

Report From Agency

**STATE OF WISCONSIN
CEMETERY BOARD**

IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
CEMETERY BOARD : **CR 22-023**
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I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS: N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The purpose of the rule was to revise CB 4 to reflect the Cemetery Board's position that care fund income consisting of interest income, dividends, and capital gains, may be withdrawn by the cemetery authority for legal use without Cemetery Board approval.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Cemetery Board held a public hearing on May 10, 2022. No public comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 2b: It is unclear whether the first sentence in s. CB 4.06 is introductory material or a definition. If it is a definition, it should be restructured and formatted as a definition, and the term should be used consistently throughout the rule.

Response: The Cemetery Board has made clear this is a definition.

Comment 2c: The proposed rule promulgates a provision in ch. CB 4, which is entitled, "Change of Trustee of Care Funds and Preneed Trust Funds." The proposed rule,

however, relates to care fund income earned, not changes to trustees of a care fund or preneed trust fund. The board should consider renaming the title of the chapter or promulgating the rule in another chapter of the administrative code.

Response: The Cemetery Board has renamed the title of the chapter to read “Care Funds and Preneed Trust Funds.”

Comment 5a: It is unclear what it means for principal deposits to “remain intact.” The board should review the intent of this rule and clarify what this phrase means.

Response: The Cemetery Board rejected Clearinghouse comment 5a as this phrase is recognized as an industry standard.

Comment 5b: It is unclear from where income earned may be withdrawn. The board should review its intent for this rule and more precisely articulate in the rule from where this income earned could be withdrawn.

Response: The Cemetery Board has clarified language to more precisely indicate in the rule that income earned may be withdrawn from care funds.

Comment 5c: It is unclear who may withdraw earned income on a cemetery care fund account without board approval. The board should review the intent of the proposed rule and clarify who may withdraw this income earned without the board’s approval.

Response: The Cemetery Board has clarified within the code language that income earned may only be withdrawn by cemetery authorities.

All remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A