



State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-2514/1

MED:cdc

2025 SENATE BILL 289

May 30, 2025 - Introduced by Senators BRADLEY, CABRAL-GUEVARA, FEYEN, HUTTON, KAPENGA, NASS, QUINN, STAFSHOLT and TOMCZYK, cosponsored by Representatives GUSTAFSON, NEDWESKI, ARMSTRONG, BEHNKE, BROOKS, CALLAHAN, DALLMAN, DITTRICH, DONOVAN, GOEBEN, GREEN, GUNDRUM, B. JACOBSON, KAUFERT, KNODL, KREIBICH, KRUG, MAXEY, MELOTIK, MURPHY, MURSAU, NEYLON, O'CONNOR, PENTERMAN, PIWOWARCZYK, TITTL, TRANEL, TUSLER, WICHGERS and WITTKE. Referred to Committee on Licensing, Regulatory Reform, State and Federal Affairs.

1 **AN ACT** *to consolidate, renumber and amend* 227.137 (3) (b) (intro.) and 1.;
2 *to amend* 227.137 (3) (c), 227.137 (4m) (b) 2. a., 227.137 (4m) (b) 2. b., 227.137
3 (4m) (c) 1., 227.139 (1), 227.139 (2) (b), 227.19 (5) (b) 3. a. and 227.19 (5) (b) 3.
4 b.; **to create** 227.137 (3m) and 227.139 (2) (c) of the statutes; **relating to:**
5 requirements for proposed administrative rules that impose any costs.

Analysis by the Legislative Reference Bureau

Under current law, if a proposed administrative rule is reasonably expected to pass along \$10,000,000 or more in implementation and compliance costs to businesses, local governmental units, and individuals over any two-year period, the agency proposing the rule must stop working on the proposed rule until 1) the agency modifies the proposed rule to reduce the expected costs or 2) a bill is enacted that allows the agency to promulgate the proposed rule. These requirements do not apply to emergency rules or to certain rules proposed by the Department of Natural Resources that relate to air quality and that are required under federal law.

This bill changes those requirements so that the requirements apply when a proposed rule is reasonably expected to pass along any amount of implementation and compliance costs to businesses, local governmental units, and individuals over any two-year period. Under the bill, the agency proposing such a rule must stop

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working on the proposed rule until 1) the agency modifies the proposed rule to eliminate the expected costs; 2) a bill is enacted that allows the agency to promulgate the proposed rule; or 3) the agency promulgates or has promulgated a different rule, in the same calendar year as proposing the rule at issue, that is reasonably expected to reduce implementation and compliance costs to businesses, local governmental units, and individuals over any two-year period, in an amount that will offset the amount of costs resulting from the proposed rule at issue.

The bill also requires an agency, in the economic impact analysis of a proposed rule that the agency is required to prepare, to include an estimate of the total implementation and compliance cost savings that are reasonably expected to be realized by businesses, local governmental units, and individuals as a result of the proposed rule, expressed as a single dollar figure.

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

1 **SECTION 1.** 227.137 (3) (b) (intro.) and 1. of the statutes are consolidated,
2 renumbered 227.137 (3) (b) and amended to read:

3 227.137 (3) (b) An analysis and detailed quantification of the economic impact
4 of the proposed rule, prepared in accordance with sub. (3m), including the
5 implementation and compliance costs that are reasonably expected to be incurred
6 by or passed along to the businesses, local governmental units, and individuals that
7 may be affected by the proposed rule, ~~specifically including all of the following: 1.~~
8 ~~An estimate of the total implementation and compliance costs that are reasonably~~
9 ~~expected to be incurred by or passed along to businesses, local governmental units,~~
10 ~~and individuals as a result of the proposed rule, expressed as well as any cost~~
11 savings that are reasonably expected to be realized by those businesses, local
12 governmental units, and individuals. The agency shall list out the costs and cost
13 savings as they pertain to each affected type of business, local governmental unit,
14 and individual. The agency shall also compile the total net costs and cost savings
15 for all affected businesses, local governmental units, and individuals and shall

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1 express the result as a single dollar figure. With respect to an independent
2 economic impact analysis prepared under sub. (4m) or s. 227.19 (5) (b) 3., the person
3 preparing the analysis shall provide a detailed explanation of any variance from the
4 agency's estimate under this ~~subdivision~~ paragraph.

5 **SECTION 2.** 227.137 (3) (c) of the statutes is amended to read:

6 227.137 (3) (c) An analysis of the actual and quantifiable benefits of the
7 proposed rule not otherwise described under par. (b), including an assessment of
8 how effective the proposed rule will be in addressing the policy problem that the
9 rule is intended to address.

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

11 227.137 (3m) For purposes of sub. (3) (b), the estimate of the implementation
12 and compliance costs that are reasonably expected to be incurred by or passed along
13 to the businesses, local governmental units, and individuals that may be affected by
14 the proposed rule, as well as any cost savings that are reasonably expected to be
15 realized by those businesses, local governmental units, and individuals, shall be
16 attributed to the proposed rule regardless of the level or extent of discretion
17 afforded to the agency in determining the policies of the proposed rule and
18 regardless of whether those costs and cost savings are attributable to any of the
19 following:

20 (a) The underlying statutory directives or objectives that are the basis for the
21 proposed rule or that determine or otherwise impact the policies proposed to be
22 included in the rule.

23 (b) Any other statutory directives or objectives that impact the proposed rule

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1 or that determine or otherwise impact the policies proposed to be included in the
2 rule.

3 (c) Requirements, limitations, or other constraints imposed under federal law.

4 (d) Other factors that bear on the necessity of the policies of the proposed rule.

5 **SECTION 4.** 227.137 (4m) (b) 2. a. of the statutes is amended to read:

6 227.137 (**4m**) (b) 2. a. If the estimate in the independent economic impact
7 analysis of total implementation and compliance costs under sub. (3) (b) ~~1~~ varies
8 from the agency's estimate by 15 percent or more or varies from the agency's
9 determination that there will be no implementation or compliance costs, the
10 cochairperson shall assess the agency that is proposing the proposed rule for the
11 costs of completing the independent economic impact analysis.

12 **SECTION 5.** 227.137 (4m) (b) 2. b. of the statutes is amended to read:

13 227.137 (**4m**) (b) 2. b. If the estimate in the independent economic impact
14 analysis of total implementation and compliance costs under sub. (3) (b) ~~1~~ does not
15 vary from the agency's estimate by 15 percent or more or is in accord with the
16 agency's determination that there will be no implementation and compliance costs,
17 the costs of completing the independent economic impact analysis shall be paid
18 from the appropriation account that corresponds to his or her house of the
19 legislature under s. 20.765 (1) (a) or (b).

20 **SECTION 6.** 227.137 (4m) (c) 1. of the statutes is amended to read:

21 227.137 (**4m**) (c) 1. Include in the analysis the information that is required
22 under sub. (3), prepared in accordance with sub. (3m).

23 **SECTION 7.** 227.139 (1) of the statutes is amended to read:

24 227.139 (**1**) If an economic impact analysis prepared under s. 227.137 (2), a

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1 revised economic impact analysis prepared under s. 227.137 (4), or an independent
2 economic impact analysis prepared under s. 227.137 (4m) or 227.19 (5) (b) 3.
3 indicates that ~~\$10,000,000 or more in~~ there are any net implementation and
4 compliance costs that are are reasonably expected to be incurred by or passed along
5 to businesses, local governmental units, and individuals ~~over any 2-year period~~ as a
6 result of the proposed rule, the agency proposing the rule shall stop work on the
7 proposed rule and may not continue promulgating the proposed rule
8 notwithstanding any provision authorizing or requiring the agency to promulgate
9 the proposed rule, except as authorized under sub. (2).

10 **SECTION 8.** 227.139 (2) (b) of the statutes is amended to read:

11 227.139 (2) (b) If an agency is prohibited from promulgating a rule under sub.
12 (1), the agency may modify the proposed rule, if the modification is germane to the
13 subject matter of the proposed rule, to address the implementation and compliance
14 costs of the proposed rule. If the agency modifies a proposed rule under this
15 paragraph, the agency shall prepare a revised economic impact analysis under s.
16 227.137 (4). Following the modification, the agency may continue with the rule-
17 making process as provided in this subchapter if the revised economic impact
18 analysis prepared by the agency indicates, and any independent economic impact
19 analysis prepared under s. 227.137 (4m) or 227.19 (5) (b) 3. subsequent to the
20 agency's modification also indicates, that ~~\$10,000,000 or more in~~ no net
21 implementation and compliance costs are ~~not~~ reasonably expected to be incurred by
22 or passed along to businesses, local governmental units, and individuals ~~over any 2-~~
23 ~~year period~~ as a result of the proposed rule.

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SECTION 9. 227.139 (2) (c) of the statutes is created to read:

227.139 (2) (c) If an agency is prohibited from promulgating a rule under sub. (1), the agency may promulgate a separate rule or use a previously promulgated rule to fully offset the implementation and compliance costs of the proposed rule, if the other rule is promulgated in the same calendar year as the proposed rule and has not previously been used to offset costs under this paragraph. If the agency promulgates or uses a rule as provided under this paragraph, the agency shall prepare a revised economic impact analysis under s. 227.137 (4). The agency may continue with the rule-making process as provided in this subchapter if the revised economic impact analysis prepared by the agency indicates, and any independent economic impact analysis prepared under s. 227.137 (4m) or 227.19 (5) (b) 3. subsequent to the agency's modification also indicates, that another rule promulgated by the agency fully offsets any implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governmental units, and individuals over any 2-year period as a result of the proposed rule.

SECTION 10. 227.19 (5) (b) 3. a. of the statutes is amended to read:

227.19 (5) (b) 3. a. If the estimate in the independent economic impact analysis of total implementation and compliance costs under s. 227.137 (3) (b) ~~1.~~ varies from the agency's estimate by 15 percent or more or varies from the agency's determination that there will be no implementation or compliance costs, the committee shall assess the agency that is proposing the proposed rule for the costs of completing the independent economic impact analysis.

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SECTION 11

1 **SECTION 11.** 227.19 (5) (b) 3. b. of the statutes is amended to read:

2 227.19 (5) (b) 3. b. If the estimate in the independent economic impact
3 analysis of total implementation and compliance costs under s. 227.137 (3) (b) ~~1.~~
4 does not vary from the agency's estimate by 15 percent or more or is in accord with
5 the agency's determination that there will be no implementation and compliance
6 costs, the costs of completing the independent economic impact analysis shall be
7 paid in equal parts from the appropriation accounts under s. 20.765 (1) (a) and (b).

8 **SECTION 12. Initial applicability.**

9 (1) This act first applies to a proposed rule whose statement of scope is
10 presented for approval under s. 227.135 (2) on the effective date of this subsection.

11 (END)