

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

ETH 26 – Settlement Offer Schedule

3. Subject

Settlement offer schedules for violations of Chs. 11, 13, and 19.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

N/A

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

The Commission proposes a rule to comply with the requirement of WIS. STAT. § 19.49(2)(b)10. This statute requires the Commission to prescribe, by rule, categories of civil offenses which the Commission will agree to compromise and settle without a formal investigation upon payment of specified amounts by the alleged offender. The Ethics Commission currently does not have a settlement schedule established in administrative code. There is no new policy being proposed. The proposed rule will simply enshrine the Commission's most recently adopted settlement schedule.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

N/A

11. Identify the local governmental units that participated in the development of this EIA.

N/A

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The Commission finds that the proposed rule will have no economic impact on small businesses.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Promulgating the rule would provide certainty to the regulated community as to the potential penalties for violations of the laws the Commission administers. It would also permit the Commission to authorize the Commission Administrator to settle the specified alleged offenses on its behalf if the alleged offenses in aggregate do not involve payment of more than \$2,500, which could accelerate the speed with which potential violations could be resolved.

The alternative would be to not create such a rule, but instead continue to rely on the Commission's established settlement schedule. Such inaction could lead to confusion among the regulated community as to what offenses the Commission would settle and the amounts to be paid for various offenses as these have varied over time and between the predecessor agencies and the Ethics Commission. Lack of an administrative rule would also limit the ability of the Commission to delegate settlement authority to the Commission Administrator, which could significantly delay

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resolution of complaints and audit findings.

14. Long Range Implications of Implementing the Rule

Promulgating the rule would permit the Commission to increase the efficiency of resolving violations of the laws the Commission administers.

15. Compare With Approaches Being Used by Federal Government

The Federal Elections Commission (FEC) has an administrative fine program that permits the FEC to impose fines, calculated using published schedules, for violations of the Federal Election Campaign Act. 11 C.F.R. 111.43.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Permits settlement of similar campaign finance violations subject to approval by the state board of elections. The board of elections publishes the factors they will consider in offering a settlement. State law prescribes standard late fees for various reports and administrative code further details the penalties to be assessed for late reports based on the total amount of receipts, expenditures, and the committee's balance at the end of the report. ILL. ADMIN. CODE tit. 26 § 125.425. These civil penalties range from the lowest category of \$25 per business day for the first violation, \$50 per business day for the second violation, and \$75 per business day for the third and each subsequent violation; to the highest category of \$50 per business day for the first violation, \$100 per business day for the second violation, and \$200 per business day for the third and each subsequent violation. *Id.*

Iowa: Permits settlement of similar violations subject to approval by the Ethics and Campaign Finance Disclosure Board, but does not publish a schedule of potential settlement terms for violations. The Board is authorized to administratively resolve late reports by assessment of automatic civil penalties as established by the Board. IOWA ADMIN. CODE r. 351—9.4(5).

Michigan: Permits settlement of similar violations subject to approval by the Secretary of State. The Secretary of State publishes information related to good cause waivers of late filing fees, but does not have a full settlement schedule for all violations. State law provides a standard \$10 per business day late fee for campaign registration statements. MICH. COMP. LAWS § 169.224. State law also provides an escalating penalty for late campaign finance reports of \$25 for each business day the report remains unfiled, an additional \$25 for each business day after the first three business days the report remains unfiled, and an additional \$50 for each business day after the first ten business days the report remains unfiled. MICH. COMP. LAWS § 169.232.

Minnesota: Permits settlement of similar campaign finance, lobbying, and ethics violations with the approval of the Campaign Finance and Public Disclosure Board. The manuals published by this Board state various amounts as late fees for different reports. Additionally, the Office of Administrative Hearings uses a penalty matrix designed by the Secretary of State's office to provide guidance for most campaign finance violations.

17. Contact Name

David P. Buerger

18. Contact Phone Number

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
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