed with such type as the revisor may direct.

SECTION 9. 35.92 (7) and (20) of the statutes are amended to read:

35.92 (7) The cost of printing provided for in ss. 35.29 * * * and 35.30 * * * shall be charged to the proper appropriation for the state officer, department, board, commission or other body for which such printing is done.

(20) The cost of printing provided for in s. 35.93 * * * shall be charged to the appropriation made by * * * s. 20.10 (10).

SECTION 10. 35.93 of the statutes is repealed and recreated to read:

35.93 WISCONSIN ADMINISTRATIVE CODE AND REGISTER.
(1) The Wisconsin administrative code and register shall be printed in

loose-leaf form and shall be hole-punched. The notice section of the register and new rules filed by an agency whose rules have not been compiled and printed pursuant to this section may be duplicated in some other form than printing if the bureau of purchases and revisor of statutes determine that it is administratively feasible to do so. The printing or other duplicating shall be handled by the bureau of purchases. The revisor of statutes shall determine the style of the hole-punching and may purchase and sell at cost suitable binders for the code or parts thereof. He also shall supervise the arrangement of materials in the Wisconsin administrative code and register, including the numbering of pages and sections. No part of the Wisconsin administrative code or register may be printed until the revisor of statutes has approved the arrangement of materials and numbering of sections therein.

(2) In this section "rule" and "agency" have the meanings prescribed in s. 227.01.

(3) The revisor of statutes shall monthly compile and deliver to the bureau of purchases for printing copy for a register which shall contain all the rules filed since the compilation of rules for the preceding issue of the register was made. The register shall be printed in the same style as the original code and shall be so set up as to permit the changes to be inserted as pages of the original code in lieu of the pages containing superseded material. Each issue of the register shall contain a title page with the name "Wisconsin administrative register," the number and date of the register, and a table of contents. Each page of the register also shall contain the date and number of the register of which it is a part in addition to the other necessary code titles and page numbers. The revisor of statutes may include in the register such instructions or information as in his judgment will help the user to correctly make insertions and deletions in the code and to keep his code current.

(4) Each issue of the Wisconsin administrative register shall contain a notice section in which shall be printed the notices of hearings on rule-making which agencies have transmitted to the revisor of statutes for that purpose. The notice section shall be printed or duplicated in such a manner as to make it easily distinguishable from the remainder of the register.

(5) The revisor of statutes shall determine, on the basis of possible free distribution requirements and probable sales demands, the number of copies of each part of the code and each issue of the register to be printed.

(6) The free distribution provided for in this subsection is in lieu of any free distribution which may be prescribed by ss. 35.84 (20), 35.85, 35.86, 43.13, or 43.14. The revisor of statutes shall distribute copies of the code (including the table of contents, index, and necessary binders) and issues of the register free as follows:

(a) To county law libraries maintained pursuant to s. 256.40, one copy each;

(b) To the Milwaukee county law library, 2 copies;

(c) To the university of Wisconsin and Marquette university law libraries, one copy each;

(d) To the state library, state historical society, and legislative reference library, 2 copies each;

(e) To public libraries designated pursuant to s. 43.14 as depositories of state documents, one copy each;

(f) To the attorney general's office, 2 copies;

(g) To members of the legislature, one copy to each member who makes a request therefor;

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(h) To state agencies other than those enumerated in this section, one copy to each agency which makes a request therefor.

(7) The revisor of statutes may sell the code, issues of the register or parts of either of them at a price to be determined by him. The sales price shall be based on the approximate cost of printing or duplicating, but a uniform price per page or group of pages may be established without regard for the difference in cost of printing different parts of the code or register. Each agency may order as many copies of its part of the code or of its part of any issue of the register as it desires for its own use or for free distribution and shall pay the revisor of statutes therefor.

(8) Any person may subscribe to the complete register service by making an advance payment of \$10 to the revisor of statutes and may arrange with the revisor of statutes to subscribe to parts of the register by making an advance payment of \$5. A subscriber is entitled to receive issues of the register, or the parts thereof to which he has subscribed, until the credit established by his advance payment is depleted but he is not entitled to a refund of any part of such advance payment. The revisor shall deduct from the credit established by the advance payment of a subscriber the price of each register or part thereof distributed to him and shall notify him when his credit is depleted.

(9) The revisor of statutes shall prepare and publish a table of contents and an index of all the rules in effect as of January 1, 1956, which have been compiled and printed pursuant to this section. The table of contents and index shall be recompiled and reprinted annually thereafter. They shall be printed in the same page size as the administrative code. In addition to the distribution required by sub. (6), the revisor shall distribute one copy of the table of contents and index free to each subscriber to the register or parts thereof.

SECTION 11. 43.07 (5) of the statutes is amended to read:

43.07 (5) The revisor shall be provided by the director of purchases with suitable room or rooms convenient to the state library, necessary office furniture, supplies, stationery, books, periodicals and postage, and in the use of the state library he shall be subject to the general control of the trustees and the librarian. *For the purpose of enabling the revisor to perform his functions under s. 35.93, the bureau of engineering shall provide him with suitable room in the state capitol convenient to his office.*

SECTION 12. 227.001 to 227.06 of the statutes are repealed.

SECTION 13. 227.01 to 227.06 of the statutes are created to read:

227.01 DEFINITIONS. In this chapter:

(1) "Agency" means any board, commission, committee, department or officer in the state government, except the governor or any military or judicial officer of this state.

(2) "Contested case" means a proceeding before an agency in which, after hearing required by law, the legal rights, duties or privileges of any party to such proceeding are determined or directly affected by a decision or order in such proceeding and in which the assertion by one party of any such right, duty or privilege is denied or controverted by another party to such proceeding.

(3) "Rule" means a regulation, standard, statement of policy or general order (including the amendment or repeal of any of the foregoing), of general application and having the effect of law, issued by an agency to implement, interpret or make specific legislation enforced or administered by such agency or to govern the organization or procedure of such agency.

(4) Every statement of general policy and every interpretation of a statute specifically adopted by an agency to govern its enforcement or administration of legislation shall be issued by it and filed as a rule. The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in an agency decision upon or disposition of a particular matter as applied to a specific set of facts involved does not render the same a rule within sub. (3) or constitute specific adoption thereof by the agency so as to be required to be issued and filed as provided in this subsection.

(5) "Rule" as defined in sub. (3) does not include or mean, and the provisions of sub. (4) do not apply to, action or inaction of an agency, regardless of whether otherwise within sub. (3) or (4), which:

(a) Concerns the internal management of the agency and does not affect private rights or interests;

(b) Is a decision or order in a contested case;

(c) Is an order which is directed to a specifically named person or to a group of specifically named persons which does not constitute a general class, and the order is served on the person or persons to whom it is directed by the appropriate means applicable thereto. The fact that the named person who is being regulated serves a group of unnamed persons who will be affected does not make such order a "rule";

(d) Relates to the use of the highways and is made known to the public by means of signs or signals;

(e) Relates to the construction or maintenance of highways or bridges or the laying out or relocation of a highway;

(f) Relates to the curriculum of public educational institutions or to the admission, conduct, discipline, or graduation of students of such institution;

(g) Relates to the use of facilities of public libraries;

(h) Relates to the management, discipline or release of persons who are committed to state institutions or to the state department of public welfare or who are placed on probation;

(i) Relates to military or naval affairs;

(j) Relates to the form and content of reports, records, or accounts of state, county, or municipal officers, institutions, or agencies;

(k) Relates to expenditures by state agencies, the purchase of materials, equipment or supplies by or for state agencies, or to printing or duplicating of materials for state agencies;

(l) Establishes personnel standards, job classifications, or salary ranges for state, county, or municipal employees who are in the classified civil service;

(m) Determines water levels;

(n) Fixes or approves rates, prices, or charges, except when a statute specifically requires the same to be fixed by rule;

(o) Determines the valuation of securities held by insurance companies;

(p) Is a statistical plan relating to the administration of rate regulation laws applicable to casualty insurance or to fire and allied lines insurance;

(q) Is a form the content or substantive requirements of which are prescribed by a rule or a statute; or

(r) Is a pamphlet or other explanatory material not intended or designed as interpretation of legislation enforced or administered by an agency, but which is merely informational in nature.

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227.013 FORMS. A form which imposes requirements which are within the definition of a rule shall be treated as a rule for the purpose of this chapter, except that:

- (1) Its adoption, amendment, or repeal need not be preceded by notice and public hearing; and
- (2) It need not be adopted, amended, or repealed by the board or officer charged with ultimate rule-making authority but may be adopted, amended, or repealed by any employe of the agency to whom such board or officer has delegated the authority; and
- (3) It need not be published in the administrative code or register in its entirety, but may be listed by title or similar description together with a statement as to how it may be obtained.

227.014 EXTENT TO WHICH THE ADMINISTRATIVE PROCEDURE ACT CONFERS RULE-MAKING AUTHORITY. (1) Except as provided in sub. (2) and s. 227.08, and except as rule-making authority is conferred upon the revisor of statutes, nothing in this chapter confers rule-making authority upon or augments the rule-making authority of any agency.

- (2) Rule-making authority hereby is expressly conferred as follows:
 - (a) Each agency is authorized to adopt such rules interpreting the provisions of statutes enforced or administered by it as it considers to be necessary to effectuate the purpose of the statutes, but such rules are not valid if they exceed the bounds of correct interpretation.
 - (b) Each agency is authorized to prescribe such forms and procedures in connection with statutes to be enforced or administered by it as it considers to be necessary to effectuate the purpose of the statutes, but nothing in this paragraph authorizes the imposition of substantive requirements in connection with such forms or procedures.
 - (c) Each agency which is authorized by law to exercise discretion in deciding individual cases is authorized to formalize the general policies which may evolve from such decisions by adopting such policies as rules which the agency will follow until they are amended or repealed. Such rules are valid only to the extent that the agency has discretion to base its individual decisions on the policies expressed in the rules.

227.015 PETITION FOR RULES. (1) Except where the right to petition for a rule is restricted by statute to a designated group or except where the form of procedure for such petition is otherwise prescribed by statute, any municipality or any 5 or more persons having an interest in a rule may petition an agency requesting the adoption, amendment, or repeal of such rule .

- (2) Such petition shall state clearly and concisely:
 - (a) The substance or nature of the rule making which is requested; and
 - (b) The reasons for the request and the petitioners' interest in the request; and
 - (c) References to the authority of the agency to take the action which is requested.
- (3) Within a reasonable period of time after the receipt of a petition pursuant to this section, an agency shall either deny the petition in writing or proceed with the requested rule making. If the agency denies the petition, it shall promptly give notice thereof to the person who filed the petition, including a brief statement of its reasons for the denial. If the agency proceeds with the requested rule making, it shall proceed in the manner prescribed by ss. 227.02 to 227.024.

227.018 ADVISORY COMMITTEES AND INFORMAL CONSULTATIONS. An agency may use informal conferences and consultations as means of obtaining the viewpoints and advice of interested persons with respect to contemplated rule making. Each agency also is authorized to appoint committees of experts or interested persons or representatives of the general public to advise it with respect to any contemplated rule making. The powers of such committees shall be advisory only.

227.02 WHEN HEARINGS REQUIRED.

(1) An agency shall precede all its rule making with notice and public hearing unless:

(a) The proposed rule is procedural rather than substantive; or

(b) The proposed rule is designed solely to bring the language of an existing rule into conformity with a statute which has been changed or adopted since the adoption of such rule, to bring the language of an existing rule into conformity with a controlling judicial decision, or to comply with a federal requirement; or

(c) The proposed rule is adopted pursuant to s. 227.027 as an emergency rule; or

(d) It is the adoption, revocation or modification of a statement of general policy coming within the provisions of s. 227.01 (4); or

(e) The proposed rule is published in the notice section of the administrative register together with a statement to the effect that the agency will adopt the proposed rule without public hearing thereon unless, within 30 days after publication of the notice, it is petitioned for a public hearing on the proposal by 25 persons who will be affected by the rule, a municipality which will be affected by the rule, or an association which is representative of a farm, labor, business or professional group which will be affected by the rule. If the agency receives such a petition it shall not proceed with the proposed rule making until it has given notice and held a hearing as prescribed by ss. 227.021 and 227.022.

(2) The exceptions to the general hearing requirement which are set forth in sub. (1) do not apply if:

(a) Another section of the statutes specifically requires the agency to hold a hearing prior to adoption of the proposed rule under consideration; or

(b) The agency determines that a hearing is desirable, in which event the agency has discretion to determine what kind of hearing it will hold and what kind of notice it will give.

227.021 NOTICE OF HEARING. (1) Whenever an agency is required by law to hold a public hearing as part of its rule-making process, the agency shall:

(a) Transmit written notice of hearing to the revisor of statutes for publication in the notice section of the administrative register, and, if a statute applicable to the specific agency or a specific rule or class of rules under consideration requires publication in a local newspaper, publish notice as required by that statute in addition to publication in the notice section of the administrative register; and

(b) Transmit written notice of such hearing to every member of the legislature who previously has made a request in writing filed with the revisor of statutes to be notified of proposed rule making. The revisor of statutes upon request of any agency shall transmit to such agency a list of all such legislators who have theretofore filed such request, together with their addresses; and

(c) Take such other steps as it deems necessary to convey effective notice to persons who are likely to have an interest in the proposed rule making.

(2) The notice shall be given at least 10 days prior to the date set for the hearing. Where notice is given through publication in the administrative register it shall be deemed to have been given on the first day of the month following the publication of the issue of the register or, in case such publication is delayed beyond the end of the month for which such issue of the register is designated, then on the date prescribed in s. 227.026 (3).

(3) The notice which this section requires an agency to give shall include:

(a) A statement of the time and place at which the hearing is to be held; and

(b) Either the express terms or an informative summary of the proposed rule, or a description of the subject matter to be discussed; and

(c) Insofar as practicable, a reference to the statutory authority pursuant to which the agency proposes to adopt the rule; and

(d) Any additional matter which may be prescribed by statute applicable to the specific agency or to the specific rule or class of rules under consideration.

(4) Failure of any person to receive notice of a hearing on proposed rule making is not grounds for invalidating the resulting rule if notice of the hearing was published as provided in sub. (1) (a).

227.022 CONDUCT OF HEARINGS. (1) The agency shall hold a public hearing at the time and place designated in the notice of hearing, and shall afford all interested persons or their representatives an opportunity to present facts, views, or arguments relative to the proposal under consideration. The presiding officer may limit oral presentations if he feels that the length of the hearing otherwise would be unduly increased by reason of repetition. The agency shall afford each interested person opportunity to present facts, views, or arguments in writing whether or not he has had an opportunity to present them orally. At the beginning of each hearing, if the agency has made a proposal, the agency shall present a summary of the factual information on which its proposal is based, including any information obtained through the use of advisory committees or as a result of informal conferences or consultations.

(2) The agency or its duly authorized representative may administer oaths or affirmations and may continue or postpone the hearing to such time and place as it determines. The agency shall keep minutes or a record of the hearing in such manner as it determines to be desirable and feasible.

(3) If the officer or a quorum of the board or commission charged by law with ultimate responsibility for rule making is not present at the hearing a person who appears at the hearing shall be given an opportunity to present his arguments to such officer or quorum of such board or commission prior to adoption of the proposed rule if, at the hearing, the person makes a request for such opportunity in writing to the person presiding at the hearing. Such officer, board or commission may in its discretion require such arguments to be presented in writing. If a record of the hearing has been made, argument shall be limited to the record. Where oral argument is accorded, such officer, board or commission may impose reasonable limitations on the length and number of appearances in order to conserve time and preclude undue repetition.

(4) The procedures prescribed by this section do not supersede procedures prescribed by any statute relating to the specific agency or to the rule or class of rules under consideration.

227.023 FILING OF RULES. (1) A certified copy of every rule adopted by an agency shall be filed by the agency in the office of the secretary of state and in the office of the revisor of statutes. No rule is valid until a certified copy thereof has been so filed.

(2) The secretary of state shall endorse on the copy of each rule filed with him the date of filing. He shall keep a permanent file of such rules.

(3) The filing with the secretary of state of a certified copy of a rule raises a presumption that:

(a) The rule was duly adopted by the agency; and

(b) The rule was filed and made available for public inspection at the day and hour endorsed on it; and

(c) All the rule-making procedures prescribed by this chapter were complied with; and

(d) The text of the certified copy of the rule is the text as adopted by the agency.

227.024 PREPARATION OF RULES FOR FILING. (1) An agency shall adhere substantially to the following form in preparing a rule for filing:

ORDER OF THE (agency)

ADOPTING, AMENDING OR REPEALING RULES

Pursuant to authority vested in (officer or agency) by section(s) _____, Wis. Stats., the (officer or agency) hereby repeals, amends, and adopts rules as follows:

Sections _____ of the Wisconsin administrative code are repealed.

Sections _____ of the Wisconsin administrative code are amended to read:

(Here set forth the amended section, subsection, or paragraph)

Sections _____ of the Wisconsin administrative code are adopted to read:

(Here set forth the text of the sections created)

The rules, amendments, and repeals contained herein shall take effect on _____ [as provided in section _____] [pursuant to authority granted by s. 227.026 (1) (b)] [as an emergency rule. Facts constituting the emergency are as follows:]

(Set forth the alternative which fits the particular situation)

Dated: _____ (agency)

Seal, if any _____ (signature and title of officer)

(2) Repeals, amendments, and adoptions of rules need not be grouped together. Preferably, they should be set forth in the sequence in which they appear or will appear in the administrative code.

(3) Certified copies of rules filed shall be typed or duplicated on 8½ by 11 inch paper. Sufficient room for the secretary of state's stamp shall be left at the top of the first page. Forms which are filed need not comply with the specifications of this subsection.

(4) Each agency shall give each section of its rules an appropriate section title and section number. Sections shall be numbered according to the decimal system. To enable parts of a section to be amended without the necessity of setting forth the whole section, each section shall be divided into subsections whenever feasible. Subsections may be divided

into paragraphs. Subsections shall be designated by Arabic numerals in parentheses and paragraphs by lower case letters in parentheses.

(5) Rules shall not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to effectively convey the meaning of a rule interpreting that language, the reference shall clearly indicate the portion of the language which is statutory and the portion which is the agency's amplification of that language.

(6) An agency may include with its rules brief notes, illustrations, findings of fact, digests of supreme court cases or attorney general's opinions, or other explanatory material if such materials are labeled or set forth in a manner which clearly distinguishes them from the rules. The revisor of statutes may edit such materials before publishing them in the administrative code and register, may merely refer to the fact that they are on file, or may eliminate them or any reference to them in the administrative code and register if he feels that they would not, to any appreciable extent, add to an understanding of the rules. If the revisor of statutes edits such materials preparatory to publication, he shall submit the edited version to the agency for its comments prior to publication.

(7) The revisor of statutes may, in order to preserve uniformity in the administrative code, change the title or numbering of any rules. If an agency desires to secure an advance commitment as to the title or numbering of proposed rules, it shall, for that purpose, submit a copy of such rules to the revisor of statutes prior to filing. Such copy shall indicate the titles and numbering desired by the agency. As soon as possible, thereafter, the revisor of statutes shall either approve the titles and numbering suggested by the agency or indicate the changes which he considers necessary in order to preserve uniformity in the code. If the title or numbering of a rule is so revised, the revisor of statutes shall make certain that the revised version is filed with the secretary of state.

(8) The revisor of statutes shall furnish advice and assistance with respect to the form and mechanics of rule-drafting whenever requested to do so by an agency.

227.025 PUBLICATION OF RULES. All rules and other materials which agencies are directed or authorized by this chapter to file with the revisor of statutes shall be published in the Wisconsin administrative code or register in the manner prescribed by s. 35.93. For the purpose of avoiding unwarranted expense, an agency may, with the consent of the revisor and attorney general, utilize standards established by technical societies and organizations of recognized national standing by incorporation of such standards in its rules by reference to the specific issue or issues of books or pamphlets in which they are set forth, without reproduction of the standards in full. The revisor and attorney general shall consent to such incorporation by reference only in rules that are of limited public interest and where the incorporated standards are readily available in published form. Each rule containing such incorporation by reference shall state how the material so incorporated may be obtained and that the books and pamphlets containing the standards are on file at the offices of the agency, the secretary of state and the revisor of statutes. Rules adopted jointly by 2 or more agencies need not be published in more than one place in the code. Agency materials which are exempted by s. 227.01 from complying with the requirements of this chapter may be published, either verbatim or in summary form, if the adopting agency and the revisor of statutes determine that the public interest would thereby be served.

227.026 EFFECTIVE DATE OF RULES. (1) A rule is effective on the first day of the month following its publication in the Wisconsin administrative register unless:

(a) The statute pursuant to which the rule was adopted prescribes a different effective date; or

(b) A later date is prescribed by the agency in a statement filed with the rule; or

(c) The rule is adopted pursuant to s. 227.027 as an emergency rule, in which event it becomes effective at the time prescribed in that section; or

(d) Publication of the issue of the register of which the rule is a part was delayed beyond the end of the month in which such register was designated for publication, in which event the rule becomes effective as provided in sub. (3).

(2) The revisor of statutes may prescribe by rule the monthly date prior to which rules must be filed in order to be included in that month's issue of the register. The revisor shall compute the effective date of all rules submitted for publication in the administrative register and shall cause such information to be published in brief notes at the end of each section. For the purpose of computing such effective date, the revisor of statutes may presume that any particular issue of the register will be published during the month in which it is designated for publication.

(3) If, because of some contingency, an issue of the register is not published during the month by which the particular issue is designated, the revisor of statutes shall stamp the publication date on the title page of each copy of that issue. Rules and notices contained in that issue of the register are not effective until the day following the date stamped on the title page.

(4) In this section, "date of publication" refers to the date when copies of the register first are mailed to persons entitled by law to receive them.

227.027 EMERGENCY RULES EXCEPTED FROM CERTAIN PROCEDURES. (1) If preservation of the public peace, health, safety, or welfare necessitates putting a rule into effect prior to the time it could be put into effect if the agency were to comply with the notice, hearing and publication requirements of this chapter, the agency may adopt such rule as an emergency rule. An emergency rule takes effect upon publication in the official state paper or on such later date as is specified in a statement published with the rule, but remains in effect only for a period of 120 days.

(2) An agency shall file an emergency rule as provided in s. 227.023, shall mail copies to each member of the legislature, and shall take such other steps as it considers to be feasible to make the rule known to persons who will be affected by it. The revisor of statutes shall insert in the notice section of each issue of the administrative register a brief description of emergency rules currently in effect.

227.03 CONSTRUCTION OF ADMINISTRATIVE RULES. The following rules apply when construing rules of administrative agencies:

(1) The repeal of a rule does not revive a rule which previously had been repealed.

(2) The repeal of a rule does not defeat or impair any right which had accrued or affect any penalty which had been incurred under the rule which was repealed.

227.031 EFFECT OF ADMINISTRATIVE PROCEDURE ACT ON PROCEDURES PRESCRIBED BY OTHER STATUTES. Compliance with the procedures prescribed by this chapter does not obviate the necessity of complying with procedures prescribed by other provisions of the statutes.

227.033 DISCRIMINATION BY RULE PROHIBITED. No rule, either in its terms or in its application, shall discriminate for or against any person by reason of his race, creed, color, national origin, or ancestry. Every person affected by a rule shall be entitled to the same benefits and subject to the same obligations as any other person under the same or similar circumstances.

227.041 COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES. (1) There is hereby created a special joint legislative committee to be known as the committee for review of administrative rules consisting of 2 senators and 3 assemblymen to be appointed in the same manner as are standing committees in the respective houses of the legislature. Members shall be appointed for a term of 2 years to expire on May 1 of each odd-numbered year and shall retain membership until their successors are appointed and qualify. If a member of the committee ceases to be a member of the legislature, his membership on the committee also terminates. Vacancies shall be filled from the same house and in the same manner as original appointments and shall be for the remainder of the term.

(2) The committee shall meet at the call of its chairman or upon a call signed by 2 of its members or signed by 5 members of the legislature.

(3) The committee shall elect its own officers. Three members constitute a quorum of such committee.

(4) The committee shall have advisory powers only and its function shall be the promotion of adequate and proper rules by agencies and an understanding upon the part of the public respecting such rules. It may investigate complaints with respect to rules that it considers meritorious and worthy of attention, and thereupon recommend to the rule-making agency responsible for the rules complained of, such changes in, deletions from or additions to the rules as they believe would make the rules to which objection was raised more equitable, practical and more in conformity with the public interest. It shall make a biennial report to the legislative council, legislature and governor of its activities and include therein its recommendations.

(5) The committee may hold public hearings and make investigations at such times and places within the state as it deems necessary to the performance of its function. Any member of the committee may administer oaths to persons testifying before it. The committee may subpoena witnesses and have subpoenas enforced in the manner provided in s. 13.35 (4).

(6) Members of the committee shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

227.05 DECLARATORY JUDGMENT PROCEEDINGS. (1) Except as provided in sub. (3) hereof, the exclusive means of judicial review of the validity of a rule shall be an action for declaratory judgment as to the validity of such rule brought in the circuit court for Dane County. The officer, board, commission or other agency whose rule is involved shall be the party defendant. The summons in such action shall be served by delivering a copy to the attorney general or leaving it at his office in the capitol with one of his assistants or clerks, and by delivering a copy to such officer or to the secretary or clerk of the agency where composed of more than one person or to any member of such agency. The court shall render a declaratory judgment in such action only when it appears from the complaint and the evidence presented in support thereof that the rule or its threatened application interferes with or impairs, or threatens to interfere with or impair, the legal rights and privileges of the plaintiff.

A declaratory judgment may be rendered whether or not the plaintiff has first requested the agency to pass upon the validity of the rule in question.

(2) Whenever an issue of fact is raised concerning the applicability of a rule to a party or affecting the validity or proper interpretation of a rule, the court shall, before deciding the pertinent legal question, refer the case to the agency for determination of the fact issue under the declaratory ruling procedure provided in s. 227.06. The determination of such fact issue by the agency shall be transmitted promptly thereafter to the court by the agency, together with all papers transmitted to the agency by the court upon the referral of the case to the agency and a record or certified copy of the entire record of the proceedings before said agency in respect to such determination, subject to the same requirements and provisions as are set forth in s. 227.18. The determination shall be reviewable by the court in the proceeding in which it arose as an issue and the scope of such review shall be as provided in s. 227.20.

(3) The validity of a rule may be determined in any of the following judicial proceedings when material therein:

(a) Any civil proceeding by the state or any officer or agency thereof to enforce a statute or to recover thereunder, provided such proceeding is not based upon a matter as to which the opposing party is accorded an administrative review or a judicial review by other provisions of the statutes and such opposing party has failed to exercise such right to review so accorded;

(b) Criminal prosecutions;

(c) Proceedings or prosecutions for violations of county or municipal ordinances;

(d) Habeas corpus proceedings relating to criminal prosecution;

(e) Proceedings under ss. 227.15 to 227.21 or under ch. 102 or 108 for review of decisions and orders of administrative agencies provided the validity of the rule involved was duly challenged in the proceeding before the agency in which the order or decision sought to be reviewed was made or entered.

(4) In any judicial proceeding other than one set out above, in which the invalidity of a rule is material to the cause of action or any defense thereto, the assertion of such invalidity shall be set forth in the pleading of the party so maintaining the invalidity of such rule in that proceeding. The party so asserting the invalidity of such rule shall, within 30 days after the service of the pleading in which he sets forth such invalidity, apply to the court in which such proceedings are had for an order suspending the trial of said proceeding until after a determination of the validity of said rule in an action for declaratory judgment under sub. (1) hereof.

(a) Upon the hearing of such application if the court is satisfied that the validity of such rule is material to the issues of the case, an order shall be entered staying the trial of said proceeding until the rendition of a final declaratory judgment in proceedings to be instituted forthwith by the party asserting the invalidity of such rule. If the court shall find that the asserted invalidity of a rule is not material to the case, an order shall be entered denying the application for stay.

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

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

(5) In any proceeding pursuant to this section for judicial review of a rule, the court shall declare the rule invalid if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without compliance with statutory rule-making procedures.

227.06 DECLARATORY RULINGS. (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 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.

(2) Petitions for declaratory rulings shall conform to the following requirements:

(a) The petition shall be in writing and its caption shall include the name of the agency and a reference to the nature of the petition.

(b) The petition shall contain a reference to the rule or statute with respect to which the declaratory ruling is requested, a concise statement of facts describing the situation as to which the declaratory ruling is requested, the reasons for the requested ruling, and the names and addresses of persons other than the petitioner, if any, upon whom it is sought to make the declaratory ruling binding.

(c) The petition shall be signed by one or more persons, with each signer's address set forth opposite his name, and shall be verified by at least one of the signers. If a person signs on behalf of a corporation or association, that fact also shall be indicated opposite his name.

(3) The petition shall be filed with the administrative head of the agency or with a member of the agency's policy board.

(4) Within a reasonable time after receipt of a petition pursuant to this section, an agency shall either deny the petition in writing or schedule the matter for hearing. If the agency denies the petition, it shall promptly notify the person who filed the petition of its decision, including a brief statement of the reasons therefor.

(5) Within a reasonable time after receipt of a case in accordance with the provisions of s. 227.05, the agency shall schedule the matter for hearing and shall issue its ruling within a reasonable time after the hearing.

SECTION 14. 227.10 (4) of the statutes is created to read:

227.10 (4) Agencies shall take official notice of all rules which have been published in the Wisconsin administrative code or register.

SECTION 15. 227.22 of the statutes is repealed and recreated to read:

227.22 EXCEPTIONS FROM CHAPTER 227. (1) This chapter applies to cases arising under s. 76.38. Except for cases arising under s. 76.38, the provisions of this chapter relating to proceedings in contested cases and to judicial review of administrative decisions do not apply to assessments made under ch. 76, or to decisions of the board of tax appeals

upon the review of such assessments, or to decisions made by the department of taxation pursuant to a hearing under s. 76.10 (1).

(2) Only the provisions of ss. 227.01 to 227.21 relative to rules are applicable to matters arising out of the workmen's compensation act or the unemployment compensation act.

SECTION 16. 227.23 of the statutes is repealed.

SECTION 17. 227.24 of the statutes is amended to read:

227.24 * * * *This chapter* may be cited as the * * * Administrative Procedure Act.

SECTION 18. 328.021 of the statutes is repealed and recreated to read:

328.021 COUNTY AND CITY ORDINANCES; ADMINISTRATIVE RULES OF STATE AGENCIES. The courts of this state, including the supreme court, shall take judicial notice of:

(1) County and municipal ordinances in those counties in which the particular court has jurisdiction; and

(2) All rules of state agencies which have been published in the Wisconsin administrative code or register and all orders of such agencies.

SECTION 19. 14.45 of the statutes is amended to read:

14.45 The state of Wisconsin investment board shall * * * fix the rates of interest to be paid by depositories on active and inactive deposits * * *. The rate of interest on inactive deposits, until changed by said board, shall be 2½ per cent per annum on * * * *deposits* actually received and held by the depositories.

SECTION 21. 26.12 (1) of the statutes is amended to read:

26.12 (1) Whenever it * * * *appears* to the commission from investigation, hearing or otherwise that areas in the state are in need of protection from forest fires, the commission * * * *may by rule* establish an intensive or an extensive forest protection district * * * *in* such areas. The limits of each such forest protection district shall be defined, and public notice of its establishment shall be published in the local press of the region affected for 3 successive times, and given such other publicity as the commission deems necessary.

SECTION 22. 29.137 (5) of the statutes is amended to read:

29.137 (5) *In accordance with the public policy declared in s. 29.174 (1)*, the commission * * * *may* establish rules * * * pursuant to s. 29.174, governing the methods of taking, handling and storing bait, specification of equipment used, and making of reports.

SECTION 23. 29.174 (3) and (5) to (9) of the statutes are amended to read:

29.174 (3) The * * * commission may exercise the authority conferred upon it in sub. (2) *by adopting rules* either on its own motion or on petition from any group of citizens. Provided, that upon petition of not less than 1,000 citizens in case of a contemplated * * * *rule* affecting the entire state or a part thereof larger than 2 counties, or of not less than 50 citizens residing in the county if but a single county or part thereof is affected, or of not less than 100 citizens residing in the 2 counties if not more than 2 counties or parts thereof are affected, the commission shall conduct one or more public hearings upon such proposed * * * *rule*, at a place convenient to the petitioners. Notice of such hearing shall be published at least once a week for three successive weeks * * * in such news-

papers as will fairly advise the residents of the community affected in the case of an order affecting a part of the state only. * * *

(5) * * * *Rules* promulgated, under * * * authority of this section, * * * *are not effective until approved by the governor.* * * *

(6) All * * * *rules* of the * * * commission in conformity with law * * * *are prima facie reasonable and lawful* * * *.

(7) Every * * * *rule* in conformity with law, made under authority of this section, shall in every prosecution for violation thereof be conclusively presumed to be just, reasonable and lawful, unless prior to the institution of prosecution for such violation the person charged with such violation shall have brought an action to vacate and set aside such * * * *rule*, as provided in this section.

(8) Any * * * *rule* of the commission * * * *is* subject to review in the manner provided in ch. 227, except that if the * * * *rule* affects only the county in which the appellant resides, the appeal shall be to the circuit court of such county.

(9) The present statutes regulating open and close seasons, bag limits, size limits, rest days and other conditions governing the taking of fish or game shall continue in full force and effect until modified by * * * *rules* of the * * * commission, as provided in this section, or by subsequent acts of the legislature.

SECTION 24. 29.175 of the statutes is repealed.

SECTION 26. 34.04 (1) of the statutes is amended to read:

34.04 (1) The state of Wisconsin investment board * * * prior to the issuance of any *general* order fixing the rates of interest, rate of payment into the state deposit fund or any other order of general application, shall hold a public hearing * * *.

SECTION 27. 34.04 (2) of the statutes is repealed.

SECTION 28. 85.71 (2) of the statutes is amended to read:

85.71 (2) * * * The state highway commission shall prescribe and publish regulations for the design, installation and operation of traffic control signals and stop signs in accordance with sub. (3) and as it shall deem necessary the said commission may prescribe and publish revised regulations which shall have the full force of law * * *.

SECTION 29. 86.19 (2) of the statutes is amended to read:

86.19 (2) The state highway commission shall prescribe regulations with respect to the erection of signs on public highways. Such regulations * * * shall have the full force of law * * *. No advertising sign shall use prominently any words, or combination of words, commonly used for the guidance or warning of travel, nor shall any advertising sign be erected or be permitted to remain in any place or manner so as to * * * *endanger* travel on the highways, either by reason of causing an obstruction to the view or otherwise.

SECTION 30. 93.02 (6) of the statutes is repealed.

SECTION 31. 93.09 (7) of the statutes is repealed.

SECTION 32. 93.13 of the statutes is repealed and recreated to read:

93.13 BIENNIAL REPORT. The department, on or before December 1 in each even-numbered year, shall submit to the governor a report of its work for the biennium which ended on June 30 preceding, together with such recommendations as may be deemed of value. It shall also make such special reports upon any phase of its work as may be called for by the governor, the legislature or either house thereof.

SECTION 33. 93.18 (1) of the statutes is repealed and recreated to read:

93.18 (1) General orders, standards and regulations shall be adopted, amended and repealed as prescribed in ch. 227.

SECTION 34. 93.18 (2) of the statutes is amended to read:

93.18 (2) The department, in any matter relating to issuing, revoking or amending a special order * * * relating to named persons, shall serve upon the person complained against a complaint in the name of the department and a notice of a public hearing thereon to be held not sooner than 10 days after such service. The person complained against shall be entitled to be heard in person, or by agent or attorney and shall be entitled to process to compel the attendance of witnesses.

SECTION 35. 93.18 (3) and (7) of the statutes are repealed.

SECTION 36. 93.19 of the statutes is repealed and recreated to read:

93.19 REVIEW BY THE BOARD. Any person affected by a special order of the department may apply for review by the board, but such application is not a condition precedent to judicial review of the order. Application for review by the board shall be filed not later than 30 days after the effective date of the order.

SECTION 37. 93.20 of the statutes is repealed.

SECTION 38. 101.10 (7) of the statutes is amended to read:

101.10 (7) To adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings * * *.

SECTION 39. 101.14 (1) of the statutes is amended to read:

101.14 (1) All general orders shall take effect * * * *as provided in s. 227.026.* Special orders shall take effect as therein directed.

SECTION 40. 103.50 (3) of the statutes is amended to read:

103.50 (3) It shall be the duty of the industrial commission to conduct such investigations as may be necessary to define classes of laborers and mechanics and to inform itself as to the hours of labor and wage rates prevailing in all areas of the state for all classes of labor and mechanics commonly employed in highway construction work, with a view to ascertaining and determining prevailing hours and rates accordingly * * *. *The commission, after public hearing, shall adopt rules prescribing hours of labor and prevailing wage rates for the various classes of laborers and mechanics in the various areas of the state.*

SECTION 41. 108.14 (2) of the statutes is amended to read:

108.14 (2) The commission shall have power and authority to adopt and enforce all rules and regulations which it finds necessary or suitable to carry out the provisions of this chapter. * * * A copy of such rules and regulations shall be delivered to every person making application therefor. The commission may require from employers, whether subject to this chapter or not, any reports on employment, wages, hours and related matters which it deems necessary to carry out the provisions of this chapter.

SECTION 42. 110.06 (1) of the statutes is amended to read:

110.06 (1) The commissioner of the motor vehicle department shall have the power to make such reasonable and uniform orders, rules and

regulations not inconsistent with law as he may deem necessary to the discharge of the powers, duties and functions vested in such department. * * * He shall also have power and authority to prescribe forms for applications, notices and reports required by law to be made to the department or which may be deemed necessary to the efficient discharge of all such powers, duties and functions.

SECTION 43. 111.09 of the statutes is amended to read:

111.09 The board may adopt reasonable and proper rules and regulations relative to the exercise of its powers and authority and proper rules to govern its proceedings and to regulate the conduct of all elections and hearings. * * *

SECTION 44. 139.50 (8) (a) of the statutes is amended to read:

139.50 (8) (a) The commissioner of taxation in furtherance of effective collections may promulgate rules and regulations consistent with this section. * * *

SECTION 45. 140.05 (3) of the statutes is amended to read:

140.05 (3) The board shall have power to make and enforce such rules, regulations and orders governing the duties of all health officers and health boards, and * * * *relating to any subject matter under its supervision, as shall be necessary to provide efficient administration and to protect health, and * * * any person violating such rule, regulation or order shall be * * * fined not less than \$10 nor more than \$100 for each offense, unless penalty be specially provided.* * * *

SECTION 46. 140.27 (2) of the statutes is repealed.

SECTION 47. 144.53 (4) of the statutes is amended to read:

144.53 (4) To issue general orders, and adopt rules and regulations applicable throughout the state for the installation, use and operation of practicable and available systems, methods and means for controlling the pollution of the surface waters of the state through industrial wastes, refuse and other wastes. Such general orders, rules and regulations shall be issued only after an opportunity to be heard thereon shall have been afforded to interested parties * * *.

SECTION 48. 145.02 (2) of the statutes is amended to read:

145.02 (2) The board shall have general supervision of all such plumbing and shall after * * * public hearing, prescribe, and publish and enforce minimum, reasonable standards therefor which shall be uniform so far as practicable. The state health officer or any employe designated by the board may act for the board in holding such public hearing.

SECTION 49. 152.01 (7) of the statutes is amended to read:

152.01 (7) The board shall make such reasonable rules, by-laws and regulations as it may deem necessary for the proper and better guidance, government, discipline and regulations of the board and of licensed dentists and dental hygienists or persons acting as such pertaining to immoral or unprofessional conduct and unprofessional advertising as hereinafter defined in s. 152.06 (5) and (6) * * *.

SECTION 50. 162.01 (1) of the statutes is amended to read:

162.01 (1) The state board of health shall, * * * after a public hearing, prescribe, publish and enforce minimum reasonable standards and rules and regulations for methods to be pursued in the obtaining of pure drinking water for human consumption and the establishing of all safeguards deemed necessary in protecting the public health against the hazards of

polluted sources of impure water supplies intended or used for human consumption, including minimum reasonable standards for the construction of well pits. It shall have general supervision and control of all methods of obtaining ground water for human consumption including sanitary conditions surrounding the same, the construction or reconstruction of wells and generally to prescribe, amend, modify or repeal any rule or regulation theretofore prescribed and shall do and perform any act deemed necessary for the safeguarding of public health.

SECTION 51. 168.12 (1) of the statutes is amended to read:

168.12 (1) The department shall demand and receive within 2 weeks after demand, from the owner or other person for whom it shall inspect any petroleum product, an inspection fee of 1½ cents for each 50 gallons from which the sample was taken. Such fees shall be a lien on the products so inspected, and when collected shall be paid within 2 weeks after receipt into the general fund, and are appropriated therefrom for defraying the expenses incident to such inspection as provided in s. 20.09 (11). Within 30 days after the close of each fiscal year, the department shall determine what the cost of inspection has been for the preceding fiscal year, and shall divide that cost by the gallons inspected. If the cost so calculated is less than 1½ cents for each 50 gallons it shall * * * *adopt a rule fixing* the nearest one-quarter cent above such calculated cost as the fee to be charged for such inspection fees during the then current fiscal year and for the 30 days next succeeding. * * * *The fee fixed by such rule shall be the fee which the department shall * * * collect in lieu of the legal fee heretofore * * * fixed until such time as the rule is amended on the basis of the department's annual determinations of inspection costs. Rules adopted pursuant to this section are exempted from notice and hearing requirements, but must otherwise comply with the provisions of ch. 227.*

SECTION 52. 176.42 of the statutes is amended to read:

176.42 The commissioner of taxation may by * * * *rule* prescribe the standard size, form, or character of bottles, kegs, barrels, packages, or other containers in which intoxicating liquor shall be sold in this state. * * *

SECTION 53. 176.43 (2) of the statutes is amended to read:

176.43 (2) The commissioner of taxation in furtherance of effective control may promulgate rules and regulations consistent with ch. 66 or ch. 139. * * *

SECTION 54. 189.02 (9) of the statutes is amended to read:

189.02 (9) "Order" means every direction * * * *or* determination of the department designated an order and made in writing over the signature of the director and the seal of the department and filed as part of the records of the department, *except a rule as defined in s. 227.01.* * * * All * * * orders shall take effect when made and filed or at such later time as the department may prescribe, and the department shall upon making and filing such order forthwith send a copy thereof to every person to whom such order relates, by registered mail addressed to such person at his last known address as the same appears upon the records of the department, and such mailing shall constitute notice thereof.

SECTION 55. 214.10 (1) of the statutes is amended to read:

214.10 (1) The department, prior to the issuance of any general order *under this chapter*, shall hold a public hearing * * *.

SECTION 56. 214.10 (3) of the statutes is repealed.

SECTION 57. 218.01 (5) (c) of the statutes is amended to read:

218.01 (5) (c) The licensor may make such rules and regulations as it shall deem necessary or proper for the effective administration and enforcement of this section, * * * but no licensee shall be subject to examination or audit by the licensor except as provided in sub. (3) (d) * * *.

SECTION 58. 220.04 (6) (b) of the statutes is amended to read:

220.04 (6) (b) In times of financial distress, the commissioner with the approval of the banking review board may by order restrict the withdrawal of any class of deposits in any bank, savings bank or trust company bank. * * * The pendency of any proceeding for review of such order shall not stay or suspend the operation of such order.

SECTION 59. For the purpose of facilitating the original printing of the Wisconsin administrative code, each agency shall compile and file with the revisor of statutes all its rules which are in effect on the date of such filing. Each agency except the industrial commission shall file such compilation of rules prior to January 1, 1956. The industrial commission shall complete its compilation and filing prior to January 1, 1957. Section 227.024 (created by this act) does not apply to rules filed prior to the time an agency files its rules compilation pursuant to this section but applies to the preparation and filing of such rules compilation and to all rules filed by the agency thereafter. The revisor shall prepare the printer's copy of rules filed pursuant to this section and shall transmit such copy to the bureau of purchases for printing. The original printing of the various parts of the Wisconsin administrative code shall contain the rules filed pursuant to this section. The first issue of the register, which shall be published in January, 1956, shall contain all effective rules filed by an agency since it filed its rules compilation pursuant to this section and which have not been or will not be printed with the original compilation.

SECTION 60. Sections 1 to 11 and sections 59 and 60 of this act and sections 227.024 and 227.041 of the statutes (created by section 13 of this act) shall take effect July 1, 1955. The remainder of this act shall take effect January 1, 1956.

Approved June 10, 1955.
