



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1526/1
MCP:emw&amn

2021 SENATE BILL 328

April 28, 2021 - Introduced by Senators SMITH, CARPENTER, RINGHAND and AGARD, cosponsored by Representatives SPREITZER, ANDERSON, BALDEH, BILLINGS, CABRERA, CONSIDINE, DOYLE, HEBL, POPE, SINICKI, SNODGRASS, SUBECK and VRUWINK. Referred to Committee on Labor and Regulatory Reform.

1 **AN ACT to renumber and amend** 227.19 (2); **to amend** 227.135 (2), 227.135 (3),
2 227.137 (2), 227.137 (3) (intro.), 227.137 (4), 227.14 (2) (a) 6., 227.14 (4m),
3 227.15 (1), 227.15 (1m) (bm), 227.185, 227.19 (3) (intro.), 227.19 (4) (b) 1m.,
4 227.19 (5) (b) 1m., 227.24 (1) (e) 1d. and 227.24 (1) (e) 1g.; and **to create** 227.135
5 (2m), 227.135 (6), 227.137 (2m), 227.137 (3m), 227.137 (4r) and 227.19 (2) (b)
6 2. of the statutes; **relating to:** the procedure for promulgating a proposed rule
7 relating to fish or wildlife that is considered at the joint annual spring hearing
8 of the Department of Natural Resources and the Wisconsin Conservation
9 Congress.

Analysis by the Legislative Reference Bureau

This bill makes various changes to the rule-making process with respect to proposed administrative rules relating to fish or wildlife that are considered at the joint annual spring hearing of the Department of Natural Resources and the Wisconsin Conservation Congress (spring DNR-WCC meeting).

Gubernatorial approval and statements of scope for proposed rules

Current law requires a statement of the scope of a proposed rule to be presented to the Department of Administration and be approved by the governor and the

SENATE BILL 328

individual or body that has policy-making powers for a state agency before a state employee or official may perform any activity in connection with the drafting of the proposed rule. Under the bill, for rules that are considered at the spring DNR-WCC meeting, only the Natural Resources Board is required to approve a statement of scope before those activities may be performed. In addition, the bill permits automatic approval of a statement of scope for rules that are considered at the spring DNR-WCC meeting if the Natural Resources Board does not disapprove the statement of scope within 30 days after it is presented to the board or by the 11th day after its publication in the Wisconsin Administrative Register, whichever is later.

Under current law, a state agency must prepare and obtain approval of a revised statement of scope if, after a statement of scope is approved, the agency changes the scope of the proposed rule in any meaningful or measurable way. Under the bill, this requirement does not apply to rules that are considered at the spring DNR-WCC meeting.

Under current law, a state agency must prepare and obtain approval of a statement of scope for a proposed emergency rule in the same manner as a statement of scope is prepared and approved for a nonemergency rule. Under the bill, a statement of scope is not required for emergency rules considered at the spring DNR-WCC meeting.

Finally, current law requires a state agency to submit a proposed rule in final draft form to the governor for approval before the rule may be submitted to the legislature for review and to submit a proposed emergency rule in final draft form to the governor for approval before the emergency rule may be filed with the Legislative Reference Bureau for publication. The bill eliminates these requirements for gubernatorial approval for rules that are considered at the spring DNR-WCC meeting.

Economic impact analyses for proposed rules

When report must be prepared. Current law requires each state agency to prepare an economic impact analysis for all permanent rules proposed by the agency. In addition, current law requires a state agency to prepare a revised economic impact analysis if a proposed rule is modified after the original economic impact analysis is submitted so as to significantly change the economic impact of the proposed rule.

Under the bill, for rules that are considered at the spring DNR-WCC meeting, an economic impact analysis is required only if the secretary of administration directs the analysis to be prepared on the petition of a municipality; an association that represents a farm, labor, business, or professional group; or five or more persons who would be affected by the proposed rule. The bill requires the secretary to direct the preparation of such an analysis if 1) the proposed rule would cost affected persons \$20,000,000 or more during each of the first five years after the rule's implementation or 2) the rule would adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.

Content of analysis. Current law requires certain specific information to be included in an economic impact analysis.

SENATE BILL 328

The bill eliminates the requirements that this information be included in an economic impact analysis for rules that are considered at the spring DNR-WCC meeting. Under the bill, an economic impact analysis that is required for rules that are considered at the spring DNR-WCC meeting must instead contain information on the effect of the proposed rule on specific businesses, business sectors, and the state's economy and must include all of the following: 1) an analysis and quantification of the problem, including any risks to public health or the environment, that the rule is intended to address; 2) an analysis and quantification of the economic impact of the rule, including costs reasonably expected to be incurred by the state, businesses, governmental units, and affected individuals; and 3) an analysis of the benefits of the rule, including how the rule reduces the risks and addresses the problems that the rule is intended to address.

Independent economic impact analyses. Current law allows for an independent economic impact analysis to be requested and prepared for a proposed rule under certain circumstances. An independent economic impact analysis must be prepared by a person other than an agency and must contain much of the same information required for an economic impact analysis prepared by an agency under current law.

Under the bill, an independent economic impact analysis may not be requested for a rule considered at the spring DNR-WCC meeting.

Bill required for certain rules. Under current law, subject to certain exceptions, if an economic impact analysis or an independent economic impact analysis prepared for a proposed rule indicates that \$10,000,000 or more in implementation and compliance costs are reasonably expected to be incurred by or passed along to businesses, local governmental units, and individuals over any two-year period as a result of the proposed rule, the agency proposing the rule must stop work on the proposed rule and may not continue promulgating the proposed rule unless 1) the agency modifies the proposed rule to address its implementation and compliance costs or 2) a bill is enacted authorizing the agency to promulgate the rule.

Under the bill, these provisions do not apply with respect to a rule considered at the spring DNR-WCC meeting.

Legislative review of proposed rules

Under current law, proposed rules in final form must be submitted to the legislature for review by one standing committee in each house and the Joint Committee for Review of Administrative Rules (JCRAR), which may each take certain actions on the proposed rule. Current law provides that a proposed rule received in the legislature after the last day of the legislature's final general-business floorperiod is instead considered received on the first day of the next regular session of the legislature, unless the presiding officers of both houses direct referral before that day. The bill provides that, with respect to a proposed rule considered at the spring DNR-WCC meeting, the proposed rule is only considered received on the first day of the next regular session of the legislature if it is received on or after September 1 of an even-numbered year.

Finally, under current law, each committee has 30 days after the proposed rule has been referred to the committee to review the proposed rule, subject to limited

SENATE BILL 328

extensions. However, an exception provides that if a proposed rule received after the last day of the legislature's final general-business floorperiod is referred for committee review before the first day of the next regular session of the legislature, the committee has until the day the next legislature convenes to review the proposed rule. A similar exception applies to proposed rules when they are referred to JCRAR. The bill provides that these exceptions do not apply to proposed rules considered at the spring DNR-WCC meeting and therefore the review periods for those committees are always 30 days, subject to other limited extensions.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 227.135 (2) of the statutes is amended to read:
2 227.135 (2) An Except as provided in sub. (2m), an agency that has prepared
3 a statement of the scope of the proposed rule shall present the statement to the
4 department of administration, which shall make a determination as to whether the
5 agency has the explicit authority to promulgate the rule as proposed in the statement
6 of scope and shall report the statement of scope and its determination to the governor
7 who, in his or her discretion, may approve or reject the statement of scope. The
8 agency may not send the statement to the legislative reference bureau for
9 publication under sub. (3) until the governor issues a written notice of approval of
10 the statement. The agency shall also present the statement to the individual or body
11 with policy-making powers over the subject matter of the proposed rule for approval.
12 The individual or body with policy-making powers may not approve the statement
13 until at least 10 days after publication of the statement under sub. (3) and, if a
14 preliminary public hearing and comment period are held by the agency under s.
15 227.136, until the individual or body has received and reviewed any public comments
16 and feedback received from the agency under s. 227.136 (5). No state employee or

SENATE BILL 328

1 official may perform any activity in connection with the drafting of a proposed rule
2 to which this subsection applies, except for an activity necessary to prepare the
3 statement of the scope of the proposed rule until the governor and the individual or
4 body with policy-making powers over the subject matter of the proposed rule
5 approve the statement. This subsection does not prohibit an agency from performing
6 an activity necessary to prepare a petition and proposed rule for submission under
7 s. 227.26 (4).

8 **SECTION 2.** 227.135 (2m) of the statutes is created to read:

9 227.135 (2m) If the department of natural resources prepares a statement of
10 the scope of a proposed rule relating to fish or wildlife that is considered at the joint
11 annual spring hearing of the department of natural resources and the Wisconsin
12 conservation congress, that department shall present the statement to the natural
13 resources board for approval. The natural resources board may not approve the
14 statement until at least 10 days after publication of the statement under sub. (3) and,
15 if the preliminary public hearing and comment period are held by the department
16 under s. 227.136, until the board has received and reviewed any public comments
17 and feedback from the department under s. 227.136 (5). If no preliminary public
18 hearing and comment period are held on a statement of scope by the department
19 under s. 227.136 and the natural resources board does not disapprove the statement
20 within 30 days after the statement is presented to that board or by the 11th day after
21 publication of the statement in the register, whichever is later, the statement is
22 considered to be approved. No state employee or official may perform any activity
23 in connection with the drafting of a proposed rule to which this subsection applies
24 except for an activity necessary to prepare the statement of the scope of the proposed
25 rule until the natural resources board approves the statement.

SENATE BILL 328**SECTION 3**

1 **SECTION 3.** 227.135 (3) of the statutes is amended to read:

2 227.135 (3) ~~If the governor approves a statement of the scope of a proposed rule~~
3 ~~under Subject to sub. (2), the agency shall send an electronic copy of the a statement~~
4 ~~of the scope of a proposed rule~~ to the legislative reference bureau, in a format
5 approved by the legislative reference bureau, for publication in the register. On the
6 same day that the agency sends the statement to the legislative reference bureau,
7 the agency shall send a copy of the statement to the secretary of administration and
8 to the chief clerks of each house of the legislature, who shall distribute the statement
9 to the cochairpersons of the joint committee for review of administrative rules. The
10 agency shall include with any statement of scope sent to the legislative reference
11 bureau the date of the governor's approval of the statement of scope, if gubernatorial
12 approval of the statement of scope is required. The legislative reference bureau shall
13 assign a discrete identifying number to each statement of scope and shall include
14 that number and, if applicable, the date of the governor's approval in the publication
15 of the statement of scope in the register.

16 **SECTION 4.** 227.135 (6) of the statutes is created to read:

17 227.135 (6) This section does not apply to emergency rules relating to fish or
18 wildlife that are considered at the joint annual spring hearing of the department of
19 natural resources and the Wisconsin conservation congress.

20 **SECTION 5.** 227.137 (2) of the statutes is amended to read:

21 227.137 (2) ~~An~~ Except as provided in sub. (2m), an agency shall prepare an
22 economic impact analysis for a proposed rule before submitting the proposed rule to
23 the legislative council staff under s. 227.15.

24 **SECTION 6.** 227.137 (2m) of the statutes is created to read:

SENATE BILL 328

1 227.137 (2m) After the legislative reference bureau publishes under s. 227.135
2 (3) a statement of the scope of a proposed rule relating to fish or wildlife that is
3 considered at the joint annual spring hearing of the department of natural resources
4 and the Wisconsin conservation congress, and before the department of natural
5 resources submits the notice of the proposed rule to the legislature for review under
6 s. 227.19 (2), a municipality, an association that represents a farm, labor, business,
7 or professional group, or 5 or more persons who would be directly and uniquely
8 affected by the proposed rule may submit a petition to the department of
9 administration asking the secretary of administration to direct the department of
10 natural resources to prepare an economic impact analysis for the proposed rule. If
11 the secretary of administration directs the department of natural resources to
12 prepare the economic impact analysis, that department shall prepare the economic
13 impact analysis before submitting the notice of the proposed rule to the legislature
14 for review under s. 227.19 (2). The secretary of administration shall direct the
15 department of natural resources to prepare an economic impact analysis for the
16 proposed rule if the secretary determines that all of the following apply:

17 (a) The petition was submitted to the department of administration no later
18 than 90 days after publication of the statement of the scope of the proposed rule
19 under s. 227.135 (3) or no later than 10 days after publication of the notice for a public
20 hearing under s. 227.17, whichever is later.

21 (b) The proposed rule would cost affected persons \$20,000,000 or more during
22 each of the first 5 years after the rule's implementation to comply with the rule or the
23 proposed rule would adversely affect in a material way the economy, a sector of the
24 economy, productivity, competition, jobs, the environment, public health or safety, or
25 state, local, or tribal governments or communities.

SENATE BILL 328**SECTION 7**

1 **SECTION 7.** 227.137 (3) (intro.) of the statutes is amended to read:

2 227.137 **(3)** (intro.) An economic impact analysis of a proposed rule prepared
3 under sub. (2) or (4m) shall contain information on the economic effect of the
4 proposed rule on specific businesses, business sectors, public utility ratepayers, local
5 governmental units, and the state's economy as a whole. The agency or person
6 preparing the analysis shall solicit information and advice from businesses,
7 associations representing businesses, local governmental units, and individuals that
8 may be affected by the proposed rule. The agency or person shall prepare the
9 economic impact analysis in coordination with local governmental units that may be
10 affected by the proposed rule. The agency or person may also request information
11 that is reasonably necessary for the preparation of an economic impact analysis from
12 other businesses, associations, local governmental units, and individuals and from
13 other agencies. The economic impact analysis shall include all of the following:

14 **SECTION 8.** 227.137 (3m) of the statutes is created to read:

15 227.137 **(3m)** An economic impact analysis of a proposed rule prepared under
16 sub. (2m) shall contain information on the effect of the proposed rule on specific
17 businesses, business sectors, and the state's economy. When preparing the analysis,
18 the department of natural resources shall solicit information and advice from the
19 Wisconsin Economic Development Corporation and from businesses, associations,
20 governmental units, and individuals that may be affected by the proposed rule. The
21 department of natural resources may request information that is reasonably
22 necessary for the preparation of the economic impact analysis from other state
23 agencies and from businesses, associations, governmental units, and individuals.
24 The economic impact analysis shall include all of the following:

SENATE BILL 328

1 (a) An analysis and quantification of the problem, including any risks to public
2 health or the environment, that the proposed rule is intending to address.

3 (b) An analysis and quantification of the economic impact of the proposed rule,
4 including the costs that are reasonably expected to be incurred by the state,
5 businesses, governmental units, and affected individuals.

6 (c) An analysis of the benefits of the proposed rule, including how the rule
7 reduces the risks and addresses the problems that the rule is intended to address.

8 **SECTION 9.** 227.137 (4) of the statutes is amended to read:

9 227.137 (4) On the same day that the agency submits the an economic impact
10 analysis prepared under sub. (2) to the legislative council staff under s. 227.15 (1),
11 the agency shall also submit that analysis to the department of administration, to
12 the governor, and to the chief clerks of each house of the legislature, who shall
13 distribute the analysis to the presiding officers of their respective houses, to the
14 chairpersons of the appropriate standing committees of their respective houses, as
15 designated by those presiding officers, and to the cochairpersons of the joint
16 committee for review of administrative rules. If a proposed rule is modified after the
17 economic impact analysis is submitted under this subsection so that the economic
18 impact of the proposed rule is significantly changed, the agency shall prepare a
19 revised economic impact analysis for the proposed rule as modified. A revised
20 economic impact analysis shall be prepared and submitted in the same manner as
21 an original economic impact analysis is prepared and submitted.

22 **SECTION 10.** 227.137 (4r) of the statutes is created to read:

23 227.137 (4r) The department of natural resources shall submit an economic
24 impact analysis prepared under sub. (2m) to the legislative council staff, to the
25 department of administration, and to the petitioner.

SENATE BILL 328**SECTION 11**

1 **SECTION 11.** 227.14 (2) (a) 6. of the statutes is amended to read:

2 227.14 **(2)** (a) 6. Any analysis and supporting documentation that the agency
3 used in support of the agency's determination of the rule's effect on small businesses
4 under s. 227.114 or that was used when the agency prepared an economic impact
5 analysis under s. 227.137 ~~(3)~~ (2) or (2m).

6 **SECTION 12.** 227.14 (4m) of the statutes is amended to read:

7 227.14 **(4m)** NOTICE OF SUBMITTAL TO LEGISLATIVE COUNCIL STAFF. On the same
8 day that an agency submits a proposed rule to the legislative council staff under s.
9 227.15, the agency shall prepare a written notice of the agency's submittal to the
10 legislative council staff. The notice shall include a statement of the date on which
11 the proposed rule has been submitted to the legislative council staff for review, of the
12 subject matter of the proposed rule, and of whether a public hearing on the proposed
13 rule is required under s. 227.16, and shall identify the organizational unit within the
14 agency that is primarily responsible for the promulgation of the rule. The notice
15 shall also include a statement containing the identifying number of the statement
16 of scope for the proposed rule assigned under s. 227.135 (3), the date of publication
17 and issue number of the register in which the statement of scope is published, and
18 the date of approval of the statement of scope by the individual or body with
19 policy-making powers over the subject matter of the proposed rule under s. 227.135
20 (2) or (2m). The notice shall be approved by the individual or body with
21 policy-making powers over the subject matter of the proposed rule. The agency shall
22 send an electronic copy of the notice to the legislative reference bureau, in a format
23 approved by the legislative reference bureau, for publication in the register. On the
24 same day that the agency sends the notice to the legislative reference bureau, the
25 agency shall send a copy of the notice to the secretary of administration.

SENATE BILL 328

1 **SECTION 13.** 227.15 (1) of the statutes is amended to read:

2 227.15 (1) SUBMITTAL TO LEGISLATIVE COUNCIL STAFF. Prior to a public hearing
3 on a proposed rule required under s. 227.16 or, if no such public hearing is required,
4 prior to notice under s. 227.19, an agency shall submit the proposed rule to the
5 legislative council staff for review. The proposed rule shall be in the form required
6 under s. 227.14 (1), and shall include the material required under s. 227.14 (2), (3),
7 and (4), any housing impact analysis required under s. 227.115 (2) (a), any revised
8 housing impact analysis required under s. 227.115 (2) (b), the any economic impact
9 analysis required under s. 227.137 (2) or (2m), and any revised economic impact
10 analysis required under s. 227.137 (4). An agency may not hold a public hearing on
11 a proposed rule or give notice under s. 227.19 until after it has received a written
12 report of the legislative council staff review of the proposed rule or until after the
13 initial review period of 20 working days under sub. (2) (intro.), whichever comes first.
14 An agency may give notice of a public hearing prior to receipt of the legislative council
15 staff report. This subsection does not apply to rules promulgated under s. 227.24.

16 **SECTION 14.** 227.15 (1m) (bm) of the statutes is amended to read:

17 227.15 (1m) (bm) ~~The Any~~ economic impact analysis required under s. 227.137
18 (2) or (2m), any revised economic impact analysis required under s. 227.137 (4), and
19 any independent economic impact analysis prepared under s. 227.137 (4m).

20 **SECTION 15.** 227.185 of the statutes is amended to read:

21 **227.185 Approval by governor.** ~~After Except as otherwise provided in this~~
22 section, after a proposed rule is in final draft form, the agency shall submit the
23 proposed rule to the governor for approval. The governor, in his or her discretion,
24 may approve or reject the proposed rule. If the governor approves a proposed rule,
25 the governor shall provide the agency with a written notice of that approval. ~~No~~

SENATE BILL 328**SECTION 15**

1 Except as otherwise provided in this section, no proposed rule may be submitted to
2 the legislature for review under s. 227.19 (2) unless the governor has approved the
3 proposed rule in writing. The agency shall notify the joint committee for review of
4 administrative rules whenever it submits a proposed rule for approval under this
5 section. This section does not apply to a proposed rule relating to fish or wildlife that
6 is considered at the joint annual spring hearing of the department of natural
7 resources and the Wisconsin conservation congress.

8 **SECTION 16.** 227.19 (2) of the statutes is renumbered 227.19 (2) (a) and
9 amended to read:

10 227.19 (2) (a) An agency shall submit a notice to the chief clerk of each house
11 of the legislature when a proposed rule is in final draft form. The notice shall be
12 submitted in triplicate and shall be accompanied by a report in the form specified
13 under sub. (3). ~~A~~

14 (b) 1. Except as provided in subd. 2., a notice received under this subsection
15 after the last day of the legislature's final general-business floorperiod in the
16 biennial session as established in the joint resolution required under s. 13.02 (3) shall
17 be considered received on the first day of the next regular session of the legislature,
18 unless the presiding officers of both houses direct referral of the notice and report
19 under this subsection before that day.

20 (c) The presiding officer of each house of the legislature shall, within 10
21 working days following the day on which the a notice and report are received under
22 this subsection, direct the appropriate chief clerk to refer the notice and report to one
23 standing committee.

24 (d) The agency shall submit to the legislative reference bureau for publication
25 in the register, in an electronic format approved by the legislative reference bureau,

SENATE BILL 328

1 a statement that a proposed rule has been submitted to the chief clerk of each house
2 of the legislature. The agency shall also include in the statement the date of approval
3 of the proposed rule by the governor under s. 227.185 if the proposed rule is subject
4 to gubernatorial approval. Each chief clerk shall enter a similar statement in the
5 journal of his or her house.

6 **SECTION 17.** 227.19 (2) (b) 2. of the statutes is created to read:

7 227.19 (2) (b) 2. For a proposed rule relating to fish or wildlife that is considered
8 at the joint annual spring hearing of the department of natural resources and the
9 Wisconsin conservation congress, a notice received under this subsection shall be
10 considered received on the first day of the next regular session of the legislature only
11 if the notice is received on or after September 1 of an even-numbered year, unless
12 the presiding officers of both houses direct referral of the notice and report under this
13 subsection before that day.

14 **SECTION 18.** 227.19 (3) (intro.) of the statutes is amended to read:

15 227.19 (3) FORM OF REPORT. (intro.) The report required under sub. (2) shall be
16 in writing and shall include the proposed rule in the form specified in s. 227.14 (1);
17 the material specified in s. 227.14 (2), (3), and (4); including any statement,
18 suggested changes, or other material submitted to the agency by the small business
19 regulatory review board; a copy of any economic impact analysis prepared by the
20 agency under s. 227.137 (2) or (2m); a copy of any revised economic impact analysis
21 prepared by the agency under s. 227.137 (4); a copy of any independent economic
22 impact analysis prepared under s. 227.137 (4m); a copy of any energy impact report
23 received from the public service commission under s. 227.117 (2); and a copy of any
24 recommendations of the legislative council staff. The report shall also include all of
25 the following:

SENATE BILL 328**SECTION 19**

1 **SECTION 19.** 227.19 (4) (b) 1m. of the statutes is amended to read:

2 227.19 (4) (b) 1m. Except as provided under subd. 5., if a notice and report
3 received under sub. (2) after the last day of the legislature's final general-business
4 floorperiod as specified in sub. (2) is referred for committee review before the first day
5 of the next regular session of the legislature, the committee review period for each
6 committee to which the proposed rule is referred extends to the day specified under
7 s. 13.02 (1) for the next legislature to convene. This subdivision does not apply with
8 respect to a proposed rule relating to fish or wildlife that is considered at the joint
9 annual spring hearing of the department of natural resources and the Wisconsin
10 conservation congress.

11 **SECTION 20.** 227.19 (5) (b) 1m. of the statutes is amended to read:

12 227.19 (5) (b) 1m. If a notice and report received under sub. (2) after the last
13 day of the legislature's final general-business floorperiod as specified in sub. (2) is
14 referred for review by the joint committee for review of administrative rules before
15 the first day of the next regular session of the legislature, the review period for the
16 joint committee for review of administrative rules extends to the day specified under
17 s. 13.02 (1) for the next legislature to convene. During that review period, the joint
18 committee for review of administrative rules may meet and take action in executive
19 session and may take any action on the proposed rule in whole or in part permitted
20 under this subsection. If the joint committee for review of administrative rules meets
21 in executive session with respect to a proposed rule or part of a proposed rule to which
22 a committee has objected, that joint committee shall take action as permitted under
23 this subsection with respect to the committee's objection. This subdivision does not
24 apply with respect to a proposed rule relating to fish or wildlife that is considered at

SENATE BILL 328

1 the joint annual spring hearing of the department of natural resources and the
2 Wisconsin conservation congress.

3 **SECTION 21.** 227.24 (1) (e) 1d. of the statutes is amended to read:

4 227.24 (1) (e) 1d. Prepare Except as provided in s. 227.135 (6), prepare a
5 statement of the scope of the proposed emergency rule as provided in s. 227.135 (1),
6 obtain approval of the statement as provided in s. 227.135 (2), send the statement
7 to the legislative reference bureau for publication in the register as provided in s.
8 227.135 (3), and hold a preliminary public hearing and comment period if directed
9 under s. 227.136 (1). If the agency changes the scope of a proposed emergency rule
10 as described in s. 227.135 (4), the agency shall prepare and obtain approval of a
11 revised statement of the scope of the proposed emergency rule as provided in s.
12 227.135 (4). No state employee or official may perform any activity in connection
13 with the drafting of a proposed emergency rule except for an activity necessary to
14 prepare the statement of the scope of the proposed emergency rule until the governor
15 and the individual or body with policy-making powers over the subject matter of the
16 proposed emergency rule approve the statement.

17 **SECTION 22.** 227.24 (1) (e) 1g. of the statutes is amended to read:

18 227.24 (1) (e) 1g. Submit Except as otherwise provided in this subdivision,
19 submit the proposed emergency rule in final draft form to the governor for approval.
20 The governor, in his or her discretion, may approve or reject the proposed emergency
21 rule. If the governor approves a proposed emergency rule, the governor shall provide
22 the agency with a written notice of that approval. An agency may not file an
23 emergency rule with the legislative reference bureau as provided in s. 227.20 and an
24 emergency rule may not be published until the governor approves the emergency
25 rule in writing. This subdivision does not apply to a proposed emergency rule

SENATE BILL 328**SECTION 22**

1 relating to fish or wildlife that is considered at the joint annual spring hearing of the
2 department of natural resources and the Wisconsin conservation congress.

3 **SECTION 23. Initial applicability.**

4 (1) GUBERNATORIAL APPROVAL OF RULES; SCOPE STATEMENTS. The treatment of ss.
5 227.135 (2), (2m), (3), and (6), 227.14 (4m), 227.185, and 227.24 (1) (e) 1d. and 1g. and
6 the renumbering and amendment of s. 227.19 (2) (with respect to gubernatorial
7 approval of rules) first apply to a proposed administrative rule whose statement of
8 scope is published in the Wisconsin Administrative Register on the effective date of
9 this subsection.

10 (2) ECONOMIC IMPACT ANALYSES; LEGISLATIVE REVIEW. The treatment of ss. 227.137
11 (2), (2m), (3) (intro.), (3m), (4), and (4r), 227.14 (2) (a) 6., 227.15 (1) and (1m) (bm),
12 and 227.19 (3) (intro.), (4) (b) 1m., and (5) (b) 1m., the renumbering and amendment
13 of s. 227.19 (2) (with respect to legislative review of rules), and the creation of s.
14 227.19 (2) (b) 2. first apply to a notice of a proposed administrative rule submitted
15 to the legislature under s. 227.19 (2) on the effective date of this subsection.

16 (END)