



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 14-049

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated November 2011.]

1. Statutory Authority

Section 101.862 (5) (a), Stats., provides that certain requirements that would otherwise apply to a person engaged in work as an electrician do not apply to a person who was born on or before January 1, 1956, and has at least 15 years of experience in installing, repairing, or maintaining electrical wiring. Under the rule, this type of individual is referred to as a “registered master electrician”, which is a new subtype of electrician established by the rule. In addition to implementing the specific statutory exemptions applicable to individuals with the requisite age and experience, the proposed rule grants them authority to perform supervisory activities that must otherwise be performed by a master electrician.

Section 101.862 (5) (b), Stats., requires the department to “promulgate rules establishing *criteria and procedures* for issuing *licenses* to electricians who were born on or before January 1, 1956, and who have at least 15 years of experience in installing, repairing, or maintaining electrical wiring” (emphasis added). Proposed s. SPS 305.437 (2) does not comply with this statutory requirement because it does not establish any criteria, and it provides for registration, rather than licensing, of these individuals. A criterion is generally a principle or standard by which something may be judged or decided. Did the department consider promulgation of a rule that sets forth standards by which the department will judge whether an applicant has at least 15 years of experience in installing, repairing, or maintaining electrical wiring and whether that experience is adequate to ensure that the individual is capable of supervising the work of others and carrying out other activities authorized by the credential for which they are applying? How did the legislative history of 2013 Wisconsin Act 143 influence the department’s proposed rule?

That history appears to suggest that the Legislature anticipated promulgation of rules that contemplate licensing and include qualifying criteria of a substantive nature (see, in particular, the adoption of Assembly Amendment 5 to 2013 Assembly Bill 683).

Relatedly, the analysis to the rule appears to incorrectly interpret s. 101.862 (5) (a), Stats., as prohibiting the department from including in the proposed rule any licensing requirements that the department applies to other electricians. Section 101.862 (5) (a), Stats., does not prohibit the department from imposing those requirements, but rather does the following: (a) provides that an individual with the requisite age and experience who is licensed pursuant to the rules established by the department may install, repair, or maintain electrical wiring; and (b) provides that an individual with the requisite age and experience who is licensed pursuant to the rules established by the department is exempt from the requirement to have a master electrician at all times responsible for the individual's work.