



Testimony in Support of Assembly Bill 994 and 995

Assembly Committee on Government Operations, Accountability, and Transparency

Wednesday, February 4, 2026

Chair Nedweski and committee members, thank you for holding this hearing today and allowing me to speak in support of Assembly Bills (AB) 994 and 995. I appreciate Senator Jacque's willingness to author this important legislation with me.

Last year, the Wisconsin Supreme Court issued its ruling in *Evers v. Marklein* (Marklein II). In this ruling, the court's majority upended decades of precedent when they held that the Legislature may not nullify or delay an administrative rule through actions of the Joint Committee for Review of Administrative Rules (JCRAR) unless those actions are accomplished through approval by both legislative chambers and the Governor. As a result, under Marklein II, any legislative or committee action that alters the legal effect of an administrative rule, outside of enacting a law, may be subject to legal challenge. This ruling has thrown the state legislature's authority to oversee state agencies into chaos.

Over the past few months, I have served on the Speaker's Task Force on Rulemaking. This task force was charged with identifying rulemaking authority to be repealed by legislation and proposing draft legislation to strengthen legislative oversight of agency rulemaking. In our public hearings around the state, we heard from many Wisconsinites who were concerned about the loss of the Legislature's oversight ability. They did not see this as a partisan issue, but a separation of powers issue. As administrative rules have the force of law, it is essential that the Legislative branch have a role in the rulemaking process. These two bills are part of a package of legislation based on the recommendations of the task force.

AB 994

Under current law, certain boards and commissions, referred to as "restricted agencies," lose their authority to promulgate rules if they have not taken rulemaking action in 10 years or more, unless the Legislature later authorizes new rulemaking.

Current law also requires agencies to review their administrative code by March 31 of each odd-numbered year to identify rules they no longer have authority to enforce, as well as rules that are obsolete, duplicative, or economically burdensome. Rules that lack legal authorization due to repealed or amended statutes may be repealed through an expedited repeal process.



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This bill expands and strengthens this review process by allowing agencies to use the expedited repeal process for any rule identified during the biennial review. It also requires agencies to hold a public hearing and solicit public input as part of the review.

Finally, the bill provides that agencies that fail to complete the biennial review would lose their authority to introduce new rules, consistent with the restrictions applied to “restricted agencies.”

AB 995

Under current law, a permanent administrative rule generally takes effect on the first day of the month following its publication in the administrative register, unless otherwise specified. Emergency rules may remain in effect for 150 days and may be extended by the Joint Committee for Review of Administrative Rules (JCRAR) for an additional 120 days.

This bill modifies these timelines by setting the default effective date for permanent administrative rules as the first day of the seventh month after publication. The bill also extends the initial effective period for emergency rules from 150 days to 180 days. Together, these changes would allow the Legislature to consider legislative alternatives to permanent rules prior to those rules going into effect, while also enabling an agency to react appropriately in situations where the need for rulemaking rises to the level of a true emergency. It provides more time for public feedback.

Madam chair and committee members, I ask for your support of AB 994 and 995 and thank you again for the opportunity to testify before you today.