

# State of Wisconsin



2017 Senate Bill 884

Date of enactment: **December 14, 2018**  
Date of publication\*: **December 15, 2018**

## 2017 WISCONSIN ACT 369

AN ACT *to repeal* 6.34 (1) (b), 6.87 (4) (a) 2., 16.84 (5) (d), 165.055 (3), 230.08 (2) (sb) and 238.399 (3) (e); *to renumber and amend* 13.90 (3), 165.08, 165.25 (6) (a), 227.40 (3) (intro.), 227.40 (3) (a) and 343.50 (1) (c); *to consolidate, renumber and amend* 6.34 (1) (intro.) and (a) and 6.87 (4) (a) (intro.) and 1.; *to amend* 5.02 (6m) (f), 5.05 (13) (c), 5.05 (13) (d) 1., 6.22 (2) (b), 6.22 (2) (e), 6.22 (4) (a), 6.22 (4) (c), 6.24 (2), 6.24 (4) (c), 6.24 (4) (d), 6.24 (4) (e), 6.25 (1) (b), 6.276 (1), 6.86 (1) (b), 6.865 (1), 6.87 (2), 6.87 (3) (d), 6.87 (4) (b) 1., 6.88 (1), 6.97 (1), 7.15 (1) (cm), 7.15 (1) (j), 13.56 (2), 13.90 (2), 13.91 (1) (c), 20.455 (1) (gh), 20.455 (2) (gb), 20.455 (3) (g), 45.57, 165.10, 165.25 (1), 165.25 (1m), 227.01 (13) (intro.), subchapter II (title) of chapter 227 [precedes 227.10], 227.11 (title), 227.13, 227.40 (1), 227.40 (2) (intro.), 227.40 (2) (e), 227.40 (3) (b) and (c), 227.40 (4) (a), 227.40 (6), 227.57 (11), 238.02 (1), 238.02 (2), 238.03 (2) (c), 238.03 (2) (e), 238.16 (5) (e), 238.306 (1) (a), 238.308 (5) (b), 238.395 (3) (d), 238.396 (4) (d), 238.399 (3) (a), 238.399 (6) (f), 281.665 (5) (d), 343.50 (3) (b), 801.50 (3) (b), 806.04 (11), 809.13 and subchapter VIII (title) of chapter 893 [precedes 893.80]; and *to create* 5.02 (12n), 6.855 (5), 13.124, 13.127, 13.365, 13.90 (3) (a) and (b), 16.84 (2m), 16.973 (15), 35.93 (2) (b) 3. im., 227.01 (3m), 227.05, 227.10 (2g), 227.11 (3), 227.112, 227.26 (2) (im), 238.04 (15), 238.399 (3) (am), 301.03 (16), 343.165 (8), 343.50 (1) (c) 2., 343.50 (3) (c), 803.09 (2m) and 893.825 of the statutes; **relating to:** legislative powers and duties, state agency and authority composition and operations, absentee ballots, and administrative rule-making process.

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

**SECTION 1.** 5.02 (6m) (f) of the statutes is amended to read:

5.02 (6m) (f) An unexpired identification card issued by a university or college in this state that is accredited, as defined in s. 39.30 (1) (d), or by a technical college in this state that is a member of and governed by the technical college system under ch. 38, that contains the date of issuance and signature of the individual to whom it is issued and that contains an expiration date indicating that the card expires no later than 2 years after the date of issuance if the individual establishes that he or she is

enrolled as a student at the university or college on the date that the card is presented.

**SECTION 1b.** 5.02 (12n) of the statutes is created to read:

5.02 (12n) "Overseas elector" means a U.S. citizen who is residing outside of the United States, who is not disqualified from voting under s. 6.03, who has attained or will attain the age of 18 by the date of an election at which the citizen proposes to vote, who was last domiciled in this state or whose parent was last domiciled in this state immediately prior to the parent's departure from the United States, and who is not registered to vote or voting in any other state, territory, or possession.

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

**SECTION 1c.** 5.05 (13) (c) of the statutes is amended to read:

5.05 (13) (c) The commission shall maintain a freely accessible system under which a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, ~~as defined in s. 6.34 (1) (b)~~, who casts an absentee ballot may ascertain whether the ballot has been received by the appropriate municipal clerk.

**SECTION 1d.** 5.05 (13) (d) 1. of the statutes is amended to read:

5.05 (13) (d) 1. To permit a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, ~~as defined in s. 6.34 (1) (b)~~, to request a voter registration application or an application for an absentee ballot at any election at which the elector is qualified to vote in this state.

**SECTION 1e.** 6.22 (2) (b) of the statutes is amended to read:

6.22 (2) (b) A military elector shall make and subscribe to the certification under s. 6.87 (2) before a witness who is an adult ~~U.S. citizen~~.

**SECTION 1f.** 6.22 (2) (e) of the statutes is amended to read:

6.22 (2) (e) A military elector may file an application for an absentee ballot by means of electronic mail or facsimile transmission in the manner prescribed in s. 6.86 (1) (ac). Upon receipt of a valid application, the municipal clerk shall send the elector an absentee ballot or, if the elector is a military elector, as defined in s. 6.34 (1) (a), and the elector so requests, shall transmit an absentee ballot to the elector by means of electronic mail or facsimile transmission in the manner prescribed in s. 6.87 (3) (d).

**SECTION 1fg.** 6.22 (4) (a) of the statutes is amended to read:

6.22 (4) (a) Upon receiving a timely request for an absentee ballot under par. (b) by an individual who qualifies as a military elector, the municipal clerk shall send or, if the individual is a military elector as defined in s. 6.34 (1) (a), shall transmit to the elector upon the elector's request an absentee ballot for all elections that occur in the municipality or portion thereof where the elector resides in the same calendar year in which the request is received, unless the individual otherwise requests.

**SECTION 1fm.** 6.22 (4) (c) of the statutes is amended to read:

6.22 (4) (c) A military elector may indicate an alternate address on his or her absentee ballot application. If the elector's ballot is returned as undeliverable prior to the deadline for return of absentee ballots under s. 6.87 (6), and the elector remains eligible to receive absentee ballots under this section, the municipal clerk shall immediately send or, if the elector is a military elector as defined in s. 6.34 (1) (a), transmit an absentee ballot to the elector at the alternate address.

**SECTION 1g.** 6.24 (2) of the statutes is amended to read:

6.24 (2) ELIGIBILITY. An overseas elector ~~under sub. (1)~~ may vote in any election for national office, including the partisan primary and presidential preference primary and any special primary or election. Such elector may not vote in an election for state or local office unless the elector qualifies as a resident of this state under s. 6.10. An overseas elector shall vote in the ward or election district in which the elector was last domiciled or in which the elector's parent was last domiciled prior to departure from the United States.

**SECTION 1gc.** 6.24 (4) (c) of the statutes is amended to read:

6.24 (4) (c) Upon receipt of a timely application from an individual who qualifies as an overseas elector and who has registered to vote in a municipality under sub. (3), the municipal clerk of the municipality shall send, or if the individual is an overseas elector, ~~as defined in s. 6.34 (1) (b)~~, shall transmit, an absentee ballot to the individual upon the individual's request for all subsequent elections for national office to be held during the year in which the ballot is requested, except as otherwise provided in this paragraph, unless the individual otherwise requests or until the individual no longer qualifies as an overseas elector of the municipality. The clerk shall not send an absentee ballot for an election if the overseas elector's name appeared on the registration list in eligible status for a previous election following the date of the application but no longer appears on the list in eligible status. The municipal clerk shall ensure that the envelope containing the absentee ballot is clearly marked as not forwardable. If an overseas elector who files an application under this subsection no longer resides at the same address that is indicated on the application form, the elector shall so notify the municipal clerk.

**SECTION 1gd.** 6.24 (4) (d) of the statutes is amended to read:

6.24 (4) (d) An overseas elector, regardless of whether the elector qualifies as a resident of this state under s. 6.10, who is not registered may request both a registration form and an absentee ballot at the same time, and the municipal clerk shall send or transmit the ballot automatically if the registration form is received within the time prescribed in s. 6.28 (1). The commission shall prescribe a special certificate form for the envelope in which the absentee ballot for such overseas electors is contained, which shall be substantially similar to that provided under s. 6.87 (2). ~~An~~ The overseas elector shall make and subscribe to the special certificate form before a witness who is an adult ~~U.S. citizen~~.

**SECTION 1gf.** 6.24 (4) (e) of the statutes is amended to read:

6.24 (4) (e) An overseas elector, regardless of whether the elector qualifies as a resident of this state under s. 6.10, may file an application for an absentee ballot by means of electronic mail or facsimile transmission

in the manner prescribed in s. 6.86 (1) (ac). Upon receipt of a valid application, the municipal clerk shall send the elector an absentee ballot or, if the elector is an overseas elector, as defined in s. 6.34 (1) (b) and the elector so requests, shall transmit an absentee ballot to the elector by means of electronic mail or facsimile transmission in the manner prescribed in s. 6.87 (3) (d).

**SECTION 1h.** 6.25 (1) (b) of the statutes is amended to read:

6.25 (1) (b) Any individual who qualifies as an overseas elector ~~under s. 6.24 (1), regardless of whether the elector qualifies as a resident of this state under s. 6.10,~~ and who transmits an application for an official absentee ballot for an election ~~for national office,~~ including a primary election, no later than the latest time specified for an elector in s. 6.86 (1) (b) may, in lieu of the official ballot, cast a federal write-in absentee ballot prescribed under [42 USC 1973ff-2](#) for any candidate or for all candidates of any recognized political party ~~for national office~~ listed on the official ballot at that election, if the federal write-in absentee ballot is received by the appropriate municipal clerk no later than the applicable time prescribed in s. 6.87 (6).

**SECTION 1i.** 6.276 (1) of the statutes is amended to read:

6.276 (1) In this section, “military elector” ~~and “overseas elector”~~ have has the meanings meaning given in s. 6.34 (1).

**SECTION 1j.** 6.34 (1) (intro.) and (a) of the statutes are consolidated, renumbered 6.34 (1) and amended to read:

6.34 (1) In this section: ~~(a) “Military, “military elector”~~ means a member of a uniformed service on active duty who, by reason of that duty, is absent from the residence where the member is otherwise qualified to vote; a member of the merchant marine, as defined in s. 6.22 (1) (a), who by reason of service in the merchant marine, is absent from the residence where the member is otherwise qualified to vote; or the spouse or dependent of any such member who, by reason of the duty or service of the member, is absent from the residence where the spouse or dependent is otherwise qualified to vote.

**SECTION 1jb.** 6.34 (1) (b) of the statutes is repealed.

**SECTION 1js.** 6.855 (5) of the statutes is created to read:

6.855 (5) A governing body may designate more than one alternate site under sub. (1).

**SECTION 1k.** 6.86 (1) (b) of the statutes is amended to read:

6.86 (1) (b) Except as provided in this section, if application is made by mail, the application shall be received no later than 5 p.m. on the 5th day immediately preceding the election. If application is made in person, the application shall be made no earlier than ~~the opening of business on the 3rd Monday~~ 14 days preceding the election and no later than ~~7 p.m. on the Friday~~ Sunday preceding the election. No application may be received

on a legal holiday. ~~An application made in person may only be received Monday to Friday between the hours of 8 a.m. and 7 p.m. each day.~~ A municipality shall specify the hours in the notice under s. 10.01 (2) (e). The municipal clerk or an election official shall witness the certificate for any in-person absentee ballot cast. Except as provided in par. (c), if the elector is making written application for an absentee ballot at the partisan primary, the general election, the presidential preference primary, or a special election for national office, and the application indicates that the elector is a military elector, as defined in s. 6.34 (1), the application shall be received by the municipal clerk no later than 5 p.m. on election day. If the application indicates that the reason for requesting an absentee ballot is that the elector is a sequestered juror, the application shall be received no later than 5 p.m. on election day. If the application is received after 5 p.m. on the Friday immediately preceding the election, the municipal clerk or the clerk’s agent shall immediately take the ballot to the court in which the elector is serving as a juror and deposit it with the judge. The judge shall recess court, as soon as convenient, and give the elector the ballot. The judge shall then witness the voting procedure as provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who shall deliver it to the polling place or, in municipalities where absentee ballots are canvassed under s. 7.52, to the municipal clerk as required in s. 6.88. If application is made under sub. (2) or (2m), the application may be received no later than 5 p.m. on the Friday immediately preceding the election.

**SECTION 1L.** 6.865 (1) of the statutes is amended to read:

6.865 (1) In this section, “military elector” ~~and “overseas elector”~~ have has the meanings meaning given under s. 6.34 (1).

**SECTION 1m.** 6.87 (2) of the statutes is amended to read:

6.87 (2) Except as authorized under sub. (3) (d), the municipal clerk shall place the ballot in an unsealed envelope furnished by the clerk. The envelope shall have the name, official title and post-office address of the clerk upon its face. The other side of the envelope shall have a printed certificate which shall include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that if the absentee elector voted in person under s. 6.86 (1) (ar), the elector presented proof of identification to the clerk and the clerk verified the proof presented. The certificate shall also include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that the elector is exempt from providing proof of identification because the individual is a military elector or an overseas elector who does not qualify as a resident of this state under s. 6.10 or is exempted from providing proof of identification under sub. (4) (b) 2. or 3. The certificate shall be in substantially the following form:

[STATE OF ....

County of ....]

or

[(name of foreign country and city or other jurisdictional unit)]

I, ....., certify subject to the penalties of s. 12.60 (1) (b), Wis. Stats., for false statements, that I am a resident of the [... ward of the] (town) (village) of ....., or of the .... aldermanic district in the city of ....., residing at ....\* in said city, the county of ....., state of Wisconsin, and am entitled to vote in the (ward) (election district) at the election to be held on ....; that I am not voting at any other location in this election; that I am unable or unwilling to appear at the polling place in the (ward) (election district) on election day or have changed my residence within the state from one ward or election district to another later than 28 days before the election. I certify that I exhibited the enclosed ballot unmarked to the witness, that I then in (his) (her) presence and in the presence of no other person marked the ballot and enclosed and sealed the same in this envelope in such a manner that no one but myself and any person rendering assistance under s. 6.87 (5), Wis. Stats., if I requested assistance, could know how I voted.

Signed ....

Identification serial number, if any: ....

The witness shall execute the following:

I, the undersigned witness, subject to the penalties of s. 12.60 (1) (b), Wis. Stats., for false statements, certify that I am an adult U.S. citizen\*\* and that the above statements are true and the voting procedure was executed as there stated. I am not a candidate for any office on the enclosed ballot (except in the case of an incumbent municipal clerk). I did not solicit or advise the elector to vote for or against any candidate or measure.

....(Name Printed name)

....(Address)\*\*\_

Signed ....

\* — An elector who provides an identification serial number issued under s. 6.47 (3), Wis. Stats., need not provide a street address.

\*\* — An individual who serves as a witness for a military elector or an overseas elector voting absentee, regardless of whether the elector qualifies as a resident of Wisconsin under s. 6.10, Wis. Stats., need not be a U.S. citizen but must be 18 years of age or older.

\*\*\* — If this form is executed before 2 special voting deputies under s. 6.875 (6), Wis. Stats., both deputies shall witness and sign.

**SECTION 1mq.** 6.87 (3) (d) of the statutes is amended to read:

6.87 (3) (d) A municipal clerk shall, if the clerk is reliably informed by a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s. 6.34 (1) (b) regardless of whether the elector qualifies as a resident of this state under s. 6.10, of a facsimile transmission number or electronic mail address where the elector can

receive an absentee ballot, transmit a facsimile or electronic copy of the elector's ballot to that elector in lieu of mailing under this subsection. An elector may receive an absentee ballot only if the elector is a military elector or an overseas elector ~~under s. 6.34 (1)~~ and has filed a valid application for the ballot as provided in s. 6.86 (1). If the clerk transmits an absentee ballot to a military or overseas elector electronically, the clerk shall also transmit a facsimile or electronic copy of the text of the material that appears on the certificate envelope prescribed in sub. (2), together with instructions prescribed by the commission. The instructions shall require the military or overseas elector to make and subscribe to the certification as required under sub. (4) (b) and to enclose the absentee ballot in a separate envelope contained within a larger envelope, that shall include the completed certificate. The elector shall then affix sufficient postage unless the absentee ballot qualifies for mailing free of postage under federal free postage laws and shall mail the absentee ballot to the municipal clerk. Except as authorized in s. 6.97 (2), an absentee ballot received from a military or overseas elector who receives the ballot electronically shall not be counted unless it is cast in the manner prescribed in this paragraph and sub. (4) and in accordance with the instructions provided by the commission.

**SECTION 1mp.** 6.87 (4) (a) (intro.) and 1. of the statutes are consolidated, renumbered 6.87 (4) (a) and amended to read:

6.87 (4) (a) In this subsection: ~~1. "Military, "military elector"~~ has the meaning given in s. 6.34 (1) (a).

**SECTION 1mq.** 6.87 (4) (a) 2. of the statutes is repealed.

**SECTION 1ms.** 6.87 (4) (b) 1. of the statutes is amended to read:

6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, ~~the an~~ elector voting absentee, other than a military elector or an overseas elector, shall make and subscribe to the certification before one witness who is an adult U.S. citizen. A military elector or an overseas elector voting absentee, regardless of whether the elector qualifies as a resident of this state under s. 6.10, shall make and subscribe to the certification before one witness who is an adult but who need not be a U.S. citizen. The absent elector, in the presence of the witness, shall mark the ballot in a manner that will not disclose how the elector's vote is cast. The elector shall then, still in the presence of the witness, fold the ballots so each is separate and so that the elector conceals the markings thereon and deposit them in the proper envelope. If a consolidated ballot under s. 5.655 is used, the elector shall fold the ballot so that the elector conceals the markings thereon and deposit the ballot in the proper envelope. If proof of residence under s. 6.34 is required and the document enclosed by the elector under this subdivision does not constitute proof of residence under s. 6.34, the elector shall also enclose proof of residence under s. 6.34 in the

envelope. Except as provided in s. 6.34 (2m), proof of residence is required if the elector is not a military elector or an overseas elector and the elector registered by mail or by electronic application and has not voted in an election in this state. If the elector requested a ballot by means of facsimile transmission or electronic mail under s. 6.86 (1) (ac), the elector shall enclose in the envelope a copy of the request which bears an original signature of the elector. The elector may receive assistance under sub. (5). The return envelope shall then be sealed. The witness may not be a candidate. The envelope shall be mailed by the elector, or delivered in person, to the municipal clerk issuing the ballot or ballots. If the envelope is mailed from a location outside the United States, the elector shall affix sufficient postage unless the ballot qualifies for delivery free of postage under federal law. Failure to return an unused ballot in a primary does not invalidate the ballot on which the elector's votes are cast. Return of more than one marked ballot in a primary or return of a ballot prepared under s. 5.655 or a ballot used with an electronic voting system in a primary which is marked for candidates of more than one party invalidates all votes cast by the elector for candidates in the primary.

**SECTION 1mt.** 6.88 (1) of the statutes is amended to read:

6.88 (1) When an absentee ballot arrives at the office of the municipal clerk, or at an alternate site under s. 6.855, if applicable, the clerk shall enclose it, unopened, in a carrier envelope which shall be securely sealed and endorsed with the name and official title of the clerk, and the words "This envelope contains the ballot of an absent elector and must be opened in the same room where votes are being cast at the polls during polling hours on election day or, in municipalities where absentee ballots are canvassed under s. 7.52, stats., at a meeting of the municipal board of absentee ballot canvassers under s. 7.52, stats.": If the elector is a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, ~~as defined in s. 6.34 (1) (b)~~ regardless of whether the elector qualifies as a resident of this state under s. 6.10, and the ballot was received by the elector by facsimile transmission or electronic mail and is accompanied by a separate certificate, the clerk shall enclose the ballot in a certificate envelope and securely append the completed certificate to the outside of the envelope before enclosing the ballot in the carrier envelope. The clerk shall keep the ballot in the clerk's office or at the alternate site, if applicable until delivered, as required in sub. (2).

**SECTION 1mv.** 6.97 (1) of the statutes is amended to read:

6.97 (1) Whenever any individual who is required to provide proof of residence under s. 6.34 in order to be permitted to vote appears to vote at a polling place and cannot provide the required proof of residence, the inspectors shall offer the opportunity for the individual to vote under this section. Whenever any individual, other

than a military elector, as defined in s. 6.34 (1) (a), ~~or, an overseas elector, as defined in s. 6.34 (1) (b)~~, or an elector who has a confidential listing under s. 6.47 (2), appears to vote at a polling place and does not present proof of identification under s. 6.79 (2), whenever required, the inspectors or the municipal clerk shall similarly offer the opportunity for the individual to vote under this section. If the individual wishes to vote, the inspectors shall provide the elector with an envelope marked "Ballot under s. 6.97, stats." on which the serial number of the elector is entered and shall require the individual to execute on the envelope a written affirmation stating that the individual is a qualified elector of the ward or election district where he or she offers to vote and is eligible to vote in the election. The inspectors shall, before giving the elector a ballot, write on the back of the ballot the serial number of the individual corresponding to the number kept at the election on the poll list or other list maintained under s. 6.79 and the notation "s. 6.97". If voting machines are used in the municipality where the individual is voting, the individual's vote may be received only upon an absentee ballot furnished by the municipal clerk which shall have the corresponding number from the poll list or other list maintained under s. 6.79 and the notation "s. 6.97" written on the back of the ballot by the inspectors before the ballot is given to the elector. When receiving the individual's ballot, the inspectors shall provide the individual with written voting information prescribed by the commission under s. 7.08 (8). The inspectors shall indicate on the list the fact that the individual is required to provide proof of residence or proof of identification under s. 6.79 (2) but did not do so. The inspectors shall notify the individual that he or she may provide proof of residence or proof of identification to the municipal clerk or executive director of the municipal board of election commissioners. The inspectors shall also promptly notify the municipal clerk or executive director of the name, address, and serial number of the individual. The inspectors shall then place the ballot inside the envelope and place the envelope in a separate carrier envelope.

**SECTION 1n.** 7.15 (1) (cm) of the statutes is amended to read:

7.15 (1) (cm) Prepare official absentee ballots for delivery to electors requesting them, and except as provided in this paragraph, send an official absentee ballot to each elector who has requested a ballot by mail, and to each military elector, as defined in s. 6.34 (1) (a), and overseas elector, ~~as defined in s. 6.34 (1) (b)~~, who has requested a ballot by mail, electronic mail, or facsimile transmission, no later than the 47th day before each partisan primary and general election and no later than the 21st day before each other primary and election if the request is made before that day; otherwise, the municipal clerk shall send or transmit an official absentee ballot within one business day of the time the elector's request for such a ballot is received. The clerk shall send or trans-

mit an absentee ballot for the presidential preference primary to each elector who has requested that ballot no later than the 47th day before the presidential preference primary if the request is made before that day, or, if the request is not made before that day, within one business day of the time the request is received. For purposes of this paragraph, "business day" means any day from Monday to Friday, not including a legal holiday under s. 995.20.

**SECTION 1ng.** 7.15 (1) (j) of the statutes is amended to read:

7.15 (1) (j) Send an absentee ballot automatically to each elector and send or transmit an absentee ballot to each military elector, as defined in s. 6.34 (1) (a), and each overseas elector, as defined in s. 6.34 (1) (b), making an authorized request therefor in accordance with s. 6.22 (4), 6.24 (4) (e), or 6.86 (2) or (2m).

**SECTION 3.** 13.124 of the statutes is created to read:

**13.124 Legal representation.** (1) (a) The speaker of the assembly, in his or her sole discretion, may authorize a representative to the assembly or assembly employee who requires legal representation to obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (a), if the acts or allegations underlying the action are arguably within the scope of the representative's or employee's duties. The speaker shall approve all financial costs and terms of representation.

(b) The speaker of the assembly, in his or her sole discretion, may obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (a), in any action in which the assembly is a party or in which the interests of the assembly are affected, as determined by the speaker. The speaker shall approve all financial costs and terms of representation.

(2) (a) The senate majority leader, in his or her sole discretion, may authorize a senator or senate employee who requires legal representation to obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (b), if the acts or allegations underlying the action are arguably within the scope of the senator's or employee's duties. The senate majority leader shall approve all financial costs and terms of representation.

(b) The senate majority leader, in his or her sole discretion, may obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (b), in any action in which the senate is a party or in which the interests of the senate are affected, as determined by the senate majority leader. The senate majority leader shall approve all financial costs and terms of representation.

(3) (a) The cochairpersons of the joint committee on legislative organization, in their sole discretion, may authorize an employee of a legislative service agency, as

defined in s. 13.90 (1m) (a), who requires legal representation to obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (a) or (b), as determined by the cochairpersons, if the acts or allegations underlying the action are arguably within the scope of the employee's duties. The cochairpersons shall approve all financial costs and terms of representation.

(b) The cochairpersons of the joint committee on legislative organization, in their sole discretion, may obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (a) or (b), as determined by the cochairpersons, in any action in which the legislature is a party or in which the interests of the legislature are affected, as determined by the cochairpersons. The cochairpersons shall approve all financial costs and terms of representation.

**SECTION 4.** 13.127 of the statutes is created to read:

**13.127 Advice and consent of the senate.** Any individual nominated by the governor or another state officer or agency, and with the advice and consent of the senate appointed, to any office or position may not hold the office or position, be nominated again for the office or position, or perform any duties of the office or position during the legislative session biennium if the individual's confirmation for the office or position is rejected by the senate.

**SECTION 5.** 13.365 of the statutes is created to read:

**13.365 Intervention.** Pursuant to s. 803.09 (2m), when a party to an action challenges in state or federal court the constitutionality of a statute, facially or as applied, challenges a statute as violating or preempted by federal law, or otherwise challenges the construction or validity of a statute, as part of a claim or affirmative defense:

(1) The committee on assembly organization may intervene at any time in the action on behalf of the assembly. The committee on assembly organization may obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (a), to represent the assembly in any action in which the assembly intervenes.

(2) The committee on senate organization may intervene at any time in the action on behalf of the senate. The committee on senate organization may obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (b), to represent the senate in any action in which the senate intervenes.

(3) The joint committee on legislative organization may intervene at any time in the action on behalf of the legislature. The joint committee on legislative organization may obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (a) or (b), as deter-

mined by the cochairpersons, to represent the legislature in any action in which the joint committee on legislative organization intervenes.

**SECTION 7.** 13.56 (2) of the statutes is amended to read:

13.56 (2) PARTICIPATION IN CERTAIN PROCEEDINGS. The cochairpersons of the joint committee for review of administrative rules or their designated agents shall accept service made under ss. 227.40 (5) and 806.04 (11). If the committee determines that the legislature should be represented in the proceeding, it shall request the joint committee on legislative organization to ~~designate the legislature's representative for~~ intervene in the proceeding ~~as provided under s. 806.04 (11).~~ The costs of participation in the proceeding shall be paid equally from the appropriations under s. 20.765 (1) (a) and (b), except that such costs incurred by the department of justice shall be paid from the appropriation under s. 20.455 (1) (d).

**SECTION 8.** 13.90 (2) of the statutes is amended to read:

13.90 (2) The cochairpersons of the joint committee on legislative organization or their designated agent shall accept service made under ~~s. ss. 806.04 (11) and 893.825 (2).~~ If the committee, the senate organization committee, or the assembly organization committee, determines that the legislature should ~~be represented~~ intervene in the proceeding, ~~that committee shall designate the legislature's representative for the proceeding. as provided under s. 803.09 (2m), the assembly shall represent the assembly, the senate shall represent the senate, and the joint committee on legislative organization shall represent the legislature.~~ The costs of participation in the proceeding shall be paid equally from the appropriations under s. 20.765 (1) (a) and (b), except that such costs incurred by the department of justice shall be paid from the appropriation under s. 20.455 (1) (d).

**SECTION 9.** 13.90 (3) of the statutes is renumbered 13.90 (3) (c) and amended to read:

13.90 (3) (c) The joint committee on legislative organization shall assign office space for legislative offices and the offices of the legislative service agencies ~~as defined in sub. (1m).~~ The joint committee may assign any space in the capitol not reserved for other uses under s. 16.835. Except as provided in ss. 13.09 (6) and 13.45 (4) (c), the joint committee may locate any legislative office or the office of any legislative service agency outside the capitol at another suitable building in the city of Madison.

**SECTION 10.** 13.90 (3) (a) and (b) of the statutes are created to read:

13.90 (3) (a) In this subsection, "legislative service agency" has the meaning given in sub. (1m).

(b) The cochairpersons of the joint committee on legislative organization shall lease or acquire office space for legislative offices or legislative service agencies under par. (c).

**SECTION 11.** 13.91 (1) (c) of the statutes is amended to read:

13.91 (1) (c) Perform the functions prescribed in ~~s. 227.15 for the review and resolution of problems ch. 227~~ relating to administrative rules and guidance documents.

**SECTION 16.** 16.84 (2m) of the statutes is created to read:

16.84 (2m) Send notice to the joint committee on legislative organization of any proposed changes to security at the capitol, including the posting of a firearm restriction under s. 943.13 (1m) (c) 2. or 4. If, within 14 working days after the date of the notice, the cochairpersons of the joint committee on legislative organization do not notify the department that the committee has scheduled a meeting to review the department's proposal, the department may implement the changes as proposed in the notice. If, within 14 working days after the date of the department's notice, the cochairpersons of the committee notify the department that the committee has scheduled a meeting to review the department's proposal, the department may implement the proposed changes only upon approval of the committee. If there is a risk of imminent danger, the department may take any action related to security at the capitol that is necessary to prevent or mitigate the danger and the cochairpersons may review the action later if the cochairpersons determine review is necessary.

**SECTION 17.** 16.84 (5) (d) of the statutes is repealed.

**SECTION 18.** 16.973 (15) of the statutes is created to read:

16.973 (15) By October 1 of each year, submit to the joint committee on finance and the legislature under s. 13.172 (2) a report on the administration of the information technology and communication services self-funded portal. The report shall include the following information regarding the portal for the immediately preceding fiscal year:

(a) A financial statement of state revenues and expenditures.

(b) A list of services available through the portal, identifying services added since the previous reporting period.

(c) Fees charged for each service available through the portal.

(d) The activity level of each service available through the portal.

(e) Any other information the department determines to be appropriate to include.

**SECTION 19.** 20.455 (1) (gh) of the statutes is amended to read:

20.455 (1) (gh) *Investigation and prosecution.* Monies received under ss. 23.22 (9) (c), 49.49 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b), 291.97 (3), 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., 295.79 (4) (b), and 299.97 (2), for the expenses of investigation and



prosecution of violations, including attorney fees, and for expenses related to s. 165.055 (3).

**SECTION 20.** 20.455 (2) (gb) of the statutes is amended to read:

20.455 (2) (gb) *Gifts and grants.* The amounts in the schedule to carry out the purposes for which gifts and grants are made and received. All moneys received from gifts and grants, other than moneys received for and credited to another appropriation account under this subsection, ~~to carry out the purposes for which made and received shall be credited to this appropriation account.~~

**SECTION 21.** 20.455 (3) (g) of the statutes is amended to read:

20.455 (3) (g) *Gifts, grants and proceeds.* The amounts in the schedule to carry out the purposes for which gifts and grants are made and collected. All moneys received from gifts and grants and all proceeds from services, conferences, and sales of publications and promotional materials ~~to carry out the purposes for which made or collected,~~ except as provided in sub. (2) (gm) and (gp) and to transfer to s. 20.505 (1) (kg), at the discretion of the attorney general, an amount not to exceed \$98,300 annually, shall be credited to this appropriation account.

**SECTION 22.** 35.93 (2) (b) 3. im. of the statutes is created to read:

35.93 (2) (b) 3. im. Notices of public comment periods on proposed guidance documents under s. 227.112 (1) (a).

**SECTION 23.** 45.57 of the statutes is amended to read:

**45.57 Veterans homes; transfer of funding.** The department may transfer all or part of the unencumbered balance of any of the appropriations under s. 20.485 (1) (g), (gd), (gk), or (i) to the veterans trust fund or to the veterans mortgage loan repayment fund. The department shall notify the joint committee on finance in writing of any balance transferred under this section.

**SECTION 24.** 165.055 (3) of the statutes is repealed.

**SECTION 26.** 165.08 of the statutes is renumbered 165.08 (1) and amended to read:

165.08 (1) Any civil action prosecuted by the department by direction of any officer, department, board, or commission, ~~shall be compromised or discontinued when so directed by such officer, department, board or commission. Any or any~~ civil action prosecuted by the department on the initiative of the attorney general, or at the request of any individual may be compromised or discontinued with the approval of the governor an intervenor under s. 803.09 (2m) or, if there is no intervenor, by submission of a proposed plan to the joint committee on finance for the approval of the committee. The compromise or discontinuance may occur only if the joint committee on finance approves the proposed plan. No proposed plan may be submitted to the joint committee on finance if the plan concedes the unconstitutionality or other invalidity of a statute, facially or as applied, or concedes that a statute violates or is preempted by federal

law, without the approval of the joint committee on legislative organization.

(2) In any criminal action prosecuted by the attorney general, the department shall have the same powers with reference to such action as are vested in district attorneys.

**SECTION 27.** 165.10 of the statutes, as created by 2017 Wisconsin Act 59, is amended to read:

**165.10 Limits on expenditure Deposit of discretionary settlement funds.** Notwithstanding s. 20.455 (3), before the ~~The~~ attorney general may expend shall deposit all settlement funds under s. 20.455 (3) ~~(g) that are not committed under the terms of the settlement, the attorney general shall submit to the joint committee on finance a proposed plan for the expenditure of the funds. If the cochairpersons of the committee do not notify the attorney general within 14 working days after the submittal that the committee has scheduled a meeting for the purpose of reviewing the proposed plan, the attorney general may expend the funds to implement the proposed plan. If, within 14 working days after the submittal, the cochairpersons of the committee notify the attorney general that the committee has scheduled a meeting for the purpose of reviewing the proposed plan, the attorney general may expend the funds only to implement the plan as approved by the committee into the general fund.~~

**SECTION 28.** 165.25 (1) of the statutes is amended to read:

165.25 (1) REPRESENT STATE IN APPEALS AND ON REMAND. Except as provided in ss. 5.05 (2m) (a), 19.49 (2) (a), and 978.05 (5), appear for the state and prosecute or defend all actions and proceedings, civil or criminal, in the court of appeals and the supreme court, in which the state is interested or a party, and attend to and prosecute or defend all civil cases sent or remanded to any circuit court in which the state is a party. The joint committee on legislative organization may intervene as permitted under s. 803.09 (2m) at any time. Nothing in this subsection deprives or relieves the attorney general or the department of justice of any authority or duty under this chapter.

**SECTION 29.** 165.25 (1m) of the statutes is amended to read:

165.25 (1m) REPRESENT STATE IN OTHER MATTERS. If requested by the governor or either house of the legislature, appear for and represent the state, any state department, agency, official, employee or agent, whether required to appear as a party or witness in any civil or criminal matter, and prosecute or defend in any court or before any officer, any cause or matter, civil or criminal, in which the state or the people of this state may be interested. The joint committee on legislative organization may intervene as permitted under s. 803.09 (2m) at any time. The public service commission may request under s. 196.497 (7) that the attorney general intervene in federal proceedings. All expenses of the proceedings shall be paid from the appropriation under s. 20.455 (1) (d).



**SECTION 30.** 165.25 (6) (a) of the statutes is renumbered 165.25 (6) (a) 1. and amended to read:

165.25 (6) (a) 1. At the request of the head of any department of state government, the attorney general may appear for and defend any state department, or any state officer, employee, or agent of the department in any civil action or other matter brought before a court or an administrative agency which is brought against the state department, or officer, employee, or agent for or on account of any act growing out of or committed in the lawful course of an officer's, employee's, or agent's duties. Witness fees or other expenses determined by the attorney general to be reasonable and necessary to the defense in the action or proceeding shall be paid as provided for in s. 885.07. The attorney general may compromise and settle the action as the attorney general determines to be in the best interest of the state except that, if the action is for injunctive relief or there is a proposed consent decree, the attorney general may not compromise or settle the action without the approval of an intervenor under s. 803.09 (2m) or, if there is no intervenor, without first submitting a proposed plan to the joint committee on finance. If, within 14 working days after the plan is submitted, the cochairpersons of the committee notify the attorney general that the committee has scheduled a meeting for the purpose of reviewing the proposed plan, the attorney general may compromise or settle the action only with the approval of the committee. The attorney general may not submit a proposed plan to the joint committee on finance under this subdivision in which the plan concedes the unconstitutionality or other invalidity of a statute, facially or as applied, or concedes that a statute violates or is preempted by federal law, without the approval of the joint committee on legislative organization.

2. Members, officers, and employees of the Wisconsin state agencies building corporation and the Wisconsin state public building corporation are covered by this section. Members of the board of governors created under s. 619.04 (3), members of a committee or subcommittee of that board of governors, members of the injured patients and families compensation fund peer review council created under s. 655.275 (2), and persons consulting with that council under s. 655.275 (5) (b) are covered by this section with respect to actions, claims, or other matters arising before, on, or after April 25, 1990. The attorney general may compromise and settle claims asserted before such actions or matters formally are brought or may delegate such authority to the department of administration. This paragraph may not be construed as a consent to sue the state or any department thereof or as a waiver of state sovereign immunity.

**SECTION 31.** 227.01 (3m) of the statutes is created to read:

227.01 (3m) (a) "Guidance document" means, except as provided in par. (b), any formal or official docu-

ment or communication issued by an agency, including a manual, handbook, directive, or informational bulletin, that does any of the following:

1. Explains the agency's implementation of a statute or rule enforced or administered by the agency, including the current or proposed operating procedure of the agency.

2. Provides guidance or advice with respect to how the agency is likely to apply a statute or rule enforced or administered by the agency, if that guidance or advice is likely to apply to a class of persons similarly affected.

(b) "Guidance document" does not include any of the following:

1. A rule that has been promulgated and that is currently in effect or a proposed rule that is in the process of being promulgated.

2. A standard adopted, or a statement of policy or interpretation made, whether preliminary or final, in the decision of a contested case, in a private letter ruling under s. 73.035, or in an agency decision upon or disposition of a particular matter as applied to a specific set of facts.

3. Any document or activity described in sub. (13) (a) to (zz), except that "guidance document" includes a pamphlet or other explanatory material described under sub. (13) (r) that otherwise satisfies the definition of "guidance document" under par. (a).

4. Any document that any statute specifically provides is not required to be promulgated as a rule.

5. A declaratory ruling issued under s. 227.41.

6. A pleading or brief filed in court by the state, an agency, or an agency official.

7. A letter or written legal advice of the department of justice or a formal or informal opinion of the attorney general, including an opinion issued under s. 165.015 (1).

8. Any document or communication for which a procedure for public input, other than that provided under s. 227.112 (1), is provided by law.

9. Any document or communication that is not subject to the right of inspection and copying under s. 19.35 (1).

**SECTION 32.** 227.01 (13) (intro.) of the statutes is amended to read:

227.01 (13) (intro.) "Rule" means a regulation, standard, statement of policy, or general order of general application which that has the effect force of law and which that is issued by an agency to implement, interpret, or make specific legislation enforced or administered by the agency or to govern the organization or procedure of the agency. "Rule" includes a modification of a rule under s. 227.265. "Rule" does not include, and s. 227.10 does not apply to, any action or inaction of an agency, whether it would otherwise meet the definition under this subsection, which that:

**SECTION 33.** 227.05 of the statutes is created to read:

**227.05 Agency publications.** An agency, other than the Board of Regents of the University of Wisconsin System, the Technical College System Board, or the department of employee trust funds, shall identify the applicable provision of federal law or the applicable state statutory or administrative code provision that supports any statement or interpretation of law that the agency makes in any publication, whether in print or on the agency's Internet site, including guidance documents, forms, pamphlets, or other informational materials, regarding the laws the agency administers.

**SECTION 34.** Subchapter II (title) of chapter 227 [precedes 227.10] of the statutes is amended to read:

**CHAPTER 227**  
**SUBCHAPTER II**  
**ADMINISTRATIVE RULES AND**  
**GUIDANCE DOCUMENTS**

**SECTION 35.** 227.10 (2g) of the statutes is created to read:

**227.10 (2g)** No agency may seek deference in any proceeding based on the agency's interpretation of any law.

**SECTION 36.** 227.11 (title) of the statutes is amended to read:

**227.11 (title)** ~~Extent to which chapter confers Agency rule-making authority.~~

**SECTION 37.** 227.11 (3) of the statutes is created to read:

**227.11 (3) (a)** A plan that is submitted to the federal government for the purpose of complying with a requirement of federal law does not confer rule-making authority and cannot be used by an agency as authority to promulgate rules. No agency may agree to promulgate a rule as a component of a compliance plan unless the agency has explicit statutory authority to promulgate the rule at the time the compliance plan is submitted.

(b) A settlement agreement, consent decree, or court order does not confer rule-making authority and cannot be used by an agency as authority to promulgate rules. No agency may agree to promulgate a rule as a term in any settlement agreement, consent decree, or stipulated order of a court unless the agency has explicit statutory authority to promulgate the rule at the time the settlement agreement, consent decree, or stipulated order of a court is executed.

**SECTION 38.** 227.112 of the statutes is created to read:

**227.112 Guidance documents.** (1) (a) Before adopting a guidance document, an agency shall submit to the legislative reference bureau the proposed guidance document with a notice of a public comment period on the proposed guidance document under par. (b), in a format approved by the legislative reference bureau, for publication in the register. The notice shall specify the place where comments should be submitted and the deadline for submitting those comments.

(b) The agency shall provide for a period for public comment on a proposed guidance document submitted under par. (a), during which any person may submit written comments to the agency with respect to the proposed guidance document. Except as provided in par. (c), the period for public comment shall end no sooner than the 21st day after the date on which the proposed guidance document is published in the register under s. 35.93 (2) (b) 3. im. The agency may not adopt the proposed guidance document until the comment period has concluded and the agency has complied with par. (d).

(c) An agency may hold a public comment period shorter than 21 days with the approval of the governor.

(d) An agency shall retain all written comments submitted during the public comment period under par. (b) and shall consider those comments in determining whether to adopt the guidance document as originally proposed, modify the proposed guidance document, or take any other action.

(2) An agency shall post each guidance document that the agency has adopted on the agency's Internet site and shall permit continuing public comment on the guidance document. The agency shall ensure that each guidance document that the agency has adopted remains on the agency's Internet site as provided in this subsection until the guidance document is no longer in effect, is no longer valid, or is superseded or until the agency otherwise rescinds its adoption of the guidance document.

(3) A guidance document does not have the force of law and does not provide the authority for implementing or enforcing a standard, requirement, or threshold, including as a term or condition of any license. An agency that proposes to rely on a guidance document to the detriment of a person in any proceeding shall afford the person an adequate opportunity to contest the legality or wisdom of a position taken in the guidance document. An agency may not use a guidance document to foreclose consideration of any issue raised in the guidance document.

(4) If an agency proposes to act in any proceeding at variance with a position expressed in a guidance document, it shall provide a reasonable explanation for the variance. If an affected person in any proceeding may have relied reasonably on the agency's position, the explanation must include a reasonable justification for the agency's conclusion that the need for the variance outweighs the affected person's reliance interest.

(5) Persons that qualify under s. 227.12 to petition an agency to promulgate a rule may, as provided in s. 227.12, petition an agency to promulgate a rule in place of a guidance document.

(6) Any guidance document shall be signed by the secretary or head of the agency below the following certification: "I have reviewed this guidance document or proposed guidance document and I certify that it com-

plies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.”

(7) (a) This section does not apply to guidance documents adopted before the first day of the 7th month beginning after the effective date of this paragraph .... [LRB inserts date], but on that date any guidance document that has not been adopted in accordance with sub. (1) or that does not contain the certification required under sub. (6) shall be considered rescinded.

(b) This section does not apply to guidance documents or proposed guidance documents of the Board of Regents of the University of Wisconsin System, the Technical College System Board, or the department of employee trust funds.

(8) The legislative council staff shall provide agencies with assistance in determining whether documents and communications are guidance documents that are subject to the requirements under this section.

**SECTION 39.** 227.13 of the statutes is amended to read:

**227.13 Advisory committees and informal consultations.** An agency may use informal conferences and consultations to obtain the viewpoint and advice of interested persons with respect to contemplated rule making. An agency also may also appoint a committee of experts, interested persons or representatives of the public to advise it with respect to any contemplated rule making. The Such a committee shall have advisory powers only. Whenever an agency appoints a committee under this section, the agency shall submit a list of the members of the committee to the joint committee for review of administrative rules.

**SECTION 64.** 227.26 (2) (im) of the statutes is created to read:

227.26 (2) (im) *Multiple suspensions.* Notwithstanding pars. (i) and (j), the committee may act to suspend a rule as provided under this subsection multiple times.

**SECTION 65.** 227.40 (1) of the statutes is amended to read:

227.40 (1) Except as provided in sub. (2), the exclusive means of judicial review of the validity of a rule or guidance document shall be an action for declaratory judgment as to the validity of the rule or guidance document brought in the circuit court for the county where the party asserting the invalidity of the rule or guidance document resides or has its principal place of business or, if that party is a nonresident or does not have its principal place of business in this state, in the circuit court for the

county where the dispute arose. The officer or other agency whose rule or guidance document is involved shall be the party defendant. The summons in the action shall be served as provided in s. 801.11 (3) and by delivering a copy to that officer or, if the agency is composed of more than one person, to the secretary or clerk of the agency or to any member of the agency. The court shall render a declaratory judgment in the action only when it appears from the complaint and the supporting evidence that the rule or guidance document 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 or guidance document in question.

**SECTION 66.** 227.40 (2) (intro.) of the statutes is amended to read:

227.40 (2) (intro.) The validity of a rule or guidance document may be determined in any of the following judicial proceedings when material therein:

**SECTION 67.** 227.40 (2) (e) of the statutes is amended to read:

227.40 (2) (e) Proceedings under s. 66.191, 1981 stats., or s. 40.65 (2), 106.50, 106.52, 303.07 (7) or 303.21 or ss. 227.52 to 227.58 or under ch. 102, 108 or 949 for review of decisions and orders of administrative agencies if the validity of the rule or guidance document involved was duly challenged in the proceeding before the agency in which the order or decision sought to be reviewed was made or entered.

**SECTION 68.** 227.40 (3) (intro.) of the statutes is renumbered 227.40 (3) (ag) and amended to read:

227.40 (3) (ag) In any judicial proceeding other than one ~~set out above~~ under sub. (1) or (2), in which the invalidity of a rule or guidance document is material to the cause of action or any defense thereto, the assertion of ~~such that~~ such the invalidity shall be set forth in the pleading of the party ~~so~~ maintaining the invalidity of ~~such the~~ such the rule or guidance document in that proceeding. The party ~~so~~ asserting the invalidity of ~~such the~~ such the rule or guidance document shall, within 30 days after the service of the pleading in which the party sets forth ~~such the~~ such the invalidity, apply to the court in which ~~such the~~ such the proceedings are had for an order suspending the trial of ~~said the~~ said the proceeding until after a determination of the validity of ~~said the~~ said the rule or guidance document in an action for declaratory judgment under sub. (1) ~~hereof~~.

**SECTION 69.** 227.40 (3) (a) of the statutes is renumbered 227.40 (3) (ar) and amended to read:

227.40 (3) (ar) Upon the hearing of ~~such the~~ such the application, if the court is satisfied that the validity of ~~such the~~ such the rule or guidance document 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~~ the rule or guidance document. If the court shall find finds that the asserted invalidity of ~~a~~ the rule or guidance document is not material to the case, an order shall be entered denying the application for stay.

**SECTION 70.** 227.40 (3) (b) and (c) of the statutes are amended to read:

227.40 (3) (b) Upon the entry of a final order in said the declaratory judgment action, it shall be the duty of the party who asserts the invalidity of the rule or guidance document 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 or guidance document is asserted.

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

**SECTION 71.** 227.40 (4) (a) of the statutes is amended to read:

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

**SECTION 72.** 227.40 (6) of the statutes is amended to read:

227.40 (6) Upon entry of a final order in a declaratory judgment action under sub. (1) with respect to a rule, the court shall send an electronic notice to the legislative reference bureau of the court's determination as to the validity or invalidity of the rule, in a format approved by the legislative reference bureau, and the legislative reference bureau shall publish a notice of that determination in the Wisconsin administrative register under s. 35.93 (2) and insert an annotation of that determination in the Wisconsin administrative code under s. 13.92 (4) (a).

**SECTION 80.** 227.57 (11) of the statutes is amended to read:

227.57 (11) Upon review of an agency action or decision ~~affecting a property owner's use of the property owner's property~~, the court shall accord no deference to the agency's interpretation of law ~~if the agency action or decision restricts the property owner's free use of the property owner's property~~.

**SECTION 81.** 230.08 (2) (sb) of the statutes is repealed.

**SECTION 82m.** 238.02 (1) of the statutes is amended to read:

238.02 (1) There is created an authority, which is a public body corporate and politic, to be known as the "Wisconsin Economic Development Corporation." The members of the board shall consist of 6 members nominated by the governor, and with the advice and consent of the senate appointed, to serve at the pleasure of the governor; ~~3~~ 4 members appointed by the speaker of the assembly, ~~consisting of one majority and one minority party representative to the assembly, appointed as are the members of standing committees in the assembly, and one person employed in the private sector, to serve at the speaker's pleasure; and~~ 3 4-year terms; one member appointed by the minority leader of the assembly to serve a 4-year term; 4 members appointed by the senate majority leader, ~~consisting of one majority and one minority party senator, appointed as are members of standing committees in the senate, and one person employed in the private sector, to serve at the majority leader's pleasure~~ 4-year terms; and one member appointed by the minority leader of the senate to serve a 4-year term. Neither the speaker of the assembly nor the senate majority leader may appoint more than 2 members of the legislature to the board. The secretary of administration and the secretary of revenue shall also serve on the board as nonvoting members. The board shall elect a chairperson from among its nonlegislative voting members. A vacancy on the board shall be filled in the same manner as the original appointment to the board for the remainder of the unexpired term, if any.

**SECTION 83.** 238.02 (2) of the statutes is amended to read:

238.02 (2) A majority of the ~~voting~~ appointed members of the board currently serving constitutes a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, ~~notwithstanding the existence of any vacancies~~. Action may be taken by the board upon a vote of a majority of the ~~voting~~ appointed members present.

**SECTION 84e.** 238.03 (2) (c) of the statutes is amended to read:

238.03 (2) (c) Require that each recipient of a grant ~~or~~ loan award, or tax credit under the program submit a report to the corporation. Each contract with a recipient of a grant ~~or~~ loan award, or tax credit under the program must specify the frequency and format of the report to be submitted to the corporation and the performance measures to be included in the report. Each recipient shall submit a statement to the corporation signed by the recipient or the director or principal officer of the recipient attesting to the accuracy and truthfulness of the information.

**SECTION 84f.** 238.03 (2) (e) of the statutes is amended to read:

238.03 (2) (e) Annually and independently verify, from a sample of grants ~~and loans, loan awards, and tax credits~~, the accuracy of the information required to be reported under par. (c).

**SECTION 85.** 238.04 (15) of the statutes is created to read:

238.04 (15) Appoint and supervise the economic development liaison project position created in [2017 Wisconsin Act 58](#), section 61 (1).

**SECTION 85e.** 238.16 (5) (e) of the statutes is amended to read:

238.16 (5) (e) The corporation shall ~~annually~~ verify, under s. 238.03 (2) (e), the information submitted to the corporation by the person for the purpose of claiming tax benefits under ss. 71.07 (3q), 71.28 (3q), and 71.47 (3q).

**SECTION 85k.** 238.306 (1) (a) of the statutes is amended to read:

238.306 (1) (a) ~~Annually verify~~ Verify, under s. 238.03 (2) (e), the information submitted to the department of revenue ~~under ss. 71.07 (2dy), 71.28 (1dy), 71.47 (1dy), and 76.637 by persons certified under s. 238.301 (2) and eligible to receive tax benefits under s. 238.303 corporation by the person for the purpose of claiming tax benefits~~.

**SECTION 85m.** 238.308 (5) (b) of the statutes is amended to read:

238.308 (5) (b) The corporation shall ~~annually~~ verify, under s. 238.03 (2) (e), the information submitted to ~~it~~ the corporation by the person for the purpose of claiming tax benefits under ss. 71.07 (3y), 71.28 (3y), and 71.47 (3y).

**SECTION 85o.** 238.395 (3) (d) of the statutes is amended to read:

238.395 (3) (d) The corporation ~~annually~~ shall verify, under s. 238.03 (2) (e), the information submitted to the corporation ~~under s. 71.07 (2dm) or (2dx), 71.28 (1dm) or (1dx), 71.47 (1dm) or (1dx), or 76.636 by the person for the purpose of claiming tax benefits~~.

**SECTION 85r.** 238.396 (4) (d) of the statutes is amended to read:

238.396 (4) (d) The corporation shall ~~annually~~ verify, under s. 238.03 (2) (e), the information submitted to the corporation ~~under ss. 71.07 (3wm) and 71.28 (3wm) by the person for the purpose of claiming tax benefits~~.

**SECTION 86.** 238.399 (3) (a) of the statutes is amended to read:

238.399 (3) (a) The corporation may designate ~~not more than 30 any number of~~ enterprise zones in this state.

**SECTION 87.** 238.399 (3) (am) of the statutes is created to read:

238.399 (3) (am) The corporation may not designate a new enterprise zone under par. (a) except as follows:

1. Before the corporation designates a new enterprise zone, the corporation shall notify the joint committee on finance in writing of the corporation's intention to designate a new enterprise zone. The notice shall describe the

new zone and the purposes for which the corporation proposes to designate the new zone.

2. If, within 14 working days after the date of the corporation's notice under subd. 1., the cochairpersons of the joint committee on finance do not notify the corporation that the committee has scheduled a meeting to review the corporation's proposal, the corporation may designate the new enterprise zone as proposed in the corporation's notice. If, within 14 working days after the date of the corporation's notice under subd. 1., the cochairpersons of the committee notify the corporation that the committee has scheduled a meeting to review the corporation's proposal, the corporation may designate the new enterprise zone only upon approval of the committee.

**SECTION 88.** 238.399 (3) (e) of the statutes is repealed.

**SECTION 88f.** 238.399 (6) (f) of the statutes is amended to read:

238.399 (6) (f) The corporation shall ~~annually~~ verify, under s. 238.03 (2) (e), the information submitted to the corporation ~~under ss. 71.07 (3w), 71.28 (3w), or 71.47 (3w) by the person for the purpose of claiming tax benefits~~.

**SECTION 89.** 281.665 (5) (d) of the statutes is amended to read:

281.665 (5) (d) Notwithstanding pars. (a) to (c), during the 2017-19 ~~and 2019-21~~ fiscal ~~biennium~~ bienniums, the department shall consider an applicant to be eligible for a cost-sharing grant for a project under this section if the project is funded or executed in whole or in part by the U.S. army corps of engineers under [33 USC 701s](#).

**SECTION 90.** 301.03 (16) of the statutes is created to read:

301.03 (16) At the request of the legislature, submit to the legislature under s. 13.172 (2) a report that includes the following information and post the report on the department's website:

(a) If, since the previous report was submitted or during a date range specified in the request, an individual was pardoned for a crime or was released from a term of imprisonment without completing his or her sentence, the name of the individual, the pertinent crime, and the name of the person who authorized the action.

(b) If an individual who appears on a report submitted under this subsection is convicted of a crime, the name of that individual and the crime for which he or she was convicted.

**SECTION 91.** 343.165 (8) of the statutes is created to read:

343.165 (8) Notwithstanding subs. (1) to (4), for an applicant requesting that an identification card be provided without charge for purposes of voting, all of the following apply:

(a) Except as provided in par. (b), if a person is unable to provide proof of name and date of birth, and the documents are unavailable to the person, the person may make a written petition to the department for an exception to the requirements of sub. (1) (a) or (b). The application shall include proof of identity and all of the following:

1. A certification of the person's name, date of birth, and current residence street address on the department's form.
2. An explanation of the circumstances by which the person is unable to provide proof of name and date of birth.
3. Whatever documentation is available that states the person's name and date of birth.

(b) 1. If a person applies for and requests an identification card without charge for the purposes of voting and the person's proof of name and date of birth or of proof of citizenship, legal permanent resident status, conditional resident status, or legal presence is unavailable, the person may make a written petition to the department for an exception to the requirement for which proof is unavailable. The department shall provide appropriate translation for any person who is unable to read or understand the petition process instructions and related communications under this subsection or s. 343.50 (1) (c) 2. The petition shall include the person's statement under oath or affirmation of all of the following:

- a. That the person is unable to provide proof of name and date of birth or proof of citizenship, legal permanent resident status, conditional resident status, or legal presence.
- b. That the documents are unavailable to the person.
- c. His or her name, date of birth, place of birth, and such other birth record information requested by the department, or the person's alien or U.S. citizenship and immigration service number or U.S. citizenship certificate number.

2. Upon receiving a petition that meets the requirements under subd. 1., the department of transportation shall forward the petition to the central office of its division of motor vehicles for processing. The department of transportation shall provide the person's birth record information to the department of health services, for the sole purpose of verification by the department of health services of the person's birth certificate information or the equivalent document from another jurisdiction, other than a province of the Dominion of Canada, or to a federal agency for the sole purpose of verifying the person's certificate of birth abroad issued by the federal department of state, or of verifying the person's alien or U.S. citizenship and immigration service number or U.S. citizenship certificate number. The department of transportation shall open a file containing the petition and shall create therein a report with a dated record of events, including all communication to or with the applicant. The department of transportation may not complete processing of

the application prior to receiving verification under this subdivision, except as provided in subd. 3.

3. If the department does not receive verification under subd. 2. within 30 days or receives notice under subd. 2. that the birth information provided in the application does not match that of the birth record custodian, the department shall promptly notify the person in writing of that failure to verify and request the person contact the department within 10 days. If the person does not respond within 10 days, the department shall send the person a 2nd letter with substantially similar contents. If the person does not respond to the 2nd letter within 10 days and the department knows the person's telephone number, the department shall call the person on the telephone and notify the person that the birth information was not verified and request the person provide additional information within 10 days. If 30 days have elapsed since the date of the first letter sent under this subdivision without contact from the person, the department shall suspend the investigation and send written notice that the person has not responded, that the department has no further leads for it to locate or obtain secondary documentation or verification of birth information, that the department has suspended its investigation or research until such time as the person contacts the department, and that if within 180 days after the date of the written notice the person fails to contact the department the petition will be denied and no further identification card receipts will be issued under s. 343.50 (1) (c) 2. If the person fails to contact the department within 180 days after the department suspends the investigation, the department shall deny the petition in writing and shall inform the person that the department will resume the investigation if the person contacts the department to discuss the petition. Whenever the applicant contacts the department to discuss the petition, the investigation under this subdivision shall begin anew, notwithstanding any prior denial due to the person's failure to timely respond. The applicant shall act in good faith and use reasonable efforts to provide additional information that could reasonably lead the department to discover correct birth information or secondary documentation as described in subd. 3g., to assist the department in processing the application. The department shall investigate the petition and any additional information provided under this subdivision with prompt and due diligence and shall use reasonable efforts to locate and obtain the secondary documentation by pursuing leads provided by the person. Investigations may only be completed within the division of motor vehicles' central office by employees whose regular job duties include investigation and fraud detection and prevention. If the investigation discovers new or corrected birth information, the department of transportation shall resubmit the new or corrected birth information to the department of health services for verification under subd. 2. The department of transportation

shall pay any actual, necessary fees required by the record custodian to obtain the secondary documentation.

3g. If the department of health services does not verify the birth record information within 30 days, the department of transportation may issue an identification card to the person only if the department of transportation receives verification under subd. 2., if the person provides proof of name and date of birth or proof of citizenship, legal permanent resident status, conditional resident status or legal presence, or if the department of transportation receives other secondary documentation acceptable to the department of transportation and deemed sufficient under subd. 3., which may include the following:

- a. Baptismal certificate.
- b. Hospital birth certificate.
- c. Delayed birth certificate.
- d. Census record.
- e. Early school record.
- f. Family Bible record.
- g. Doctor's record of post-natal care.
- h. Other documentation deemed acceptable to the department of transportation, within the department's reasonable discretion.

4. In this paragraph, "proof of citizenship, legal permanent resident status, conditional resident status or legal presence" means any of the following:

- a. A U.S. state or local government issued certificate of birth.
- b. Valid U.S. passport.
- c. Valid foreign passport with appropriate immigration documents, which shall include or be accompanied by federal form I-94, arrival and departure record.
- d. Certificate of U.S. citizenship.
- e. A U.S. Certificate of naturalization.
- f. Valid department of homeland security/U.S. citizenship and immigration services federal form I-551, resident alien registration receipt card, issued since 1997.
- g. Valid department of homeland security/U.S. citizenship and immigration services federal form I-688, temporary resident identification card.
- h. Valid department of homeland security/U.S. citizenship and immigration services federal form I-688B or I-766, employment authorization document.
- i. Valid department of homeland security/U.S. citizenship and immigration services federal form I-571, refugee travel document.
- j. Department of homeland security/U.S. citizenship and immigration services federal form I-797, notice of action.
- k. Department of homeland security/transportation security administration transportation worker identification credential.

L. A U.S. department of state reception and placement program assurance form (refugee version), which

shall include or be accompanied by federal form I-94, arrival and departure record.

m. Documentary proof specified in s. 343.14 (2) (es), that is approved by the appropriate federal authority.

5. In this paragraph, "proof of identity" means a supporting document identifying the person by name and bearing the person's signature, a reproduction of the person's signature, or a photograph of the person. Acceptable supporting documents include:

- a. A valid operator's license, including a license from another jurisdiction, except a province of the Dominion of Canada, bearing a photograph of the person.
- b. Military discharge papers.
- c. A U.S. government and military dependent identification card.
- d. A valid photo identification card issued by Wisconsin or another jurisdiction, except a province of the Dominion of Canada, bearing a photograph of the person.
- e. A marriage certificate or certified copy of judgment of divorce.
- f. A social security card issued by the social security administration.

g. Any document described under subd. 6., if it bears a photograph of the person and was not used as proof of name and date of birth.

h. Department of homeland security/transportation security administration transportation worker identification credential.

6. In this paragraph, "proof of name and date of birth" means any of the following:

- a. For a person born in Wisconsin, a copy of the person's Wisconsin birth certificate issued and certified in accordance with s. 69.21.
- b. For a person born in another jurisdiction, other than a province of the Dominion of Canada, a certified copy of his or her birth certificate or the equivalent document from that other jurisdiction or a certificate of birth abroad issued by the federal department of state.
- c. A U.S. passport.
- d. A valid, unexpired passport issued by a foreign country with federal I-551 resident alien registration receipt card or federal I-94 arrival and departure record that bears a photograph of the person and identifies the person's first and last names, and the person's day, month, and year of birth.
- e. A Wisconsin operator's license bearing a photograph of the person.
- f. A Wisconsin identification card issued under s. 343.50, bearing a photograph of the person, other than an identification card issued under s. 343.50 (1) (c) 2.
- g. A federal I-551 "permanent resident alien registration receipt card."
- h. A federal I-94 "parole edition" or "refugees version" arrival-departure record, together with a certification, on the department's form, by the person, of the per-



son's name and date of birth, a copy of a federal department of state refugee data center reception and placement program assurance form and a letter from the person's sponsoring agency on its letterhead, supporting the person's application for a Wisconsin identification card or operator's license and confirming the person's identification. Applicants who are unable to provide a reception and placement program assurance form may be issued a Wisconsin identification card or operator's license, but only after their identification has been confirmed by the U.S. citizenship and immigration services.

i. A U.S. certificate of naturalization.

j. A certificate of U.S. citizenship.

k. A federal temporary resident card or employment authorization card, I-688, I-688A, I-688B, and I-766.

L. A Native American identification card that is issued by a federally recognized tribe or a band of a federally recognized tribe, is issued in Wisconsin, includes a photograph and signature or reproduction of a signature of the person, and has been approved by the secretary for use as identification.

m. A court order under seal related to the adoption or divorce of the individual or to a name or gender change that includes the person's current full legal name, date of birth, and, in the case of a name change or divorce order, the person's prior name.

n. An armed forces of the U.S. common access card or DD Form 2 identification card issued to military personnel.

o. Department of homeland security/transportation security administration transportation worker identification credential.

7. In this paragraph, "unavailable" means that the applicant does not have the document and would be required to pay a government agency to obtain it.

(c) The administrator may delegate to the deputy administrator or to a bureau director, as described in s. 15.02 (3) (c) 2., whose regular responsibilities include driver licensing and identification card issuance, the authority to accept or reject such extraordinary proof of name, date of birth, or U.S. citizenship under this subsection.

(e) The denial of a petition under par. (b) is subject to judicial review in the manner provided in ch. 227 for the review of administrative decisions.

(f) If the administrator, or delegate described in par. (c), determines that an applicant has knowingly made a false statement or knowingly concealed a material fact or otherwise committed a fraud in an application, petition, or additional information, the department shall immediately suspend the investigation, shall notify the person in writing of the suspension and the reason for the suspension, and refer any suspected fraud to law enforcement.

(g) A person whose petition is suspended or denied due to a failure to respond timely may revive the petition at any time by contacting the department to discuss the

petition application. If a person revives a petition, the department shall immediately issue, and shall continue to reissue, an identification card receipt to the person as provided in s. 343.50 (1) (c) 2., except that the department shall first require the person to take a photograph if required under s. 343.50 (1) (c) 2.

(h) The department shall grant a petition if the department concludes, on the basis of secondary documentation or other corroborating information, that it is more likely than not that the name, date of birth, and U.S. citizenship provided in the application is correct.

**SECTION 92.** 343.50 (1) (c) of the statutes is renumbered 343.50 (1) (c) 1. and amended to read:

343.50 (1) (c) 1. The department may issue a receipt to any applicant for an identification card, and shall issue a receipt to an applicant requesting an identification card under sub. (5) (a) 3., which receipt shall constitute a temporary identification card while the application is being processed and shall be valid for a period not to exceed 60 days. If the application for an identification card is processed under the exception specified in s. 343.165 (7) or (8), the receipt shall include the marking specified in sub. (3) (b).

**SECTION 93.** 343.50 (1) (c) 2. of the statutes is created to read:

343.50 (1) (c) 2. If the department issues a receipt to an applicant petitioning the department under s. 343.165 (8), all of the following apply:

a. The department shall issue the receipt not later than the 6th working day after the person made the petition and shall deliver the receipt by 1st class mail, except that if a petition is filed or revived within 7 days before or 2 days after a statewide election the department shall issue a receipt not later than 24 hours after the petition is filed or revived and shall deliver the receipt by overnight or next-day mail. The department shall issue a new receipt to the person not later than 10 days before the expiration date of the prior receipt, and having a date of issuance that is the same as the expiration date of the prior receipt. The department shall issue no receipt to a person after the denial of a petition under s. 343.165 (8), unless the person revives an investigation. The department shall continue to reissue identification card receipts to a person unless the department cancels the identification card receipt upon the circumstances specified in sub. (10), upon the issuance of an operator's license or identification card to the person, upon the person's request, upon the denial of the application, upon return to the department of a receipt as nondeliverable, upon the person's failure to contact the department to discuss the petition for a period of 180 days or more, or whenever the department receives information that prohibits issuance of an identification card under sub. (1) (c). The department shall require the person to take a photograph prior to reissuing an identification card receipt if the photograph of the person on file with the department is 8 or more years old.

b. An identification card receipt issued under this subdivision shall constitute a temporary identification card while the application is being processed under s. 343.165 (8) and shall be valid for a period not to exceed the period specified in sub. (1) (c). The department shall clearly mark the receipt “FOR VOTING PURPOSES ONLY” as validated for use for voting as provided in ss. 5.02 (6m) (d) and 6.79 (2) (a). A receipt issued under this subsection shall contain the information specified under s. 343.17 (3), including the date of issuance, the expiration date, the name and signature of the person to whom it was issued, and, except as authorized in sub. (4g), a photograph of the individual to whom it was issued, and may contain such further information as the department deems necessary.

c. The department shall issue a replacement identification card receipt under subd. 1. a. upon request of the person to whom it is issued if the receipt is lost or destroyed.

d. Notwithstanding subd. 2. a., the department shall cancel or refuse to issue an identification card receipt under this subsection upon the circumstances specified in sub. (10), upon the issuance of an operator’s license or identification card to the person, upon the person’s request, upon the denial of the application, upon return to the department of a receipt as nondeliverable, or whenever the department receives information that prohibits issuance of an identification card under subd. 1.

e. Whenever any person, after receiving an identification card receipt under this subdivision, moves from the address named in the application or in the receipt issued to him or her or is notified by the local authorities or by the postal authorities that the address so named has been changed, the person shall, within 30 days, notify the department of his or her change of address. Upon receiving a notice of change of address, the department shall promptly issue a new receipt under subd. 2. a. showing the correct address and having the expiration date of the prior receipt.

**SECTION 94.** 343.50 (3) (b) of the statutes is amended to read:

343.50 (3) (b) If an identification card is issued based upon the exception specified in s. 343.165 (7) or (8), the card shall, in addition to any other required legend or design, be of the design specified under s. 343.17 (3) (a) 14. and include a marking similar or identical to the marking described in s. 343.03 (3r).

**SECTION 95.** 343.50 (3) (c) of the statutes is created to read:

343.50 (3) (c) 1. Notwithstanding par. (a), the department may issue an identification card bearing a name other than the name that appears on a supporting document if the person provides evidence acceptable to the department that the person has used the name in a manner that qualifies the name as being legally changed under the common law of Wisconsin, including evidence of the

person’s prior name, changed name, the length of time the person has consistently and continuously used the changed name, an affirmation that the person no longer uses the prior name, and an affirmation that the person did not change his or her name for a dishonest or fraudulent purpose or to the injury of any other person. The department shall mark an identification card issued under this subdivision in the manner described in s. 343.03 (3r).

2. Notwithstanding par. (a), the department shall approve a name change requested by a person who cannot provide supporting documentation of a lawful change of name but who does one of the following:

a. Provides proof of identity in the new name, and the department receives from the federal social security administration evidence or confirmation of the name change.

b. Applies for an identification card and provides an affidavit declaring all facts required under subd. 1. to prove a name change under the common law of Wisconsin.

**SECTION 96.** 801.50 (3) (b) of the statutes is amended to read:

801.50 (3) (b) All actions relating to the validity or invalidity of a rule or guidance document shall be venued as provided in s. 227.40 (1).

**SECTION 97.** 803.09 (2m) of the statutes is created to read:

803.09 (2m) When a party to an action challenges in state or federal court the constitutionality of a statute, facially or as applied, challenges a statute as violating or preempted by federal law, or otherwise challenges the construction or validity of a statute, as part of a claim or affirmative defense, the assembly, the senate, and the legislature may intervene as set forth under s. 13.365 at any time in the action as a matter of right by serving a motion upon the parties as provided in s. 801.14.

**SECTION 98.** 806.04 (11) of the statutes is amended to read:

806.04 (11) PARTIES. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration may prejudice the right of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, the municipality shall be made a party, and shall be entitled to be heard. If a statute, ordinance or franchise is alleged to be unconstitutional, or to be in violation of or preempted by federal law, or if the construction or validity of a statute is otherwise challenged, the attorney general shall also be served with a copy of the proceeding and be entitled to be heard. If a statute is alleged to be unconstitutional, or to be in violation of or preempted by federal law, or if the construction or validity of a statute is otherwise challenged, the speaker of the assembly, the president of the senate, and the senate majority leader shall also be served with a copy of the

proceeding, and the assembly, the senate, and the state legislature are entitled to be heard. If the assembly, the senate, or the joint committee on legislative organization intervenes as provided under s. 803.09 (2m), the assembly shall represent the assembly, the senate shall represent the senate, and the joint committee on legislative organization shall represent the legislature. In any proceeding under this section in which the constitutionality, construction or application of any provision of ch. 227, or of any statute allowing a legislative committee to suspend, or to delay or prevent the adoption of, a rule as defined in s. 227.01 (13) is placed in issue by the parties, the joint committee for review of administrative rules shall be served with a copy of the petition and, with the approval of the joint committee on legislative organization, shall be made a party and be entitled to be heard. ~~In any proceeding under this section in which the constitutionality, construction or application of any provision of ch. 13, 20, 111, 227 or 230 or subch. I, III or IV of ch. 16 or s. 753.075, or of any statute allowing a legislative committee to suspend, or to delay or prevent the adoption of, a rule as defined in s. 227.01 (13) is placed in issue by the parties, the joint committee on legislative organization shall be served with a copy of the petition and the joint committee on legislative organization, the senate committee on organization or the assembly committee on organization may intervene as a party to the proceedings and be heard.~~

**SECTION 99.** 809.13 of the statutes is amended to read:

**809.13 Rule (Intervention).** A person who is not a party to an appeal may file in the court of appeals a petition to intervene in the appeal. A party may file a response to the petition within 11 days after service of the petition. The court may grant the petition upon a showing that the petitioner's interest meets the requirements of s. 803.09 (1) ~~or~~, (2), ~~or~~ (2m).

**SECTION 100.** Subchapter VIII (title) of chapter 893 [precedes 893.80] of the statutes is amended to read:

**CHAPTER 893**  
SUBCHAPTER VIII  
CLAIMS AGAINST GOVERNMENTAL  
BODIES, OFFICERS AND EMPLOYEES;  
STATUTORY CHALLENGES

**SECTION 101.** 893.825 of the statutes is created to read:

**893.825 Statutory challenges.** (1) In an action in which a statute is alleged to be unconstitutional, or to be in violation of or preempted by federal law, or if the construction or validity of a statute is otherwise challenged, the attorney general shall be served with a copy of the proceeding and is entitled to be heard.

(2) In an action in which a statute is alleged to be unconstitutional, or to be in violation of or preempted by federal law, or if the construction or validity of a statute is otherwise challenged, the speaker of the assembly, the

president of the senate, and the senate majority leader shall also be served with a copy of the proceeding and the assembly, the senate, and the joint committee on legislative organization are entitled to be heard.

**SECTION 102. Nonstatutory provisions.**

(1) INTERVENTION BY ASSEMBLY, SENATE, AND JOINT COMMITTEE ON LEGISLATIVE ORGANIZATION. The assembly, senate, and joint committee on legislative organization may intervene as permitted under s. 803.09 (2m) in any litigation pending in state or federal court on the effective date of this subsection.

(2m) WEDC; STAGGERING OF INITIAL TERMS. Notwithstanding the length of terms specified for the members of the board of directors of the Wisconsin Economic Development Corporation under s. 238.02 (1), the initial members appointed by the speaker and minority leader of the assembly and the majority leader and minority leader of the senate beginning on the effective date of this subsection shall be appointed for terms expiring as follows:

(a) The terms of 2 members appointed by the speaker of the assembly and 2 members appointed by the senate majority leader shall expire on October 1, 2020.

(b) The terms of 2 members appointed by the speaker of the assembly, the member appointed by the assembly minority leader, 2 members appointed by the senate majority leader, and the member appointed by the senate minority leader, shall expire on October 1, 2022.

(2s) WEDC; CURRENT BOARD MEMBERS. The members of the board of directors of the Wisconsin Economic Development Corporation serving at the pleasure of the speaker of the assembly and senate majority leader on the day before the effective date of this subsection shall continue to serve at pleasure pending the appointment of members under sub. (2m), but may not serve after January 6, 2019, unless appointed under sub. (2m).

(2t) WEDC; ADDITIONAL BOARD MEMBERS. Notwithstanding s. 238.02 (1), the board of directors of the Wisconsin Economic Development Corporation shall include one additional member appointed by the speaker of the assembly and one additional member appointed by the senate majority leader, to serve terms expiring on September 1, 2019.

(2v) WEDC; CEO. Notwithstanding s. 238.02 (3), the chief executive officer of the Wisconsin Economic Development Corporation shall be appointed by the board of directors of the Wisconsin Economic Development Corporation. This subsection does not apply after September 1, 2019.

**SECTION 103. Fiscal changes.**

(1) SETTLEMENT FUNDS. Notwithstanding s. 20.001 (3) (c), from the appropriation account under s. 20.455 (3) (g), on the effective date of this subsection, there is lapsed to the general fund the unencumbered balance of any settlement funds in that appropriation account, as determined by the attorney general.

(2) OFFICE OF SOLICITOR GENERAL POSITIONS. In the schedule under s. 20.005 (3) for the appropriation to the department of justice under s. 20.455 (1) (gh), the dollar amount for fiscal year 2018–19 is decreased by \$320,000 to decrease the authorized FTE positions for the department by 1.0 PR solicitor general position and 3.0 PR deputy solicitor general positions on January 1, 2019.

(3) DEPARTMENT OF JUSTICE GIFTS AND GRANTS. Notwithstanding s. 20.001 (2) (b), any moneys encumbered under the appropriation accounts under s. 20.455 (2) (gb) and (3) (g) before the effective date of this subsection may be expended pursuant to the terms of the encumbrance.

**SECTION 104. Initial applicability.**

(1) AGENCY PUBLICATIONS. The treatment of s. 227.05 with respect to printed publications first applies to guidance documents, forms, pamphlets, or other informational materials that are printed 60 days after the effective date of this subsection.

**SECTION 105. Effective date.**

(1) AGENCY PUBLICATIONS. The treatment of s. 227.05 and SECTION 104 (1) takes effect on the first day of the 7th month beginning after publication.

