



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 15-072

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 December 2014.]

1. Statutory Authority

In the rule summary’s listing of statutory authority, the department should add a citation to s. 227.11 (2) (a), Stats., and should remove the citation to s. 121.91 (4) (o), Stats.

2. Form, Style and Placement in Administrative Code

a. In the enumeration of provisions treated in the proposed rule, parentheses should be placed around the word “Note” so that it appears as “(Note)”. [s. 1.09 (2) (a), Manual.]

b. In the rule summary’s explanation of agency authority, the department could consider explaining more clearly its reliance on the general authority to promulgate rules that effectuate the purpose of a statute under s. 227.11 (2) (a), Stats., in the absence of an explicit statement of authority to promulgate a rule. The specific statutory directive that required the department to promulgate rules for the energy efficiency spending adjustment to the revenue limit was deleted under 2011 Wisconsin Act 32 (SEC. 2600m). Alternatively, rather than revising the rule, the department could consider repealing the rule, if the rule does not provide any additional interpretation of the statute. [s. 1.01 (1), Manual.]

c. The department should consider modifying the plain language analysis of the proposed rule. Currently, the text appears to be primarily a restatement of the statute, but the purpose of the plain language analysis is to provide an understandable description of the effect of the rule. [s. 1.02 (2) (b), Manual.] A reader of the proposed rule may benefit from a plain language summary of what was permitted under prior law followed by a brief explanation of how 2011 Wisconsin

Act 32 and 2013 Wisconsin Act 20 modified the law. Finally, the analysis could conclude with a statement summarizing the changes that must be made to ch. PI 15, to reflect the changes made to the statutes.

d. The rule summary's listing of the place to submit comments should provide a specific date by which comments should be submitted.

e. In the SECTION 4 treatment clause, parentheses should be placed around the word "Note" so that it appears as "(Note)". [s. 1.09 (2), Manual.]

f. In s. PI 15.03 (3) (g), the beginning of the paragraph should be rephrased so that it would flow as one sentence if read together with the introduction, which states, "A resolution under this section shall include...". [s. 1.03 (3), Manual.]

g. In s. PI 15.03 (7), the stricken period after "expenditure" should be removed. The period that exists in current language is properly shown in the proposed rule as carried to the end of the inserted language following the stricken language. [s. 1.06 (4), Manual.]

h. In s. PI 15.04 (4), the stricken sentence should not be shown in the text of the proposed rule. When a section is repealed and recreated, the language to be repealed is not shown in the proposed rule; rather, only the language as it will appear in its final form, without strike-throughs or underscores, should be shown. [s. 1.065, Manual.]

i. In ch. PI 15 Appendix A, parentheses should be used consistently throughout the text to identify places where specific information should be inserted; where brackets appear, they should be changed to parentheses. Brackets are generally used in drafting to identify language that was inserted by mistake. [s. 2.055, LRB Bill Drafting Manual 2015-2016.]

4. Adequacy of References to Related Statutes, Rules and Forms

In the Note created under s. PI 15.03 (2) (c), the department could consider including information about how a form may be obtained. [s. 1.09 (3), Manual.]

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

a. For the sake of general clarity and understanding, the department could consider defining the term "one-to-one instructional technology device" which is currently found in s. PI 15.02 (2). [s. 1.01 (7), Manual.]

b. Also, in s. PI 15.02 (2), the comma following "measures" in the second line of the text could be deleted.

c. In s. PI 15.03 (1), the phrase "not allowed unless it is necessary" should be changed to "not allowed unless they are necessary".

d. In s. PI 15.03 (3) (intro.), the phrase "all of" should be inserted between "include" and "the following information" to accurately show the text of the current rule.

e. In s. PI 15.03 (3) (d), the comma following the word "request" could be deleted.

f. In s. PI 15.03 (3) (f), a period following "1" should be inserted so that the statutory citation reads as "s. 121.54 (4) (o) 1., Stats.".

g. In s. PI 15.03 (7), the abbreviation “s.” should be inserted before the statutory citation. A period following “3” should also be inserted so that the citation reads as “s. 121.91 (4) (o) 3., Stats.”.

h. In s. PI 15.04 (2m), a period following “3” should be inserted so that the statutory citation reads as “s. 121.91 (4) (o) 3., Stats.”.

i. In s. PI 15.04 (4), a comma should be inserted after the second use of “Stats.”.

j. In ch. PI 15 Appendix A, the department could consider revising the end of the first paragraph for clarity. Currently, the insertion of “and [specify number] years of debt for the term of the [specify bond, note, or state trust fund loan]” does not flow as a logical continuation of the sentence. It may be more understandable if the insertion was instead included as a separate sentence that notifies the public of the school district’s intent to enter into debt of a certain type for a certain number of years.

k. In the third paragraph of ch. PI 15 Appendix A, the first use of “for” could be deleted and a period should be added after “debt” but inside the bracket.

l. In the fourth paragraph of ch. PI Appendix A, the citation to “66.0133(2)(b)” should be modified to read as “s. 66.0133 (2) (b), Stats.”.

m. In the fourth paragraph of ch. PI 15 Appendix A, the department could consider adding “(enter number)” instead of the blank space between “remaining” and “year” in order to specify what should be inserted.

n. In the second line of the fifth paragraph of ch. PI 15 Appendix A, the word “to” should be inserted between “or” and “purchase”.

o. In the fifth paragraph of ch. PI 15 Appendix A, the department could consider separating the paragraph into two sentences, for clarity. For example, the paragraph could read as follows:

The board has entered into a (enter number) year performance contract under s. 66.0133, Stats., with (enter contractor name) for a project to implement the following energy efficiency measures or to purchase energy efficiency products. The board has also identified the following cost recovery performance indicators to measure energy savings or operational savings for each measure or product, including the timeline for cost recovery:....

p. Paragraph six of ch. PI 15 Appendix A should not be italicized, in order to be consistent with the format used for other insertion instructions in the Appendix.

q. Also, in paragraph six of ch. PI 15 Appendix A, the slash between “measure” and “product” should be removed and replaced with “or”. Generally, slashed alternatives should not be used in drafting. Rather, if the thought expressed involves a choice, the word “or” should be inserted between the two options. [s. 1.01 (9), Manual.]

r. Also, in paragraph six of ch. PI 15 Appendix A, a period should be placed after the word “period” but inside the parentheses.

s. In paragraph seven of ch. PI 15 Appendix A, the parentheses around “utility” should be removed. Generally, the use of a parenthetical should be avoided in drafting. The department could instead insert the word “or” between “energy” and “utility”.