



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 21-060

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

1. Statutory Authority

a. The analysis cites s. 92.23 (1) (a) 1. b. and 2., Stats., as sources of statutory authority. However, it is unclear how the requirements under these provisions correspond to the reporting requirements affected by the proposed rule. Consider providing additional information in the analysis to describe the relationship between these statutory provisions and the information that must be included in the financial report filed under s. ATCP 160.92 (6). Alternatively, it appears that s. 92.23 (1) (e), Stats., may provide more direct statutory authority for the department to require the submission of a financial report.

b. Section 92.23 (1) (e), Stats., directs a county clerk (or other appointed person) to file a finance report of receipts and disbursements, attendance, and any other information required by the department, on or before January 31 following the year in which a fair is held. The proposed rule, as well as s. ATCP 160.92 (4), generally require submission of financial reports by December 31 of the year in which a fair is held. It is unclear if the reports required under the proposed rule and under s. ATCP 160.92 (4) differ substantively from the report required under s. 92.23 (1) (e), Stats. Consider amending the proposed rule to harmonize the deadline in the administrative code with the deadline established in statute.

3. Conflict With or Duplication of Existing Rules

Section ATCP 160.92 (6), as amended by the proposed rule, requires a financial report to be submitted to the department on or before December 31 following the year in which a fair is held. However, it is unclear if this required report is distinct from the annual report required under s. ATCP 160.92 (4). If the department intends to require a single annual report that includes the information currently specified under sub. (6), sub. (4) could be amended to include the requirements currently specified under sub. (6). In turn, sub. (6) could be repealed. If the department intends the reporting requirements under sub. (4) and sub. (6) to be distinct, sub. (4) could be amended to specify the unique information that must be provided in the report required under sub. (4).

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

Section ATCP 160.92 (6) refers to both a financial “report” and a financial “statement”. Consider using only the term “financial report” for consistency.