



# Legislative Update

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2017-2018 Session  
March 2019

**Zach Ramirez**  
Staff Attorney  
Wisconsin Legislative Council  
(608) 504-5726



# Researching Legislative Activity

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See <https://docs.legis.wisconsin.gov/2017/related/secaff/index.pdf>

“This listing shows, in the ascending order of the decimal-numbered statute sections affected by 2017 Wisconsin Acts...In separate tables, this publication shows changes in nonstatutory session laws and in the Wisconsin Administrative Code resulting from 2017 enactments....”



# Researching Legislative Activity

Highest §Unit	Lower § Unit(s)	Treatment & Any Delayed Effective Date	Affected By
196.378	(1) (h) 1. k.	cr.	Act 53
	(3) (a) 1m.	am.	Act 53
196.49	(5g) (ag)	am.	Act 136
	(5g) (ar) 2m. b.	am.	Act 136
	(5g) (ar) 2m. c.	am.	Act 136
	(5g) (ar) 3.	cr.	Act 58
196.491	(1) (f)	am.	Act 58
	(4) (c) 1m. (intro.)	am.	Act 136
	(4) (c) 1m. a.	am.	Act 136
	(4) (c) 1m. b.	am.	Act 136
196.504	(1) (a)	rn. 196.504 (1) (ac)	Act 59
	(1) (ab)	cr.	Act 59
	(1) (ac)	rn.fr. 196.504 (1) (a)	Act 59
	(1) (ad)	cr.	Act 59
	(1) (c)	cr.	Act 59
	(2) (a)	am.	Act 59
	(2) (c)	am.	Act 59
	(2) (e)	cr.	Act 59



# Researching Legislative Activity

## Administrative Rules Affected

NR 45.05	(3) (fm)	cr.	Act 301
NR 132.06	(4)	r. effec. 7-1-2018	Act 134
NR 132.17	(13)	am. effec. 7-1-2018	Act 134
NR 132.18	(1) (f)	am. effec. 7-1-2018	Act 134
NR 182.07		rn.fr. NR 182.07 (1) effec. 7-1-2018	Act 134
	(1)	rn. NR 182.07 effec. 7-1-2018	Act 134
	(2)	r. effec. 7-1-2018	Act 134
NR 182.08	(2) (d) 8. e.	am. effec. 7-1-2018	Act 134



# Researching Legislative Activity

## Session Laws Affected by 2017 Wisconsin Acts

Year	Session Laws Chapter or Wisconsin Act	Affected
2013	WisAct 229, s. 6 (1) (last aff. 2015 WisAct 55) am. effec. 6-30-2017 (vetoed in part)	Act 59
	WisAct 229, s. 6 (1) am. effec. 7-1-2017 [see ss. 4750, 9437 (2L) of 2015 WisAct 55] .... WisAct 55 of	2015
2015	WisAct 55, s. 763qb r.	Act 255
	WisAct 55, s. 768kb r. effec. 6-30-2017	Act 59
	WisAct 55, s. 768pb r. effec. 6-30-2017	Act 59
	WisAct 55, s. 1458rb r. effec. 6-30-2017	Act 59
	WisAct 55, s. 2124s am.	Act 366
	WisAct 55, s. 3309t am.	Act 366
	WisAct 55, s. 9426 (1q) (last aff. 2017 WisAct 59, s. 2265p) r.	Act 255
	WisAct 55, s. 9426 (1q) am. effec. 6-29-2017	Act 59
	WisAct 55, s. 9449 (1q) r.	Act 59
	WisAct 60, s. 115 (1) r.	Act 205
	WisAct 89, s. 52 am.	Act 366
	WisAct 117, s. 24h am.	Act 366
	WisAct 117, s. 67 am.	Act 365
	WisAct 118, s. 188 am.	Act 366
	WisAct 118, s. 192 am.	Act 366
WisAct 155, s. 4 am.	Act 365	



# Reminder: 2017 Acts (Covered last year in March 2018)

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**Act 53** – Resources Eligible for Renewable Resource Credits

**Act 58** – Foxconn (See Cindy’s Presentation)

**Act 59** – Budget Bill/Broadband Grant Criteria & Funding

**Act 76** – Extensions of Credit by Electric Co-ops

**Act 136** – One-Call System, Natural Gas and Hazmats Enforcement, and Settlement Agreements

**Act 137** – Funding Lead Water Service Line Replacement



# Update on Bills that were Pending Bills as of March 2018

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## **AB 348 – Regulation of Wireless Facilities**

Failed to pass

## **AB 583 – Tax Exemption for Electric Co-ops & Telcos.**

Enacted as 2017 Act 290

## **AB 774 – PSC Review of MMSD Charges**

Enacted as 2017 Act 312



# Other Acts Enacted after March 2018

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**Act 317 – Utility Billing and Other Changes.**

**Act 342 – Telecommuter Forward! Community Certification**

**Act 369 – Statutory Challenges, Settlement Authority, Intervention, and Administrative Rules**



# Act 317 – Utility Billing and Other Changes

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- Upon request, requires a public utility to notify an owner of a rental unit in the same manner as the tenant of any pending disconnection that is due to nonpayment of past due charges.
- Prohibits a public utility from requiring the owner of a rental dwelling unit to provide proof of eviction or evidence that a tenant has vacated, as a condition of providing or resuming service, if the service is placed solely in the owner's name.
- Makes a municipal utility's ability to place a lien contingent upon the utility's compliance with requirements to bill in the tenant's name.



# Act 342 – Telecommuter Forward! Community Certification

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A city, village, town or county may apply to the PSC for certification. The PSC shall approve an application if it finds that the community has adopted a resolution that :

- States the community’s commitment to promoting the availability of telecommuting options.
- Provides a single point of contact that has responsibility for coordinating activities between various stakeholders, promoting telecommuter-friendly workspaces, communicating with the state broadband office, and using the state mapping tools.



# Act 369 – Deference

- “Upon review of an agency action or decision, the court shall accord no deference to the agency’s interpretation of law...” [s. 227.57 (11), Stats.]
- “No agency may seek deference in any proceeding based on the agency’s interpretation of any law.” [s. 227.10 (2g), Stats.]

However:

- *Tetra Tech, Inc., and Lower Fox River Remediation LLC v. WI DOR*, 2018 WI 75.
- “...due weight shall be accorded the experience, technical competence, and specialized knowledge of the agency involved, as well as discretionary authority conferred upon it.” [s. 227.57 (10), Stats.]
- “If the agency’s action depends on any fact found by the agency in a contested case proceeding, the court shall not substitute its judgement for that of the agency as to the weight of the evidence on any disputed finding of fact...” [s. 227.57 (6), Stats.]



# Act 369 – Service and Intervention of the Attorney General

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- Adds more types of challenges in which the AG is required to be served and be entitled to be heard.
- “...if a statute...is alleged to be unconstitutional, or in violation of or preempted by federal law, or if the **construction or validity** of a statute is otherwise challenged...” the AG must be served with a copy of the proceeding and be entitled to be heard.  
[s. 893.825 (1), Stats.]



# Act 369 – Service and Intervention of Certain Legislative Bodies

- Adds more types of challenges in which legislative bodies are required to be served and be entitled to be heard.
- Requires that the Assembly speaker, Senate president, and Senate majority leader be served with a copy of the proceeding 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.” [s. 893.825 (2), Stats.]
- In these actions, the Assembly, the Senate, and the Legislature are entitled to be heard. [s. 893.825 (2), Stats.]
- The Assembly, the Senate, and the Legislature may intervene at any time as a matter of right when a party challenges the constitutionality of a statute, challenges a statute as violating or preempted by federal law, or otherwise challenges the construction or validity of a statute. [ss. 13.365 and 803.09 (2m), Stats.]



# Act 369 – Settlement Authority for Civil Actions Prosecuted by DOJ

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- In any civil action prosecuted by the AG, the AG may not compromise or settle the action unless:
  - A legislative body acting as an intervenor approves the settlement; or
  - If there is no legislative intervenor, the AG must submit a proposed plan to Joint Finance for affirmative approval.
- The AG must obtain approval from the Joint Committee on Legislative Organization in order for a plan to include a provision conceding the unconstitutionality or other invalidity of a statute. [s. 165.08 (1), Stats.]



# Act 369 – Settlement Authority for Civil Actions Defended by DOJ

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- If an action is for injunctive relief or there is a proposed consent decree, the AG may not compromise or settle the action unless:
  - A legislative body acting as an intervenor approves the settlement; or
  - If there is no legislative intervenor, the AG must submit a proposed plan to Joint Finance for passive review
- The AG must obtain approval from the Joint Committee on Legislative Organization in order for a plan to include a provision conceding the unconstitutionality or other invalidity of a statute. [s. 165.25 (6) (a) 1., Stats.]
- *Koschkee v. Evers*, 2018 WI 82



# Act 369 – Authority of the Joint Committee for Review of Administrative Rules (JCRAR)

Authorizes JCRAR to suspend an existing administrative rule multiple times. Suspension occurs outside of the rulemaking process (see chart on next slide). [s. 227.26 (2) (im), Stats.]

## **Background - Other Noteworthy 2017 Acts Affecting Administrative Rules**

### **Act 39**

- Scope statement expiration

### **Act 57**

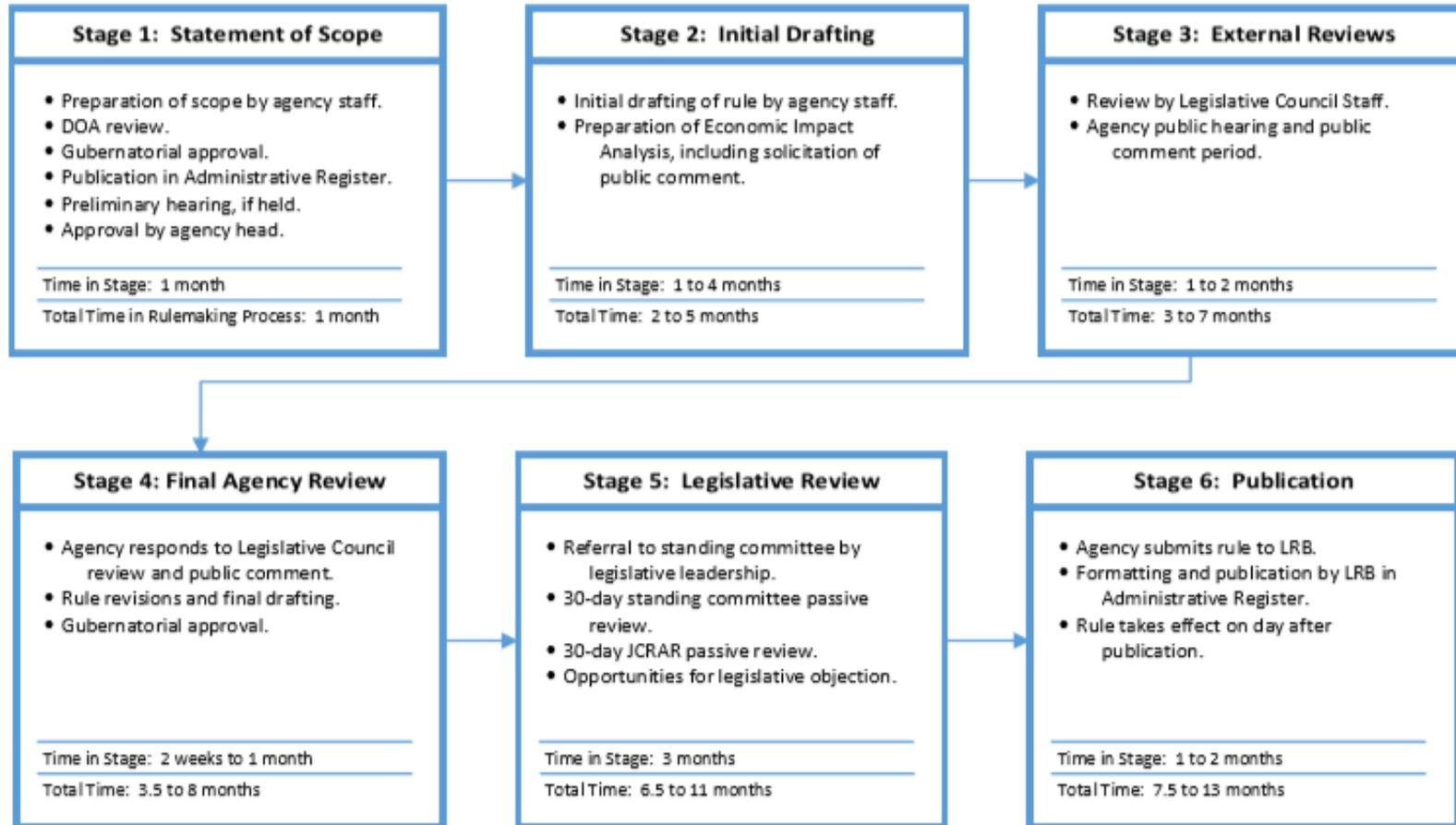
- Independent economic impact analysis
- Preliminary hearing on scope statement
- Indefinite objection to proposed rules

### **Act 108**

- Retrospective economic impact analysis for existing rules
- Requirement for agency review of existing rules
- Expedited procedure for repealing unauthorized rules



# Chart of the Rulemaking Process





# Act 369 – Guidance Documents

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- Generally defined as “any formal or official document or communication issued by an agency...” that either explains the agency’s implementation of a statute or rule or provides guidance or advice that is likely to apply to a class of persons similarly affected, excluding certain documents, such as most documents in a contested case. [s. 227.01 (3m) (a), Stats.]
- Creates a process for creating a guidance document, including publication and a 21-day public comment period.
- Requires agencies to continuously post the documents on their website and permit continued public comment.
- Specifies that guidance documents do not have the force of law.
- Directs the manner in which guidance documents may be used with respect to administrative and judicial proceedings. [s. 227.112, Stats.]



# 2019-20 Session: AB 56/SB 59 – The Governor’s Budget Bill

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## **Intervenor Compensation**

- Increases the maximum annual amount of intervenor compensation from \$300,000 to \$500,000.

## **Focus on Energy**

- Provides that the PSC “may require each energy utility to spend more than 1.2 percent of its annual operating revenues to fund these programs and costs.”
- The PSC must submit to the Joint Finance Committee for passive review “any proposal to require each energy utility to...”

## **State Energy Policy**

- Adds a new goal to the State Energy Policy that “It is the goal of the state that all electricity produced within the state is 100 percent carbon-free by January 1, 2050.”



# 2019-20 Session: AB 56/SB 59 – The Governor’s Budget Bill

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## **Administrative changes**

- Moves high-voltage transmission line impact fee from DOA to the PSC.
- Creates an Office of Sustainability and Clean Energy in DOA and moves certain responsibilities from the PSC to DOA.
- Of the VW settlement funds, DOA shall allocate 40 percent of the grants for the installation of charging stations for electric vehicles, in the 2019-21 biennium.
- Generally repeals the changes in Act 369 that are mentioned earlier in the slides.

## **Broadband**

- Changes to the Broadband Expansion Grant Program
- Changes to conditions that a municipality must satisfy before taking steps to construct facilities or offer broadband service.
- Requires the PSC to, no later than June 30, 2020, submit a report on broadband.

## **Safe Drinking Water Loan Program**

- DOA may allocate up to \$40 million for projects involving forgivable loans to private users of public water systems to cover not more than 50% of the cost to replace lead service lines.