

MAY 15 2000

LCRC
FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-071

AN ORDER to create chapter Eth 4, relating to the identification of a topic of a lobbying communication.

Submitted by **ETHICS BOARD**

04-10-00 RECEIVED BY LEGISLATIVE COUNCIL.

05-08-00 REPORT SENT TO AGENCY.

RS:DD:rv;ksm

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LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

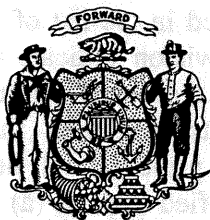
Comment Attached YES NO

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CLEARINGHOUSE RULE 00-071

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. The board's analysis in the notice of hearing is substantially better than the analysis contained on the first page of the material submitted for Legislative Council Staff review. The analysis in the notice of hearing should also be used as the analysis of the rule submitted to Legislative Council Staff.

b. Reference to pertinent provisions of 1999 Wisconsin Act 9 in the analysis would be helpful.

c. The newly created s. Eth 4.01 should include a title for the section. Also, in the introduction, the phrase "all of the following" should be inserted after the word "diligence." With this change, the semicolons concluding the following subunits should be replaced by periods. Finally, pars. (a) to (d) should be renumbered subs. (1) to (4).

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Consideration should be given to clarifying, perhaps in a note to s. Eth 4.01, that reference to "appropriation" in par. (c) does not include an appropriation that is part of a numbered legislative proposal or proposed administrative rule or a budget bill subject. In other words, if an appropriation relates to a "topic of a lobbying communication," then that

appropriation is not part of a legislative proposal, administrative rule or budget bill subject but is outside those categories. Including examples in a note may be helpful.

b. Is par. (d) appropriately placed in the list of items following the introductory clause or, instead, should an independent provision indicate that the board may request additional information, on a case-by-case basis, if the board determines it necessary for compliance with the requirements of s. 13.67 (1), Stats.? Unless the board promulgates additional rules concerning the additional information, a principal will not know until after submittal of a report that information in addition to that specified in pars. (a) to (c) is required. Clarification may be in order.

c. Section Eth 4.01 defines what constitutes a "topic" when a principal makes a report under ch. 13, Stats. However, s. 13.67 (2), Stats., as affected by 1999 Wisconsin Act 9, provides that a person who is *not* a principal may register with the board an interest in a legislative proposal, proposed administrative rule, budget bill subject or other topic. Presumably, a "topic" under this provision of the statutes is the same as a "topic" under s. 13.67 (1), Stats., as affected by 1999 Wisconsin Act 9. If so, the rule provision should clarify this point.

PROPOSED RULE

The Wisconsin Ethics Board proposes an order to create Chapter Eth 4, relating to the identification of a topic of a lobbying communication.

Statutory authority: s. 13.685(4), Stats.

Statutes interpreted: ss. 13.67 and 13.68(1)(bn), Stats.

→ see Act 79

The proposed rule defines what constitutes a lobbying topic and how an organization that employs a lobbyist must identify a topic on which it has made a lobbying communication, pursuant to ss. 13.67 and 13.68(1)(bn), Stats.

see note of hearing analysis

Chapter Eth 4 is created to read:

Chapter Eth 4

IDENTIFICATION OF A TOPIC OF A LOBBYING COMMUNICATION

Eth ^{*v.l.k.*} **4.01.** A principal reports a topic as required by s. 13.67(1), Stats., if it provides the board with a written description of the subject of a lobbying communication, or series of lobbying communications, sufficient to permit a person to ascertain without extraordinary diligence:

(1) (a) the specific state regulatory matter or private sector business or other activity which the effort is intended to affect and how it is intended to be affected;

(2) (b) the industries, trades, or professions, or segments or portions thereof, that would be principally affected by the effort;

(3) (c) in the case of an appropriation, the state program or person for which the appropriation is proposed and the approximate amount, if known;

and

(4) (d) such additional information as the board determines is necessary to comply with the requirement in s. 13.67(1), Stats.