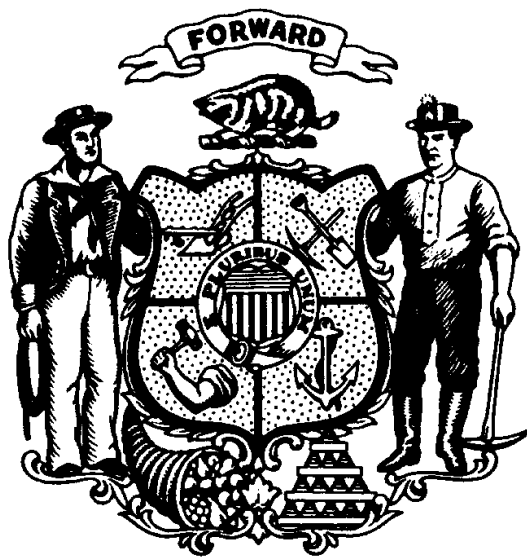


# *WISCONSIN ADMINISTRATIVE REGISTER*

**No. 529**



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## EMERGENCY RULES NOW IN EFFECT

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*Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.*

*Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.*

*Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.*

*Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.*

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### EMERGENCY RULES NOW IN EFFECT

#### Commerce

#### (PECFA – Chs. Comm 46–47)

Rules adopted creating **ch. Comm 46**, relating to “Petroleum Environmental Cleanup Fund Interagency Responsibilities,” and relating to site contaminated with petroleum products from petroleum storage tanks.

#### Exemption From Finding of Emergency

On September 22, 1999, the Joint Committee for Review of Administrative Rules adopted a motion pursuant to s. 227.26 (2) (b), Stats., that directs the Departments Commerce and Natural Resources to promulgate as an emergency rule, no later than October 22, 1999, the policies and interpretations under which they intend to administer and implement the shared elements of the petroleum environmental cleanup fund program.

In administering the fund, the Departments had previously relied upon a Memorandum of Understanding for classifying contaminated sites and addressing other statements of policy that affect the two Departments. The rule that is being promulgated details the policies and interpretations under which the agencies intend to administer and guide the remedial decision making for sites with petroleum product contamination from petroleum product storage tank systems.

The rule defines “high priority site,” “medium priority site,” and “low priority site,” and provides that the Department of Natural Resources has authority for high priority sites and that the Department of Commerce has authority for low and medium priority sites. The rule requires transfer of authority for sites with

petroleum contamination in the groundwater below the enforcement standard in ch. NR 140 from the Department of Natural Resources to the Department of Commerce. The rule also establishes procedures for transferring sites from one agency to the other when information relevant to the site classification becomes available.

**Publication Date:** October 20, 1999  
**Effective Date:** October 20, 1999  
**Expiration Date:** March 18, 2000  
**Hearing Date:** November 18, 1999

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### EMERGENCY RULES NOW IN EFFECT

#### Crime Victims Rights Board

Rules adopted creating **ch. CVRB 1**, relating to the rights of crime victims.

#### Finding of Emergency

The Crime Victims Rights Board finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The Crime Victims Rights Board was created by 1997 Wis. Act 181, effective December 1, 1998, to enforce victims’ rights established by Wis. Const. Art. I, s. 9m, adopted in 1993. The Wisconsin Constitution states that the Legislature shall provide remedies for the violation of victims’ constitutional rights. The Board’s process represents the only means of enforcing the remedies available to victims of crime who are not provided with the rights guaranteed to them by the Wisconsin Constitution and the Wisconsin statutes. The Board can issue reprimands to correct violations of victims’ rights, seek forfeitures in egregious cases, and seek equitable relief to enforce victims’ rights. The Board can also work to prevent future violations of victims’ rights by issuing reports and recommendations on crime victims’ rights and services.

Complaints must be presented to the Department of Justice before they can be presented to the Board. The Department estimates that it receives 200 complaints annually involving the treatment of crime victims. The Department has no authority to enforce victims’ rights; the Department can only seek to mediate disputes. Of those complaints, approximately 25 per year cannot be resolved to the parties’ satisfaction, and are therefore ripe for the Board’s consideration. There are presently 5 complaints that could be referred to the Board if the Board were able to receive and act on complaints.

Until the Board establishes its complaint process by administrative rule, it is unable to provide the remedies constitutionally guaranteed to crime victims.

**Publication Date:** September 17, 1999  
**Effective Date:** September 17, 1999  
**Expiration Date:** February 14, 1999  
**Hearing Date:** November 9, 1999

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## **EMERGENCY RULES NOW IN EFFECT**

### ***Employe Trust Funds***

Rules adopted revising s. **ETF 20.25 (1)**, relating to the distribution to annuitants from the transaction amortization account to the annuity reserve under 1999 Wis. Act 11.

### **Finding of Emergency**

The Department of Employe Trust Funds, Employe Trust Fund Board, Teacher Retirement Board and Wisconsin Retirement Board find that an emergency exists and that administrative rules are necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

The Public Employe Trust Fund was created for the purpose of helping public employes to protect themselves and their beneficiaries against the financial hardships of old age, disability, death, illness and accident. The Trust Fund thus promotes economy and efficiency in public service by facilitating the attraction and retention of competent employes, by enhancing employe morale, by providing for the orderly and humane departure from service of employes no longer able to perform their duties effectively, and by establishing equitable benefit standards throughout public employment. There are approximately 102,000 annuitants of the Wisconsin Retirement System, of whom about 80% reside throughout the State of Wisconsin. The Department of Employe Trust Funds estimates that up to 7,000 public employes covered by the Wisconsin Retirement System will retire and take annuity benefits effective during 1999.

WRS participants who retire during 1999 are not eligible to have their retirement benefits calculated using the higher formula factors for pre-2000 service which are provided by the treatment of Wis. Stats. 40.23 (2m) (e) 1. through 4. by 1999 Wis. Act 11. Section 27 (b) 2. of the Act directs that any funds allocated to the employer reserve in the Trust Fund as a result of the \$4 billion transfer mandated by the Act, which exceed \$200,000,000 shall be applied towards funding any liabilities created by using the higher formula factors with respect to pre-2000 service.

If the existing administrative rule mandating proration is not revised, then the distribution of the funds transferred into the annuity reserve by Act s. 27 (1) (a) of 1999 Wis. Act 11 will be prorated with respect to annuities with effective dates after December 31, 1998, and before January 1, 2000. The extraordinary transfer of funds from the Transaction Amortization Account (TAA) mandated by 1999 Wis. 11 causes funds, which would otherwise have remained in the TAA to be recognized and fund annuity dividends in later years, to instead be transferred into the annuity reserve in 1999 and paid out as an annuity dividend effective April 1, 2000. Normally, annuities effective during 1999 would receive only a prorated dividend. If this occurred with respect to this extraordinary distribution, then annuitants with annuity effective dates in 1999 would be deprived of a portion of the earnings of the Public Employe Trust Fund that would otherwise have affected their annuities as of April 1, 2001 and in subsequent years.

Promulgation of an emergency rule is the only available option for revising the effect of Wis. Adm. Code s. ETF 20.25 (1) before December 31, 1999. Accordingly, the Department of Employe Trust Funds, Employe Trust Funds Board, Teacher Retirement Board and Wisconsin Retirement Board conclude that preservation of the public welfare requires placing this administrative rule into effect before the time it could be effective if the Department and Boards

were to comply with the scope statement, notice, hearing, legislative review and publication requirements of the statutes.

**Publication Date:** December 27, 1999

**Effective Date:** December 31, 1999

**Expiration Date:** May 29, 2000

**Hearing Date:** February 11, 2000

[See Notice this Register]

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## **EMERGENCY RULES NOW IN EFFECT**

### ***Department of Financial Institutions***

#### **Division of Securities**

Rules adopted revising s. **DFI-Sec 5.01 (4)**, relating to investment adviser representative competency examination grandfathering provisions.

### **Finding of Emergency and Analysis**

The Division of Securities of the Department of Financial Institutions for the State of Wisconsin finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency follows:

The Division recently adopted for January 1, 2000 effectiveness as part of its annual rule revision process for 1999, a new administrative rule in s. DFI-Sec 5.01(3) that prescribes a new examination requirement for investment advisers and investment adviser representatives seeking licensure in Wisconsin on or after January 1, 2000. That new examination requirement, which includes completely revised Series 65 and Series 66 examinations, was developed over a 3-year period by a Project Group of the North American Securities Administrators Association ("NASAA").

The new NASAA examination requirement (which also included certain "grandfathering"/examination-waiver provisions) was approved by vote of NASAA member states (including Wisconsin) at the NASAA 1999 Spring Conference to become effective on December 31, 1999. The NASAA membership vote was accompanied by a recommendation that for uniformity purposes, each NASAA member state complete the necessary steps to adopt and have effective by January 1, 2000, the new examination requirement conforming to the NASAA format in all respects.

Following the adoption on November 18, 1999 by the Division of the new investment adviser examination requirement in s. DFI-Sec 5.01(3) as part of the Division's annual rule revision process, it was noted that the "grandfathering"/examination waiver provisions that had been included in s. DFI-Sec 5.01(4) did not track the NASAA Model language in two respects.

Because it is critical that the grandfathering provisions for the new Wisconsin investment adviser examination requirement be uniform with those of the other NASAA member states as of the coordinated January 1, 2000 date so that applicants for licensing in Wisconsin receive equivalent treatment to that accorded them by other states in which they may be seeking licensure, this emergency rulemaking for January 1, 2000 effectiveness is necessary.

The emergency rulemaking action is comprised of two provisions which do the following: (1) provide an examination waiver in new section DFI-Sec 5.01(4)(e) for any applicant licensed as an investment adviser or investment adviser representative in any jurisdiction in the U.S. on January 1, 2000; and (2) provide an examination waiver in amended section DFI-Sec 5.01(4)(b) for any applicant that has been licensed as an investment adviser or

investment adviser representative in any jurisdiction in the U.S. within two years prior to the date the application is filed.

**Publication Date:** December 28, 1999  
**Effective Date:** January 1, 2000  
**Expiration Date:** May 30, 2000  
**Hearing Date:** March 13, 2000  
 [See Notice this Register]

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## EMERGENCY RULES NOW IN EFFECT (2)

### Gaming Division

1. Rules adopted creating **ch. Game 27**, relating to the conduct of pari-mutuel snowmobile racing.

#### Finding of Emergency

The Department of Administration's Division of Gaming finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

In January of 2000 a snowmobile promoter proposes to offer pari-mutuel wagering on snowmobile races conducted in Wisconsin. Section 562.124, Stats., allows for pari-mutuel snowmobile racing with the requirement that the Division of Gaming regulate the racing and promulgate all rules necessary to administer the statutory provision in the statutes.

Since this will be the first occasion within the United States that there will be pari-mutuel wagering on a motor sport or mechanical event, the Division of Gaming took extra time in preparing and reviewing the proposed rules with emphasis and attention directed toward the health, welfare and safety of the participants, workers and the public. Additionally, the Division of Gaming is incorporating standards by reference, specifically the Oval Sprint Racing Rules; Sno-Cross Racing Rules; and the General Competition Rules, excluding Enforcement, Discipline and Violation, of International Snowmobile Racing, Incorporated as identified in the *1999-2000 ISR Snowmobile Racing Yearbook*. These rules, which were made public in October of 1999 were reviewed extensively, once again with an emphasis on the health, welfare and safety of the prior noted individuals.

The conduct of pari-mutuel snowmobile racing will create additional jobs, increase tourism within the State of Wisconsin and generate revenues for the Division of Gaming.

**Publication Date:** December 23, 1999  
**Effective Date:** December 23, 1999  
**Expiration Date:** May 21, 2000

2. Rule adopted repealing **ch. Game 27**, relating to the conduct of pari-mutuel snowmobile racing, which was created by emergency rule on December 23, 1999.

#### Finding of Emergency

Based upon the public opposition to this emergency rule, the Department has reconsidered its creation of ch. Game 27 as an

emergency rule. The Department will instead pursue creation of the proposed rule under the permanent rulemaking procedures.

**Publication Date:** January 15, 2000  
**Effective Date:** January 15, 2000  
**Expiration Date:** May 21, 2000

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## EMERGENCY RULES NOW IN EFFECT

### Health & Family Services

#### (Management, Technology, etc., Chs. HFS 1-)

A rule was adopted revising **chapter HFS 12, Appendix A**, relating to caregiver background checks.

#### Finding of Emergency

The Department of Health and Family Services finds that an emergency exists and that the rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Since October 1, 1998, the Department has been implementing statutes that became effective on that date that require use of uniform procedures to check the backgrounds of persons who apply to the Department, to a county social services or human services department that licenses foster homes for children and carries out adoption home studies, to a private child-placing agency that does the same or to a school board that contracts for day care programs, to provide care or treatment to persons who need that care or treatment, or who apply to a regulated entity to be hired or contracted with to provide services to the entity's clients or who propose to reside as a non-client at the entity. The statutes, ss. 48.685 and 50.065, Stats., direct the regulatory agencies and regulated entities to bar persons, temporarily or permanently, depending on the conviction, finding or charge, who have in their backgrounds a specified conviction, finding or charge substantially related to the care of clients, from operating a service provider organization, providing care or treatment to persons who need that care or treatment or otherwise having contact with the clients of a service provider.

The new statutes, commonly referred to as the Caregiver Law, were effective on October 1, 1998, for applicants on or after that date for licensure, certification or other agency approval, and for persons applying to be hired by or to enter into a contract with a regulated entity on or after that date to provide services to clients or to take up residence as a non-client at a regulated entity.

For regulated agencies approved before October 1, 1998, and for persons employed by, under contract to or residing as non-clients at regulated entities before October 1, 1998, the Caregiver Law's required uniform procedures and "bars" are to apply beginning on October 1, 1999. That is to say, by October 1, 1999, background checks, using the uniform procedures, are to be completed for all service providers who were approved before October 1, 1998, and for all employees, contractors and non-client residents employed by, under contract to or living at a regulated entity before October 1, 1998, and action taken to withdraw approval, terminate employment or end a contract, as appropriate.

To implement the new Caregiver Law, the Department on October 1, 1998, published administrative rules, ch. HFS 12, Wis. Adm. Code, by emergency order. Chapter HFS 12 included an appendix which consisted of a list of crimes. The original list specified 159 crimes for conviction of any one of which a person would be barred permanently (45 crimes), all programs, or would be barred temporarily, all programs, pending demonstration of rehabilitation, from being approved to be a service provider or from providing care or treatment to clients or otherwise having access to clients. The October 1998 emergency rules were modified in December 1998 and February 1999 by emergency order, and were replaced by permanent rules effective July 1, 1999. The Crimes List

in the current permanent rules specifies 117 crimes with 9 being permanent bar crimes for all programs.

This order again modifies ch. HFS 12, but only the Crimes List and not the text of the chapter. The number of specified crimes is reduced to 79, with 6 of them, all taken from ss. 48.685 and 50.065, Stats., being permanent bar crimes for all programs. The change to the ch. HFS 12 Crimes List is being made at this time because the 1999–2001 Budget Bill, now before the Legislature but not likely to take effect before October 1, 1999, is expected to provide for a more modest Crimes List than the one now appended to ch. HFS 12. This means that the Legislature intends that some persons who under the current rules would lose their jobs effective October 1, 1999, will be able to keep their jobs. The Department has the authority to further modify the Crimes List so that it corresponds to how the Legislature, after having heard arguments since October 1998 about how the Caregiver Law should be amended and implemented, wants it to work. This is what the Department is doing through this order.

**Publication Date:** September 16, 1999  
**Effective Date:** September 16, 1999  
**Expiration Date:** February 13, 2000  
**Hearing Date:** October 28, 1999

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## EMERGENCY RULES NOW IN EFFECT

### *Health & Family Services*

#### **(Community Services, Chs. HFS 30–)**

Rules adopted revising **ch. HFS 50**, relating to adoption assistance programs.

#### **Finding of Emergency**

The Department of Health and Family Services finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

This rulemaking order amends ch. HFS 50, the Department's rules for facilitating the adoption of children with special needs, to implement changes to the adoption assistance program statute, s. 48.975, Stats., made by 1997 Wisconsin Act 308. Those changes include permitting a written agreement for adoption assistance to be made following an adoption, but only in "extenuating circumstances;" permitting the amendment of an adoption assistance agreement for up to one year to increase the amount of adoption assistance for maintenance when there is a "substantial change in circumstances;" and requiring the Department to annually review the circumstances of the child when the original agreement has been amended because of a substantial change in circumstances, with the object of amending the agreement again to either continue the increase or to decrease the amount of adoption assistance if the substantial change in circumstances no longer exists. The monthly adoption assistance payment cannot be less than the amount in the original agreement, unless agreed to by all parties.

The amended rules are being published by emergency order so that adoption assistance or the higher adoption assistance payments, to which adoptive parents are entitled because of "extenuating circumstances" or a "substantial change in circumstances" under the statutory changes that were effective on January 1, 1999, may be made available to them at this time, now that the rules have been developed, rather than 7 to 9 months later which is how long the promulgation process takes for permanent rules. Act 308 directs the Department to promulgate rules that, among other things, define

extenuating circumstances, a child with special needs and substantial change in circumstances.

**Publication Date:** November 16, 1999  
**Effective Date:** November 16, 1999  
**Expiration Date:** April 13, 2000  
**Hearing Dates:** February 24, & 28, 2000  
**[See Notice this Register]**

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## EMERGENCY RULES NOW IN EFFECT (2)

### *Health & Family Services*

#### **(Medical Assistance, Chs. HFS 101–108)**

1. Rules were adopted revising **chs. HFS 101 to 103, and 108**, relating to operation of BadgerCare health insurance program.

#### **Finding of Emergency**

The Department of Health and Family Services finds that an emergency exists and that the rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

This order creates rules that specify how a new program called BadgerCare, established under s. 49.665, Stats., will work. Under BadgerCare, families with incomes up to 185% of the federal poverty level, but not low enough to be eligible for regular Medical Assistance (MA) coverage of their health care costs, and that lack access to group health insurance, are eligible to have BadgerCare pay for their health care costs. The order incorporates the rules for operation of BadgerCare into chs. HFS 101 to 103 and 108, four of the Department's chapters of rules for operation of the MA program.

BadgerCare is projected to cover over 40,000 currently uninsured Wisconsin residents, including more than 23,000 children, by the end of 1999.

Benefits under BadgerCare will be identical to the comprehensive package of benefits provided by Medical Assistance. The existing Wisconsin Medicaid HMO managed care system, including mechanisms for assuring the quality of services, improving health outcomes and settling grievances, will be used also for BadgerCare.

Department rules for the operation of BadgerCare must be in effect before BadgerCare may begin. The program statute, s. 49.665, Stats., was effective on October 14, 1997. It directed the Department to request a federal waiver of certain requirements of the federal Medicaid Program to permit the Department to implement BadgerCare not later than July 1, 1998, or the effective date of the waiver, whichever date was later. The federal waiver letter approving BadgerCare was received on January 22, 1999. It specified that BadgerCare was not to be implemented prior to July 1, 1999. Once the letter was received, the Department began developing the rules. They are now ready. The Department is publishing the rules by emergency order so that they will go into effect on July 1, 1999, rather than at least 9 months later, which is about how long the process of making permanent rules takes, and thereby provide already authorized health care coverage as quickly as possible to families currently not covered by health insurance and unable to pay for needed health care.

The rules created and amended by this order modify the current Medical Assistance rules to accommodate BadgerCare and in the process provide more specificity than s. 49.665, Stats., about the nonfinancial and financial conditions of eligibility for BadgerCare; state who is included in a BadgerCare group and whose income is taken into consideration when determining the eligibility of a BadgerCare group; expand on statutory conditions for continuing to be eligible for BadgerCare; exempt a BadgerCare group with monthly income at or below 150% of the federal poverty level from being obliged to contribute toward the cost of the health care

coverage; and set forth how the Department, as an alternative to providing Medical Assistance coverage, will go about purchasing family coverage offered by the employer of a member of a family eligible for BadgerCare if the Department determines that purchasing that coverage would not cost more than providing Medical Assistance coverage.

**Publication Date:** July 1, 1999  
**Effective Date:** July 1, 1999  
**Expiration Date:** November 28, 1999  
**Hearing Dates:** August 26, 27, 30 & 31, 1999  
**Extension Through:** January 26, 2000

- Rules adopted creating ss. **HFS 106.12 (9) and 108.02 (9)(f)**, relating to discovery rights in contested case proceeding involving health care providers under the MA program.

## Finding of Emergency

The Department of Health and Family Services finds that an emergency exists and that the adoption of the rules is necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

In Wisconsin, contested case proceedings for which state agencies must hold administrative hearings are by statute divided into three categories. Class 1 cases involve situations in which the agency has substantial discretionary authority (such as rate setting or the grant or denial of a license) but no imposition of a sanction or penalty is involved; Class 2 contested cases involve the imposition of a sanction or penalty; and Class 3 cases are those not included in Class 1 or Class 2. Under s. 227.45(7), Stats., in a Class 2 proceeding the parties have an automatic right to take and preserve evidence prior to the hearing by using discovery procedures such as depositions and interrogatories, but in a Class 1 or Class 3 proceeding the parties generally do not have the right to use discovery unless rules of the agency specifically provide for that right.

The Department of Health and Family Services does not have rules providing for discovery in a Class 1 or Class 3 contested case. Accordingly, discovery has not been available for Class 1 or Class 3 cases except with respect to certain witnesses identified in s. 227.45 (7), Stats. The Department of Administration's Division of Hearings and Appeals handles cases delegated from this Department. Recently, a hearing examiner in the Division of Hearings and Appeals issued an order in a Class 3 case which held that, because the Division of Hearings and Appeals has its own rules allowing discovery in all cases, those rules override the absence of any mention of discovery in the Department of Health and Family Services' rules concerning hearing rights and procedures.

This Department believes that an emergency exists. If other hearing examiners issue similar rulings, the Department of Health and Family Services would be subject to discovery in all cases. This means that in the absence of Department rules that provide otherwise, the process of litigation for Class 1 and Class 3 cases would be significantly prolonged for all parties and the additional administrative costs to the Department associated with that process (including the need to hire additional program staff, attorneys, and support staff to handle the depositions, interrogatories, and other discovery procedures) would be considerable.

There is a particularly high volume of Class 1 and Class 3 cases involving Medical Assistance program providers. Accordingly, these rules are issued to make clear that discovery remains

unavailable in Class 1 and Class 3 Medical Assistance contested case proceedings involving providers.

**Publication Date:** December 23, 1999  
**Effective Date:** December 23, 1999  
**Expiration Date:** May 21, 2000

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## EMERGENCY RULES NOW IN EFFECT

### *Health and Family Services* **(Health, Chs. HSS/HFS 110-)**

Rules were adopted revising **ch. HFS 119**, relating to the Health Insurance Risk-Sharing Plan.

### **Exemption From Finding of Emergency**

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143(2) and (3), Stats. by using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24(1) and (3), Stats., that it make a finding of emergency. These are the rules. Department staff consulted with the HIRSP Board of Governors on April 30, 1999 on the proposed rules, as required by s. 149.20, Stats.

### **Analysis Prepared by the Department of Health and Family Services**

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. One type of coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This coverage is called Plan 2. Medicare (Plan 2) has a \$500 deductible. Approximately 17% of the 7,291 HIRSP policies in effect on March 31, 1999 were of the Plan 2 type.

The Department through this rulemaking order is amending ch. HFS 119 in order to update HIRSP Plan 2 premium rates in accordance with the authority and requirements set out in s. 149.143 (2) (a) 2., Stats. The Department is required to set premium rates by rule. These rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP.

There are separate sets of tables in ch. HFS 119 that show unsubsidized and subsidized Plan 2 premium rates. Both sets of tables are amended by this order to increase the premium rates because Plan 2 costs, which historically have been running about 50% less than Plan 1 costs, began to increase several years ago and now are running at about 67% of Plan 1 costs. The Plan 2 premium rates need to be increased to cover increased costs of treatment for individuals enrolled under Plan 2. The order increases these premium rates by about 18%.

In January 1999, the Department published an emergency rule order to increase HIRSP unsubsidized Plan 2 premium rates by about 10%, with the intention of increasing those rates again in July 1999 to the level provided for in this order. However, in May 1999 the Legislature's Joint Committee for the Review of Administrative Rules (JCRAR) refused to extend the effective period of that part of the January 1999 emergency rule order relating to premium rate increases, with the result that effective May 31, 1999, the rates reverted back to the rates in effect before January 1, 1999. Consequently, to increase rates effective July 1, 1999, the Department through this rulemaking order has based the increased rates on the rates in effect prior to January 1, 1999.

The Department through this order is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2)(a)3. and 4., Stats. With the approval of the HIRSP Board of

Governors and as required by statute, the Department reconciled total costs for the HIRSP program for calendar year 1998. The Board of Governors approved a reconciliation methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula. By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 1999.

The result of this reconciliation process for calendar year 1998 indicated that insurance assessments collected were greater than the 20% of costs (net of the GPR contribution from appropriation s. 20.435(5)(af), Stats.), required of insurers. Also, the calendar year 1998 reconciliation process showed that an insufficient amount was collected from health care providers. As a result of this reconciliation, the insurer assessments for the time periods July 1, 1999 through December 31, 1999 and January 1, 2000 through June 30, 2000, are reduced to offset the overpayment in 1998. The total adjustments to the provider payment rates for the same time periods are sharply increased in order to recoup the provider contribution that was not collected in calendar year 1998. The budget for the plan year ending June 30, 2000 and the calendar year 1998 reconciliation process were approved by the HIRSP Board of Governors in April 1999.

**Publication Date:** June 30, 1999  
**Effective Date:** July 1, 1999  
**Expiration Date:** November 28, 1999  
**Hearing Date:** September 9, 1999  
**Extension Through:** January 26, 2000

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## EMERGENCY RULES NOW IN EFFECT

### *Higher Educational Aids Board*

Rules adopted amending s. HEA 11.03 (3) and creating s. HEA 11.03 (5), relating to the Minority Teacher Loan Program.

#### Finding of Emergency

The 1989 Wis. Act 31 created s. 39.40, Stats., which provides for loans to minority students enrolled in programs of study leading to licensure as a teacher. The Wisconsin Higher Educational Aids Board (HEAB) administers this loan program under s. 39.40 and under ch. HEA 11. Current rules require that a student be enrolled full time and show financial need to be considered for participation in the Minority Teacher Loan Program. Students who did not enroll full time and did not show financial need were allowed to participate in the program in the past when part of the program was administered by another administrative body. These students are enrolled in teacher education programs that train teachers specifically for the school districts named in the statutes that outline the intent of the Minority Teacher Loan Program. Unless the Board changes its rules, many participating students will lose their eligibility in the program. This will cause a hardship to those students who relied on the interpretation of the prior system administration. Revising the rules would allow students who participated in the program in the past to continue to participate. The proposed revision will not affect expenditures of State funds for the Minority Teacher Loan Program.

**Publication Date:** August 6, 1999  
**Effective Date:** August 6, 1999  
**Expiration Date:** January 3, 2000  
**Hearing Date:** October 28, 1999  
**Extension Through:** March 2, 2000

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## EMERGENCY RULES NOW IN EFFECT

### *Natural Resources*

#### (Environmental Protection—Investigation and Remediation, Chs. NR 700–)

Rules adopted creating **ch. NR 746**, relating to sites contaminated with petroleum products from petroleum storage tanks.

#### Finding of Emergency

The Wisconsin Natural Resources Board finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts contributing to the emergency is:

The Department of Commerce has adopted administrative rules under ss. 101.143 and 101.144, Stats., to implement the Petroleum Environmental Cleanup Fund Act (PECFA). The purpose of PECFA is to reimburse responsible persons for the eligible costs incurred to investigate and remediate petroleum product discharges from a petroleum product storage system or home oil tank system. The recent emergency rule, ch. Comm 46, was adopted by both the Department of Natural Resources and the Department of Commerce in January 1999, incorporating parts of a Memorandum of Understanding between the two agencies that relates to the classification of contaminated sites and creating risk screening criteria for assessing petroleum-contaminated sites. However, ch. Comm 46 expired on September 27, 1999, prior to publication of the permanent rule. The emergency rule, ch. NR 746, is being proposed in order to ensure rules continue in effect during the time period between now and when the permanent rule is published. This action is also in response to a resolution adopted by the Joint Committee for Review of Administrative Rules (JCRAR), which directed the Department of Commerce and the Department of Natural Resources to promulgate a new emergency rule for this interim time period.

The emergency rule was approved and adopted by the State of Wisconsin Natural Resources Board on September 29, 1999.

**Publication Date:** October 20, 1999  
**Effective Date:** October 20, 1999  
**Expiration Date:** March 18, 2000  
**Hearing Date:** November 18, 1999

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## EMERGENCY RULES NOW IN EFFECT

### *Public Instruction*

Rules adopted revising **ch. PI 35**, relating to the Milwaukee parental school choice program.

#### Finding of Emergency

The Department of Public Instruction finds that an emergency exists and that a rule is necessary for the immediate preservation of the public health, safety or welfare. A statement of the facts constituting the emergency is:

Emergency rules are necessary to clarify the eligibility criteria and requirements for parents and participating private schools in time for schools to properly establish procedures for the 2000–2001 school year. Furthermore, emergency rules are necessary to allow the private schools to begin planning summer school programs. The department is in the process of developing permanent rules, but such rules will not be in place prior to January 2000.

The requirements established under this rule have been discussed with the private schools and initial indications reflect an acceptance of these provisions.

**Publication Date:** January 4, 2000  
**Effective Date:** January 4, 2000  
**Expiration Date:** June 2, 2000

## **EMERGENCY RULES NOW IN EFFECT**

### **Revenue**

Rule adopted creating **s. Tax 18.08 (4)**, relating to assessment of agricultural land.

### **Finding of Emergency**

The Wisconsin Department of Revenue finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

1995 Wisconsin Act 27 changed the way agricultural land is valued for property tax purposes. The law requires the Farmland Advisory Council to make recommendations regarding the transition from valuation under prior law to valuation under current law, and requires the department to promulgate rules to implement those recommendations.

On October 18, 1999, the Farmland Advisory Council recommended that agricultural land be assessed as of January 1, 2000 and thereafter according to value in agricultural use. Major Wisconsin farm organizations, among others, have petitioned the Department under s. 227.12, Stats., to promulgate an administrative rule implementing the Council's recommendation.

Since the Department holds assessor schools in November and typically publishes the next years use-value guidelines prior to January 1 of that year, an emergency rule requiring assessment of each parcel of agricultural land according to its value in agricultural use is necessary for the efficient and timely assessment of agricultural land as of January 1, 2000.

**Publication Date:** November 30, 1999  
**Effective Date:** November 30, 1999  
**Expiration Date:** April 27, 2000  
**Hearing Date:** January 7, 2000

## **EMERGENCY RULES NOW IN EFFECT**

### **Transportation**

Rules adopted revising **ch. Trans 4**, relating to requiring the use of a fully allocated cost methodology when evaluating bids solicited for transit service in a competitive process.

### **Exemption From Finding of Emergency**

Chapter Trans 4 establishes the Department's administrative interpretation of s. 85.20, Stats. and prescribes administrative policies and procedures for implementing the state urban public transit operating assistance program authorized under s. 85.20, Stats. 1999 Wis. Act 9, section 9150(2bm), requires the Department to adopt an emergency rule to amend Chapter Trans 4 by adding a section that requires that cost proposals submitted by a publicly owned transit system in response to a request for proposals issued

by a public body for the procurement of transit services to be funded under the state urban transit operating assistance program must include an analysis of fully allocated costs. The analysis must include all of the publicly owned system's costs, including operating subsidies and capital grants. This analysis shall be the basis for evaluating costs when ranking proposals.

Pursuant to 1999 Wis. Act 9, section 9150(2bm)(b), the Department is not required to provide evidence that the rule is necessary for the preservation of the public peace, health, safety or welfare, and is not required to provide a finding of emergency.

**Publication Date:** December 12, 1999  
**Effective Date:** December 12, 1999  
**Expiration Date:** See 1999 Wis. Act 9, section 9150 (2bm)  
**Hearing Date:** February 14, 2000

## **EMERGENCY RULES NOW IN EFFECT**

### **Workforce Development**

#### **(Prevailing Wage Rates, Ch. DWD 290-294)**

A rule was adopted revising **s. DWD 290.155**, relating to the annual adjustment of thresholds for application of the prevailing wage rates for state or local public works projects.

### **Finding of Emergency**

The Department of Workforce Development finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The Department of Workforce Development is acting under its statutory authority to annually adjust thresholds for the application of prevailing wage laws on state or local public works projects. The thresholds are adjusted in accordance with any change in construction costs since the last adjustment. The last adjustment was by emergency rule in January 1999 based on construction costs in December 1998. The Department uses the construction cost index in the December issue of the Engineering News-Record, a national construction trade publication, to determine the change in construction costs over the previous year. The current construction cost index indicates a 2.3% increase in construction costs over the previous year. This increase in construction costs results in an increase in the threshold for application of the prevailing wage laws from \$33,000 to \$34,000 for single-trade projects and from \$164,000 to \$168,000 for multi-trade projects.

If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately six months, until the conclusion of the permanent rule-making process. Between January 1, 2000, and July 1, 2000, a single-trade project with a minimum estimated project cost of more than \$33,000 but less than \$34,000 or a multi-trade project with an estimated cost of more than \$164,000 but less than \$168,000 would not be exempt from the prevailing wage laws, as they would be if the emergency rule were promulgated. The threshold adjustments for application of the prevailing wage laws are based on national construction cost statistics and are unlikely to be changed by the permanent rule-making process. The Department is proceeding with this emergency rule to avoid imposing an additional administrative burden on local governments and state agencies.

**Publication Date:** December 29, 1999  
**Effective Date:** January 1, 2000  
**Expiration Date:** May 30, 2000

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## STATEMENTS OF SCOPE OF PROPOSED RULES

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### *Employe Trust Funds*

**Subject:**

ETF Code – Relating to clearly defining who is eligible for the provisions of WRS benefit legislation and the date on which the participant becomes eligible, based on the participant’s status as a WRS participating employe.

**Description of policy issues:**

The Department of Employe Trust Funds gives notice pursuant to s. 227.135, Stats., that it proposes to create a rule.

Under Article IV Section 26 of the Wisconsin Constitution, legislation that changes the Wisconsin Retirement System (WRS) benefits available to WRS participants does not apply to the benefits of participants who have terminated WRS employment prior to the effective date(s) specified in the legislation, or if not otherwise specified, the date on which the legislation is enacted into law. Such legislation generally states that the treatment of the benefit provisions “first applies” to participants who are participating employes on a given date. The term “first applies” is not defined in statute or rule, which could result in questions of who is eligible for the benefit provisions contained in new legislation.

*Objectives of the rule:*

The purpose of the proposed rule is to clearly define who is eligible for the provisions of WRS benefit legislation and the date on which the participant becomes eligible, based on the participant’s status as a WRS participating employe.

*Policy analysis:*

The Department’s current policy is to determine that a participant is eligible for the provisions of any new WRS benefit legislation on the effective date(s) specified in the legislation, or if no date is specified, the date on which the legislation is enacted into law, so long as the participant is a participating employe on that date. If the participant has terminated WRS employment prior to the effective date but later returns to WRS participating employment, the participant becomes prospectively eligible for the provisions of the benefit legislation on the first date that the participant becomes a participating employe and the benefit legislation is still in effect.

*Policy alternatives to the proposed rule:*

The alternative to promulgating this rule would be that there is no clear definition of the term “first applies”. This could result in inconsistent application of who is eligible for the provisions in new benefit legislation and in administrative appeals on how the Department has calculated participants’ WRS benefits.

**Statutory authority for rule-making:**

Section 40.03 (2) (i), Stats.

**Staff time required:**

The Department estimates that state employes will spend 25 hours developing this rule.

### *Employe Trust Funds*

**Subject:**

ETF Code – Relating to defining which formula factors would apply to other purchased service, creditable military service and other types of creditable service added to participants’ WRS accounts that are not specifically addressed in 1999 Wis. Act 11.

**Description of policy issues:**

The Department of Employe Trust Funds gives notice pursuant to s. 227.135, Stats., that it proposes to create a rule.

One of the benefit improvements that 1999 Wis. Act 11 would provide is an increase in the formula multipliers for Wisconsin Retirement System (WRS) creditable service performed before January 1, 2000. 1999 Wis. Act 11 also specifies that the higher multipliers will apply to purchased Forfeited Service that was forfeited before January 1, 2000, to purchased Other Governmental Service performed before January 1, 2000, and to the creditable military service granted based on the WRS service performed as of January 1, 2000. However, a rule is needed to provide further clarification of how the increased multiplier will be applied to the types of purchased service not specifically addressed in 1999 Wis. Act 11, to additional creditable military service granted as a result of purchased service that qualifies for the increased multiplier, and any other service added to the participant’s account as a result of a court decision, legislation, or any other means.

*Objectives of the rule:*

For participants who terminate WRS employment on or after January 1, 2000, 1999 Wis. Act 11 provides increased formula multipliers to be used to calculate retirement benefits based on creditable service performed before that date. The purpose of the proposed rule is to define which formula factors would apply to other purchased service, creditable military service and other types of creditable service added to participants’ WRS accounts that are not specifically addressed in 1999 Wis. Act 11.

*Policy analysis:*

While there are different formula multipliers that apply to creditable service in different employment categories (e.g. general/teacher, elected official, protective categories with and without Social Security coverage, etc.), in the past there has only been one formula multiplier that would be used to calculate a retirement benefit for the total creditable service in each employment category. However, for participants who terminate WRS employment on or after January 1, 2000, 1999 Wis. Act 11 provides an increased formula multiplier that applies only to WRS creditable service performed before that date. This legislation also specified that the increased formula multiplier would apply to purchased forfeited service that was originally forfeited before the year 2000, to purchased other governmental service performed before the year 2000, and to the creditable military service that is based on WRS service performed before the year 2000.

The proposed rule is intended to codify whether the increased formula multipliers under 1999 Wis. Act 11 would apply to creditable service as described below:

- The various types of purchased service that are not specifically addressed in 1999 Wis. Act 11.
- Purchased forfeited service that is originally forfeited after 1999.
- How creditable military service which is “based on WRS service performed before January 1, 2000” is defined.
- Any additional years of creditable military service granted based on purchased service that does or does not qualify for the increased formula multiplier.
- Creditable service added to a participant’s account without cost as a result of a court decision, legislation, or any other means not otherwise specified.

*Policy alternatives to the proposed rule:*

The alternative to promulgating this rule would be that there is no clear definition of whether the increased formula multipliers provided in 1999 Wis. Act 11 would apply to a participant’s creditable service as described above. This could result in inconsistent application of the new statutes and administrative appeals on how the Department has calculated participants’ retirement benefits.



**Statutory authority for rule-making:**

Section 40.03 (2) (i), Stats.

**Staff time required:**

The Department estimates that state employes will spend 100 hours developing this rule.

***Employe Trust Funds*****Subject:**

S. ETF 10.31 – Relating to clarifying when a WRS participant can elect variable participation and the effective date of a variable participation or cancellation.

**Description of policy issues:**

The Department of Employe Trust Funds gives notice pursuant to s. 227.135, Stats., that it proposes to amend a rule, specifically s. ETF 10.31.

1999 Wis. Act 11 provides an opportunity for WRS participating employes to elect to participate in the Variable Trust Fund. 1999 Wis. Act 11 also specifies that the Department shall by rule provide that any participant who elects or has elected variable participation may elect to cancel that participation. The Department proposes to amend s. ETF 10.31 to clarify when a participant can elect variable participation and the effective date of a variable participation or cancellation.

*Objectives of the rule:*

The proposed rule is intended to provide clear guidance to WRS participants and Department of Employe Trust Funds staff as to when participants may elect or cancel participation in the Variable Trust Fund, and the effective date of such elections.

*Policy analysis:*

Section 40.04 (7) (a), Stats., closed the Variable Trust Fund to new enrollments effective April 29, 1980. Participants who elected to join the Variable Trust prior to that date remain in the program unless they elect to cancel their participation. Once a participant has cancelled participation in the Variable Trust Fund, until 1999 Wis. Act 11 is enacted there is no opportunity to re-elect variable participation.

1999 Wis. Act 11 proposes to amend s. 40.04 (7) (a), Stats., to permit all participating employes on or after 1/1/2001 to elect to have 50% of their future and additional contributions deposited in the Variable Trust Fund. 1999 Wis. Act 11 would also permit former Variable Trust Fund participants who have cancelled their original variable participation to re-enroll. The new election would apply only to future employe, employer and additional contributions; participants would not be eligible to transfer contributions balances into the Variable Trust Fund.

Conditional upon 1999 Wis. Act 11 withstanding review by the courts, s. ETF 10.31 must be revised to clarify when and how a participant may elect to participate in the Variable Trust and to cancel variable participation, the effective date of such an election, and the irrevocability of an election once received by the Department. Under the proposed rule revision, an election to participate in the Variable Trust Fund would be effective on January 1 of the year after the year in which the Department receives such an election, and would first apply to contributions for the year in which the election is effective. Any participating employe who participates in the Variable Trust Fund (including participants who are already Variable Trust Fund participants based on an election prior to April 29, 1980) would have one opportunity to cancel their Variable Trust Fund participation, and once they elect to cancel their participation, there would be no opportunity to re-enroll unless the participant closes his/her WRS account by withdrawing his/her account balance and is no longer a participant, then returns to work for a WRS participating employer and again becomes a participating employe.

*Policy alternatives to the proposed rule:*

The rule is intended to clarify the Department's administrative policy and procedures regarding election to participate in the Variable Trust Fund and cancellation of variable participation. If the rule is not revised, the result would be uncertainty and confusion regarding when a participant may elect or cancel participation in the Variable Trust Fund and the effective date of such an election. This clarification is necessary for the orderly and efficient administration of the WRS.

**Statutory authority for rule-making:**

Section 40.03 (2) (i), Stats.

**Staff time required:**

The Department estimates that state employes will spend 80 hours to develop this rule.

***Professional Geologists, Hydrologists and Soil Scientists Examining Board*****Subject:**

SS. GHSS 2.06, 3.06 and 4.06 – Relating to examination requirements.

**Description of policy issues:***Objective of the rule:*

The objective of the rule is to reduce the examination professional hydrologists and professional soil scientists experience from five to four years. In addition, remove language containing reference to an examination that is not required.

Current examination requirements for professional hydrologists and professional soil scientists require an eligible candidate meet the educational and experience requirements prior to sitting for the fundamentals examination. In addition, the current rules contain language that does not relate to the examinations required by each section of the Board.

*Policy analysis:*

Sections GHSS 3.06 (2) (b) and 4.06 (2) (b) identify the number of years of professional experience a candidate must have in order to sit for the fundamentals examination for professional hydrologists and professional soil scientists. The proposed rules reduce the number of years of professional experience from five to four years.

Sections GHSS 2.06 (7) (b), 3.06 (7) (b) and 4.06 (7) (b) identify language that refers to an examination that is not required for licensure relating to the elements of practice essential to the public health, safety or welfare. The proposed rule would remove this language.

**Statutory authority:**

Sections 15.405 (2m) and 227.11(2), Stats.

**Estimate of the amount of state employe time and any other resources that will be necessary to develop the rule:**

100 hours.

***Natural Resources  
(Fish, Game, etc., Chs. NR 1--)*****Subject:**

S. NR 46.30 – Relating to annual adjustment of timber stumpage rates in s. NR 46.30, establishing deadlines for withdrawal and transfer form submission and rules on petition changes for the administration of the FCL and MFL.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

The stumpage rate changes are an annual process and not a policy issue. The landowners and forest industries in the two forest tax laws, the towns and counties with forest tax law lands and landowners interested in entering into the forest tax laws are all interested in what happens to the stumpage rates. The same groups are interested in the following issue.

New policy issues would be the dates when withdrawal declarations and transfers must be received to be effective the following Jan. 1st. Past policy has also been to accept ownership changes in the processing of new applications. Due to the complications this causes, ownership changes after Jan. 31 will require a new petition the following year.

This rule/Board action represent a change from past policy.

*Explain the facts that necessitate the proposed change:*

In the past, withdrawals and transfers have been processed as late as possible, but the volume of late requests have grown and caused delays in other areas of the program. A 15- to 20-day lead deadline is being requested to allow for processing time.

Sections 77.06 (2) and 77.91 (1), Stats., require the Department to review the stumpage rates annually and make changes to reflect changes in stumpage rates around the state.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization.

**Statutory authority:**

Sections 77.06 (2), 77.91 (1) and 227.11 (2) (a), Stats.

**Anticipated time commitment:**

The anticipated time commitment is 42 hours. One public hearing is proposed to be held on May 11, 2000 at Wausau.

**Natural Resources**

*(Fish, Game, etc., Chs. NR 1--)*

**Subject:**

S. NR 46.30 – Relating to annual adjustment of the timber stumpage values in s. NR 46.30 for the administration of the Forest Crop and Managed Forest Laws.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

The stumpage rate changes are an annual process and not a policy issue. The landowners and forest industries in the two forest tax laws, the towns and counties with forest tax law lands and landowners interested in entering into the forest tax laws are all interested in what happens to the stumpage rates.

This rule/Board action does not represent a change from past policy.

*Explain the facts that necessitate the proposed change:*

Sections 77.06 (2) and 77.91 (1), Stats., require the Department to review the stumpage rates annually and make changes to reflect changes in stumpage rates around the state.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization.

**Statutory authority:**

Sections 77.06 (2) and 77.91 (1), Stats.

**Anticipated time commitment:**

The anticipated time commitment is 41 hours. One public hearing is proposed to be held on May 11, 2000 at Wausau.

**Natural Resources**

*(Environmental Protection–General,  
Chs. NR 100--)*

**Subject:**

Ch. NR 101 – Relating to making the discharge fee system for WPDES–permitted facilities conform to the new requirements specified in s. 299.15 (3), Stats.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

The existing fee structure in ch. NR 101 allows the rates charged to permitted facilities to be increased to meet the revenue target. Industries and municipalities may be assessed higher fees than the previous year, even if they have reduced the quantity of pollutants discharged. Pursuant to 1999 Wis. Act 9, the Department must modify the existing fee structure in ch. NR 101 to make it more of a performance based fee system that is consistent with the new factors and caps listed in s. 299.15 (3), Stats. The groups that will be impacted by the proposed changes include WPDES–permitted municipalities and industries. Policy issues which will need to be resolved include the incorporation of the new criteria listed in s. 299.15, Stats.

This rule/Board action represents a change from past policy.

*Explain the facts that necessitate the proposed change:*

Pursuant to 1999 Wis. Act 9, the Department is directed to promulgate rules creating a discharge fee system for WPDES–permitted facilities that is consistent with the new criteria specified in s. 299.15 (3), Stats. According to 1999 Wis. Act 9, the Department must submit a report to the legislature as well as submit proposed rules to the legislative council staff for review by May 1, 2000. Larger permitted dischargers have often expressed concern over the existing ch. NR 101 fee system which does not financially reward WPDES–permitted facilities when they have reduced the amount of pollutants discharged. Promulgating rules consistent with the new criteria in s. 299.15, Stats., will, in most cases, financially reward permitted facilities when they reduce the amount of pollutants discharged. This new fee structure will provide an incentive for industrial and municipal facilities to initiate pollutant reduction/prevention measures.

This rule/Board action represents an opportunity for pollution prevention and/or waste minimization.

**Statutory authority:**

Section 299.15, Stats.

**Anticipated time commitment:**

The anticipated time commitment is 498 hours. Two public hearings are proposed to be held in June 2000 at Madison and Green Bay.

**Natural Resources**

*(Environmental Protection–General,  
Chs. NR 100--)*

*(Environmental Protection–Water  
Regulation, Chs. NR 300--)*

**Subject:**

Ch. NR 333 – Relating to dam design and construction standards and specific change to s. NR 116.08, relating to zoning below dams.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

It is proposed that ch. NR 333 be revised to simplify requirements for communities wishing to reduce hazard ratings below dams, to clarify applicability, update standard engineering design practices and submittal information for dam approvals, and to clarify standards for Emergency Action Plan. Concurrent changes to s. NR 116.08, are proposed to eliminate the existing paradox dam owners now face if they seek to secure a low hazard rating to reduce repair costs only then to find that the dam's hazard rating has been changed because new development was allowed to occur below them thus requiring additional and often expensive upgrades.

This rule/Board action represents a change from past policy.

*Explain the facts that necessitate the proposed change:*

Proposed policy issue resolution would clarify past actions which sought to tie dam safety standards to the hazards associated with the dam and would provide consistency with federal guidelines regarding hazard ratings for dams based on downstream development.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization. It is an adoption of federal requirements that do not include or allow for pollution prevention.

**Statutory authority:**

Sections 31.02, 31.19, 31.33 and 87.30, Stats.

**Anticipated time commitment:**

The anticipated time commitment is 8 months. One public hearing is proposed to be held in August 2000 at Madison.

**Natural Resources****(Environmental Protection--Air Pollution Control, Chs. NR 400--)****Subject:**

Ch. NR 415 – Relating to clarifying certain provisions of ch. NR 415, regarding particulate matter emissions.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

Air Management seeks to clarify certain provisions of ch. NR 415, Wis. Adm. Code, regarding particulate matter emissions. Three areas in Wisconsin (portions of the cities of Beloit, Waukesha, Milwaukee) were designated as Particulate Matter nonattainment areas in the late 1970's. Before the Department can redesignate any of the three areas to attainment areas for particulate matter, it must modify specific sections of ch. NR 415. The modifications would allow the current emission limits for the areas to remain in effect after the areas are redesignated to attainment areas. This approach is consistent with the national policy of retaining emission limits (which were imposed because an area did not meet an ambient air quality standard) in place, even after an area attains the air quality standard.

This rule change impacts new or modified sources of particulate matter seeking to locate in or near the three particulate matter nonattainment areas. If the areas remain as nonattainment areas these new or modified sources may need to obtain emission off-sets at current operations from existing sources in the nonattainment areas before they could construct or modify their operation.

This rule/Board action does not represent a change from past policy.

*Explain the facts that necessitate the proposed change:*

The proposed rules clarify and update certain existing regulations.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization.

**Statutory authority:**

Sections 227.11 (2) (a) and 285.11 (6), Stats.

**Anticipated time commitment:**

The anticipated time commitment is 122 hours. Two public hearings are proposed to be held at Milwaukee and Beloit.

**Regulation and Licensing****Subject:**

Chs. RL 30 to 35 and 135 – Relating to regulation of private detectives and private security persons.

**Description of policy issues:***Objective of the rule:*

To make changes to chs. RL 30 to 35 and RL 135, for the purpose of correcting errors and better addressing new circumstances. Some of the changes have been recommended by the Private Detective Advisory Committee and the Private Security Advisory Committee. The proposed changes relate to the renewal of private detective licenses, contracts between private detective agencies and their clients, approval of firearms proficiency certifiers, causes for denial of a private detective license or a private security permit, and the definition of "classroom" hours in ch. RL 135.

*Policy analysis:*

Correction of the errors in ss. RL 30.02 (9) and 32.03, regarding the definition of an original license and the fee required for license renewal.

Provision of another exemption from the written contract requirement pertaining to private detective agencies and their clients. A fourth exemption would be provided for a contract between the private detective agency and an insurance company.

Exemption of currently-employed peace officers from filing fingerprint cards with their application for a license or permit.

Creation of another category of persons who may provide firearms training to private security persons. Such persons would be those who have received a firearms instructor training course from a person who is currently-certified or approved by the National Rifle Association or the Law Enforcement Standards Board.

Provisions relating to causes for denial of a license or permit, based on adjudication of mental incompetence, dependence on alcohol or controlled substances, and conditions affecting psycho-social function.

Removal of "classroom" from the definition of "hour," relating to continuing education requirements for registered home inspectors.

**Statutory authority:**

Sections 15.08 (5) (b), 227.11 (2) and 440.26 (2) (c) and (3m), Stats.

**Estimate of the amount of state employe time and any other resources that will be necessary to develop the rule:**

100 hours.

**Regulation and Licensing****Subject:**

Chs. RL 125 and 126 – Relating to auctioneers and auction companies.

**Description of policy issues:***Objective of the rule:*

The objective of this rule is to amend chs. RL 125 and 126 to correct two errors that occurred in the last rule-making that affected these chapters. To amend policies relating to temporary auctioneer certificates granted pursuant to s. 480.08 (7), Stats.

*Policy analysis:*

A note following s. RL 125.03 erroneously refers to s. RL 125.11. There is no s. RL 125.11. The note should refer to s. RL 125.12.

Section RL 126.02 (13) correctly uses the term "buyer's fee" in the first part; however, it still uses the term "buyer's premium" in the last part of the section. The most recent rule changes promulgated by the department intended to replace "buyer's premium" with "buyer's fee" wherever "buyer's premium" occurred in s. RL 126.02 (13).

As for temporary auctioneer certificates, the Department currently grants a temporary registration certificate to individuals who have not yet passed the registration examination, provided they are otherwise qualified for a registration certificate. Such individuals are required to pass the registration examination and to apply for a non-temporary registration certificate before the end of one year, if they wish to continue to practice as an auctioneer in Wisconsin.

The new policy pertains to the temporary registration certificate. The proposed new policy would be to shorten the time during which an auctioneer may practice under a temporary permit. The new rules would provide for far less than one year.

The alternatives are to continue to allow temporary registrants one year to pass the examination and to obtain a non-temporary registration certificate, to shorten the period during which they may hold a temporary certificate, or to repeal the temporary registration provision by revising ss. 480.08 and 480.10, Stats. The Department may seek a revision of the statutes during the next legislative session. At this time it prefers to shorten the temporary registration period by amending the current rules.

**Statutory authority:**

Sections 227.11 (2) and 480.06, Stats.

**Estimate of the amount of state employe time and any other resources that will be necessary to develop the rule:**

100 hours.

***Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board***

**Subject:**

SFC Code – Relating to conforming existing rules to present practices and other rules.

**Description of policy issues:**

*Objective of the rule:*

The objective of the rule is: to replace the reference to the National Academy of Certified Mental Health Counselors; to authorize supervision of a professional counselor by a marriage and family therapist; to add a provision to allow an applicant to take up to 12 credit hours of courses outside of his or her masters program; and to remove the words “providing psychotherapy.”

*Policy analysis:*

The policy is: to conform two different rules to a change of name by a professional association; to conform one rule to the list of acceptable supervisors in another rule; to remove an outdated provision related to acceptable supervisors; to incorporate in rule form an informal interpretation which has been used by the Board in assessing course equivalency; and to remove a phrase from a professional conduct rule which might improperly limit its application.

**Statutory authority:**

Sections 15.08 (5) (b) and 227.11 (2), Stats.

**Estimate of the amount of state employe time and any other resources that will be necessary to develop the rule:**

80 hours.

***Tourism***

**Subject:**

Ch. Tour 1 – Relating to the joint effort marketing program.

**Description of policy issues:**

*Description of the objectives of the rule:*

The objective of the rule is to amend ch. Tour 1 to increase the maximum available for each destination marketing proposal for joint effort marketing funds.

*Description of existing policies relevant to the rule and of new policies proposed to be included in the rule, and an analysis of policy alternatives:*

The Joint Effort Marketing (JEM) program provides for grants to non-profit organizations engaged in tourism activities. Grant funds may be used for the development of publicity, the production and media placement of advertising and direct mailings that are part of a project and overall advertising plan of the applicant organization intended to increase tourism in Wisconsin.

The JEM Program includes several categories of projects eligible for funding. Those categories are new tourism events, existing tourism events, promotionals, one-time one-of-a-kind events and destination marketing. The category of funding for destination marketing includes projects that are not tied to an event or promotion, but which are directed at extending the tourism market for the applicant in an area that has been identified by the Department as an extended market for the state.

The proposal increases the maximum amount that can be provided to an applicant for destination marketing from \$5,000 to \$10,000 for each municipality served by the project and increases the total maximum per destination marketing project from \$20,000 to \$40,000. The new maximums are made subject to the same percentage limits of the annual JEM budget that currently apply to applicants under each of the other JEM categories. The proposal attempts to conform Department practice to JEM Program demand and to the legislative directive to increase Department spending on the JEM Program.

The policy alternatives are to retain current maximums for destination marketing projects or to increase the maximum available funding.

**Statutory authority for the rule:**

The statutory authority for the rule is s. 41.17 (4) (g), Stats.

**Estimate of the amount of time state employes will spend to develop the rule and other resources necessary to develop the rule:**

The Department estimates that it will take approximately 30 hours of staff time on the rule which includes discussing the rule with the Council on Tourism and interested members of Wisconsin’s tourism industry.

***Workforce Development  
(Worker’s Compensation,  
Chs. DWD 80–82)***

**Subject:**

S. DWD 80.26 – Relating to loss of vision: determination.

**Description of policy issues:**

*Description of the objective of the rule:*

The current rule governs permanent disability ratings for eye injuries. It has not been amended since 1957. The field vision test specified in the rule has not been widely used since the 1970’s. The conversion tables that allow ophthalmologists to translate modern field vision test results into the old test formula required by the rule are increasingly difficult to apply.

The rule should be amended to conform with modern practice.

*Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:*

The formula for awarding permanent disability for eye injuries uses three basic figures: (1) central visual efficiency; (2) binocular efficiency; and (3) field vision efficiency. The Department does not believe there is any problem with the existing formula. The problem is that the test specified by rule for determining field vision efficiency is obsolete. The tests for determining central visual efficiency and binocular efficiency may also require updating. The tests for determining the three efficiency ratings should correspond to modern medical practice.

**Statutory authority for the rule:**

Section 102.15(1), Stats.

**Estimate of the amount of time that state employes will spend to develop the rule and of other resources necessary to develop the rule:**

20–40 hours. The rule was originally developed with help from ophthalmologists. The Department will seek similar help from experts recommended by the State Medical Society and the University of Wisconsin Medical School.

***Workforce Development  
(Worker's Compensation,  
Chs. DWD 80–82)***

**Subject:**

S. DWD 80.32 (11) – Relating to permanent disability to the back.

**Description of policy issues:**

*Description of the objective of the rule:*

Clarify that the 10% minimum for a fusion described in the note to DWD 80.32(11) applies only to non–cervical fusions. The minimum for cervical fusions is 5%.

*Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:*

In 1994, s. DWD 80.32 (11) was amended. The analysis to the rule explained that “general wording” was used to describe surgical procedures rather than naming specific procedures to avoid litigation when new or unnamed procedures were used.

The 1994 rule change divided the 10% minimum that had been in effect for lumbar fusions into 5% for removal of disc material and 5% for the fusion procedure at each level. This “general wording” in the rule (which also deleted specific references to the lumbar region) and in the note to the rule did not specify that the rule change was limited to the lumbar fusions.

In Terry Manka v. Bill Wittman Builders, WC Case No. 940522401 (LIRC November 25, 1997) the Labor and Industry Review Commission determined that the 10% minimum applied to cervical fusions as well. That is not the intent.

Currently, the Department advises parties that the 10% minimum only applies to a non–cervical fusion. When the issue is appealed to LIRC, LIRC raises the Department–approved 5% minimum ratings for cervical fusions to 10%.

A change is needed to clarify that 10% minimum applies only to non–cervical fusions.

**Statutory authority for the rule:**

Section 102.15 (1), Stats.

**Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:**

Two hours.

***Workforce Development  
(Unemployment Compensation,  
Chs. DWD 100–150)***

**Subject:**

Chs. DWD 100 to 150 – Relating to technical corrections to the Unemployment Compensation Insurance Code.

**Description of policy issues:**

*Objective of the rule:*

To correct and improve terms, definitions, references, and other language.

*Existing policies and new policies included in the proposed rule and an analysis of policy alternatives:*

There are no new policies. Examples of the technical changes include deleting references to obsolete forms, updating the terms unemployment compensation and DILHR to unemployment insurance and DWD, deleting references to obsolete statutory sections, correcting bad cross–references, and moving certain code sections to a different chapter where they more logically fit.

**Statutory authority for the proposed rule:**

Sections 108.14 and 227.11, Stats.

**Estimate of the amount of time employees will spend developing the proposed rule and of other resources needed to develop the rule:**

90 hours.

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## *SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE*

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### **Notice of Submittal of Proposed Rules to Wisconsin Legislative Council Rules Clearinghouse**

*Please check the Bulletin of Proceedings for further information on a particular rule.*

#### **Commerce**

##### **Rule Submittal Date**

On January 11, 2000, the Department of Commerce has referred a proposed rule to the Legislative Council Rules Clearinghouse.

##### **Analysis**

The proposed rule affects chs. Comm 2 and 5, relating to program revenue fees.

##### **Agency Procedure for Promulgation**

A public hearing is required and will be scheduled. The Department's Safety and Buildings Division is primarily responsible for this rule.

##### **Contact Information**

If you have questions, you may contact:

Robert DuPont  
Telephone: (608) 266-8984  
TDD: (608) 264-8777

Dept. of Commerce  
P. O. Box 7970  
Madison, WI 53707

#### **Employe Trust Funds**

##### **Rule Submittal Date**

In compliance with s. 227.14 (4m), Stats., the Department of Employe Trust Funds gives notice that, on January 13, 2000, it submitted to the Joint Legislative Council Staff a proposed administrative rule which rennumbers and amends s. ETF 20.25 (1) and creates s. ETF 20.25 (1) (b).

##### **Analysis**

The subject of the rule is a revision of the rule prorating annual annuity dividends for annuities effective during the preceding year, so as to exempt from proration the distribution to 1999 annuities of funds distributed from the Transaction Amortization Account to the annuity reserve under the non-statutory provisions of 1999 Wis. Act 11. This proposed rule is intended to permanently adopt the provisions of the current emergency rule which was published on December 27, 1999, and became effective on December 31, 1999.

##### **Agency Procedure for Promulgation**

A public hearing on the rule is required and has been scheduled for 1:00 p.m. on February 11, 2000, in Conference Room 2A at the offices of the Department of Employe Trust Funds, 801 West Badger Road, Madison, Wisconsin. This hearing will also concern the emergency rule promulgated in December 1999.

The Division of Retirement Services is the unit within the Department of Employe Trust Funds with principal responsibility for this rule-making.

##### **Contact Information**

For questions, please call or write:

Dave Stella, Division Administrator  
Telephone (608) 267-9038  
TDD: (608) 267-0676

Dept. of Employe Trust Funds  
801 West Badger Rd.  
P.O. Box 7931  
Madison, WI 53707-7931

#### **Health and Family Services**

##### **Rule Submittal Date**

On January 7, 2000, the Department of Health and Family Services has referred a proposed rule to the Legislative Council Rules Clearinghouse.

##### **Analysis**

Statutory authority:

Sections 50.02 (2), 50.032 (2), 50.033 (2), 50.36 (1), 50.49 (2), 50.51 (2) and 50.95, Stats.

The proposed rule affects chs. HSS 82, et. al., relating to non-expiring licenses and certifications for adult family homes, community-based residential facilities (CBRFs), nursing homes, hospice programs, home health agencies and hospitals.

##### **Reason for rules, intended effects, requirements:**

In October 1997 a session law, 1997 Wis. Act 27, amended several program statutes to provide for non-expiration of licenses and certifications issued by the Department for certain regulated facilities, agencies and programs, and for the substitution of a required annual or biennial report submitted to the Department for continuation of licensure or certification. This order amends 8 chapters of the Department's rules relating to facilities, agencies and programs serving mainly adults to bring those rules into consistency with the statutory changes.

The 8 types of regulated facilities, agencies and programs covered by this order are certified and licensed adult family homes, community-based residential facilities (CBRFs), hospitals, hospice programs, nursing homes, facilities for the developmentally disabled (FDDs) and home health agencies.

##### **Agency Procedure for Promulgation**

Public hearing under ss. 227.16, 227.17 and 227.18, Stats.; approval of rules in final draft form by DHFS Secretary; and legislative standing committee review under s. 227.19, Stats.

**Contact Information**

Paul Yochum  
Division of Supportive Living  
Telephone (608) 261-8899

**Health and Family Services****Rule Submittal Date**

On January 11, 2000, the Department of Health and Family Services has referred a proposed rule to the Legislative Council Rules Clearinghouse.

**Analysis**

Statutory authority:

Section 49.45 (10), Stats.

The proposed rule affects chs. HFS 106 and 108, relating to discovery rights in contested case hearings involving providers under the Medical Assistance (MA) program.

**Reason for rules, intended effects, requirements:**

This rulemaking order amends two chapters of rules for the Medical Assistance (MA) Program to provide that no party in a Class 1 or Class 3 contested case proceeding involving MA-certified health care providers for which an administrative hearing is to be held has the right to use discovery procedures such as depositions and interrogatories.

Until recently, discovery was traditionally not permitted in Class 1 and 3 proceedings. By statute it is permitted in Class 2 proceedings (Class 2 proceedings include the suspension or revocation of or refusal to renew a license or other approval because of an alleged violation of law), but the relevant statute provides that parties in Class 1 and 3 proceedings generally do not have a right to discovery unless rules of the agency specifically authorize discovery. DHFS rules do not specifically authorize discovery in Class 1 and 3 proceedings.

Administrative hearings are conducted by the Department of Administration's Division of Hearings and Appeals. Recently a DH&A hearing examiner issued an order in a Class 3 case that permitted discovery, based on DH&A rules. In that case, use of discovery procedures resulted in a big workload increase for Department attorneys and program auditors, managers and support staff.

Allowing discovery in all cases would significantly increase demands on DHFS staff and therefore staff expenditures to respond to requests of various kinds, and would prompt the Department to also use discovery procedures cases, with the result that litigation would be prolonged for all parties.

**Agency Procedure for Promulgation**

Public hearing under ss. 227.16, 227.17 and 227.18, Stats.; approval of rules in final draft form by DHFS Secretary; and legislative standing committee review under s. 227.19, Stats.

**Contact Information**

Daniel Stier  
Office of Legal Counsel  
Telephone (608) 266-1404

**Insurance, Commissioner of****Rule Submittal Date**

In accordance with ss. 227.14 and 227.15, Stats., the Office of the Commissioner of Insurance is submitting a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse on January 10, 2000.

**Analysis**

These changes will affect s. Ins 3.09, Wis. Adm. Code, relating to mortgage guarantee insurance.

**Agency Procedure for Promulgation**

A public hearing is required. The date for the public hearing is February 25, 2000.

**Contact Information**

A copy of the proposed rule may be obtained from the OCI internet WEB site at <http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting Tammi Kuhl at (608) 266-0110 in OCI Central Files. For additional information, please contact Stephen Mueller at (608) 267-2833 or e-mail at [Stephen.Mueller@oci.state.wi.us](mailto:Stephen.Mueller@oci.state.wi.us) in the OCI Legal Unit.

**Insurance, Commissioner of****Rule Submittal Date**

In accordance with ss. 227.14 and 227.15, Stats., the Office of the Commissioner of Insurance is submitting a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse on January 10, 2000.

**Analysis**

These changes will affect s. Ins 23.35, Wis. Adm. Code, relating to adjusting minimum benefit requirements for prearranged funeral plans.

**Agency Procedure for Promulgation**

A public hearing is required. The date for the public hearing is February 25, 2000.

**Contact Information**

A copy of the proposed rule may be obtained from the OCI internet WEB site at <http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting Tammi Kuhl at (608) 266-0110 in OCI Central Files. For additional information, please contact Stephen Mueller at (608) 267-2833 or e-mail at [Stephen.Mueller@oci.state.wi.us](mailto:Stephen.Mueller@oci.state.wi.us) in the OCI Legal Unit.

**Natural Resources****Rule Submittal Date**

On January 10, 2000, the Department of Natural Resources submitted a proposed rule [Board Order No. DG-3-00] to the Wisconsin Legislative Council Rules Clearinghouse .

**Analysis**

The proposed rule affects chs. NR 108, 114, 809 and 811, relating to safe drinking water and waterworks operator certification.

**Agency Procedure for Promulgation**

A public hearing is required. The dates for the public hearings are February 14, 15, 16, 17 and 18, 2000.

**Contact Information**

For more information, please contact:

Don Swailes  
Bureau of Drinking Water & Groundwater  
Telephone (608) 266-7093

**Public Instruction****Rule Submittal Date**

On January 7, 2000, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

**Analysis**

The proposed rule creates s. PI 6.07, relating to public library system aid payment adjustments.

**Agency Procedure for Promulgation**

A public hearing is required, and public hearings will be scheduled. The Division for Libraries, Technology, and Community Learning is primarily responsible for promulgation of this rule.

**Contact Information**

If you have questions regarding this rule, you may contact:

Larry Nix, Director  
Public Library Development  
Telephone (608) 266-7270

**Public Instruction****Rule Submittal Date**

On January 7, 2000, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

**Analysis**

The proposed rule amends ch. PI 35, relating to the Milwaukee parental school choice program.

**Agency Procedure for Promulgation**

A public hearing is required, and public hearings will be scheduled. The Division for Finance and Management is primarily responsible for promulgation of this rule.

**Contact Information**

If you have questions regarding this rule, you may contact:

Charlie Toulmin  
Milwaukee Parental School Choice Consultant  
Telephone (608) 266-2853

**Public Instruction****Rule Submittal Date**

On January 7, 2000, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

**Analysis**

The proposed rule amends ch. PI 40, relating to the youth options program.

**Agency Procedure for Promulgation**

Because the proposed rules have been modified to conform to current statutory language, the Department will not hold public hearings regarding these rules as provided under s. 227.16 (2) (b), Stats. The Division for Learning Support: Instructional Services is primarily responsible for promulgation of this rule.

**Contact Information**

If you have questions regarding this rule, you may contact:

Preston Smeltzer  
Education Consultant  
Telephone (608) 266-3701

**Revenue****Rule Submittal Date**

Notice is hereby given, pursuant to s. 227.14 (4m), Stats., that on January 14, 2000, the Wisconsin Department of Revenue submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

**Analysis**

The proposed rule amends ss. Tax 14.01, 14.02, 14.03, 14.04, 14.05 and 14.06, relating to homestead credit administrative provisions; qualification for credit; household income and income; property taxes accrued; gross rent and rent constituting property taxes accrued; and marriage, separation or divorce during a claim year.

**Agency Procedure for Promulgation**

A public hearing is not required. The proposed rule will be published under the 30-day notice procedure, pursuant to s. 227.16 (2) (e), Stats. The Office of the Secretary is primarily responsible for the promulgation of the proposed rule.

**Contact Information**

If you have questions regarding this rule, you may contact:

Mark Wipperfurth  
Income, Sales, and Excise Tax Division  
Telephone (608) 266-8253

**Transportation****Rule Submittal Date**

In accordance with s. 227.14 (4m), Stats., the following information is sent as WisDOT's notice of submittal of a proposed rule to the Joint Legislative Council staff on January 18, 2000.

**Analysis**

The subject matter of the proposed rule affecting chs. Trans 4 and 8 relates to the State Public Transit Operating Assistance Program; use of fully-allocated costs in the competitive bid process; allocation of Federal Public Transit Assistance Program funds to urbanized areas under 200,000 population.

**Agency Procedure for Promulgation**

A public hearing is required, and it is scheduled for February 14, 2000. The organizational unit responsible for promulgation of the proposed rule is the Division of Transportation Investment Management, Bureau of Transit and Local Roads.

**Contact Information**

If you have questions, please contact:

Julie A. Johnson, Paralegal  
Telephone: (608) 266-8810  
Fax: (608) 267-6734  
E-mail: [ogc.exec@dot.state.wi.us](mailto:ogc.exec@dot.state.wi.us)

Office of General Counsel  
Dept. of Transportation  
4802 Sheboygan Ave., Room 115B  
P.O. Box 7910  
Madison, WI 53707-7910



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## NOTICE SECTION

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### Notice of Hearing

#### *Commerce*

#### *(Fee Schedule & Credentials*

#### *Chs. Comm 2 & 5)*

#### *[CR 00-9]*

Notice is hereby given that pursuant to ss. 101.19 and 145.08 Stats., the Department of Commerce announces that it will hold a public hearing on proposed rules relating to program revenue fees.

### Hearing Information

**February 11, 2000**  
**Friday**  
**10:30 a.m.**

**Room 3B, WHEDA Bldg.**  
**201 W. Washington Ave.**  
**Madison**

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **February 25, 2000**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing.

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or TTY at (608) 264-8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon request by a person with a disability.

A copy of the proposed rules may be obtained without cost from Roberta Ward, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, Wisconsin 53701, telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearings.

### Analysis of Proposed Rules

Statutory Authority: ss. 101.19 and 145.08

Statutes Interpreted: ss. 101.19 and 145.08

The Division of Safety and Buildings within the Department of Commerce is responsible for administering and enforcing safety and health rules relating to the construction and inspection of dwellings, public buildings and places of employment. In the administration and enforcement of those rules, the Department provides numerous services such as plan examination, inspection and certification. The Department, by rule promulgated under chapter 227 of the Wisconsin Statutes, is required to fix and collect fees which should, as closely as possible, equal the cost of providing those services.

Most of the fees charged by the Division of Safety and Buildings are contained in chapter Comm 2. Additional fees for licenses, certifications and registrations are contained in chapter Comm 5. The proposed rules consist of increases in most of the fees in chapters Comm 2 and 5.

The majority of the Division's fees have not been increased since 1992. The proposed changes are necessary in order to bring revenues more in line with the costs of providing the services in each program area. It is estimated that the fee increases will increase total program revenues by 23 percent and provide sufficient revenues for a 4 year period. Under the proposal, each program area will be self-sufficient except for the Public Sector Safety Program which is

subsidized 100 percent by the Commercial Building Plan Review and Inspection Program.

The proposed rules contain fee increases ranging from 2 percent to 200 percent. In some program areas the current fee amounts will remain unchanged. Those program area fees that are not being changed include: Manufactured Dwellings, One- and 2-Family Dwellings, Rental Unit Energy Efficiency, Plumbing Licensing, Fire Sprinkler Installer Licensing, HVAC Certification, Refrigerant Handling Certification, Soil Tester Certification, and all Inspector Certifications.

Under the proposed rules, the fees for lighting plan review are combined with the fees for building plan review. Submittal requirements for lighting plans, however, are not being changed.

The proposed rules also contain minor revisions to the requirements for plumbing plan review and plumbing product review. The threshold for submitting plumbing plans is being raised from 11 to 16 plumbing fixtures. Plumbing product review is being discontinued for cross connection control devices and for water treatment devices listed as complying with NSF standard 44.

The following is a brief summary by program area of the major fee changes in the proposed rules. The summary is arranged in the same order as chapter Comm 2.

#### **1. Boilers, Pressure Vessels, Anhydrous Ammonia and Mechanical Refrigeration**

- Current fee amounts for plan reviews and inspections would generally be increased 35 percent, rounded to \$5 increments.
- Current fee amounts for Permits to Operate would be increased 40 percent.
- Current fee amounts for anhydrous ammonia plan review and initial inspection would be increased 200 percent.

#### **2. Elevators and Lifting Devices**

- Current fee amounts for plan review and initial inspection in Table 2.15-1 would be increased 100 percent.
- Current fee amounts for periodic inspections in Table 2.15-2 would be increased as follows based on the expected average inspection times shown below and a "billing" rate of \$60 per hour:
  - 0-4 landings - 63 percent increase (1.5 hours)
  - 5-10 landings - 41 percent increase (2.0 hours)
  - 11 or more landings - 30 percent increase (2.5 hours)
  - Escalators - 30 percent increase (2.5 hours)

- The current fee amount for a Permit to Operate would be increased 75 percent.

#### **3. Mines, Pits, Quarries, Blasters and Explosives**

- Current annual safety fee amounts for mine, pit or quarry production in Table 2.17, which range from \$1.85 per thousand tons of production to \$3.70 per thousand tons of production, would be changed to a flat \$3.00 per thousand tons of production.
- The remaining current fee amounts in sections Comm 2.17, 2.18 and 2.19 would be increased 45 percent, rounded to \$5 increments.

- Current fee amounts for blaster licenses in Table 5.02 would be increased 50 percent.

#### **4. Amusement Rides**

- Current fee amounts for plan examination and inspection would generally be increased 60 percent, rounded to \$5 increments.

#### **5. Tramways, Lifts and Towing Devices**

- Current fee amounts for plan review and inspection would be increased 160 percent.
- The current fee amount for a Permit to Operate would be increased 120 percent

### 6. Buildings, Structures, Heating and Ventilation

- Current fee amounts for separate review of building plans and HVAC plans would be increased 35 percent, generally rounded to \$10 increments. The current “discount” for simultaneous submittal of building plans and HVAC plans would be replaced with a method involving a \$100 plan entry fee to accompany each plan submittal.

- New fees would be created for review of fire alarm system plans and fire suppression system plans. The additional revenue from this new service is projected to be \$100,000 per year, based on an annual workload of 550 plans and average fee of \$182.

### 7. Mobile Homes

- Current fee amounts for formaldehyde testing and investigation would be increased 20 percent.

### 8. Liquefied Petroleum Gas, Liquefied Natural Gas and Compressed Natural Gas

- Current fee amounts for plan review and inspection would generally be increased 30 percent.

### 9. Material Approvals and Petitions for Variance

- Current fee amounts for material reviews would be increased 25 percent.

- Current fee amounts for petitions for variance for public buildings under chapters Comm 50 to 64 and 66 would be increased 2 percent.

- Current fee amounts for petitions for variance for public sector employment under section 101.055, Stats., would be increased 50 percent.

- Current fee amounts for petitions for variance of all other rules not specifically mentioned in section Comm 2.52 would be increased 25 percent.

### 10. Plat Review and Investigations

- A new fee would be created for lot restriction waivers.

### 11. Plumbing Systems Plan Review

- Current fee amounts would generally be increased 15 percent, rounded to \$5 increments. Some fee amounts, such as for building storm and clear water drain systems, would be increased 25 percent.

### 12. Private Sewage Systems Plan Review

- Current fee amounts would generally remain unchanged. The method of fee calculation would be changed so as to be based on the “design wastewater flow of the proposed system” instead of septic tank or holding tank volume. The change in calculation methods is not expected to change the overall revenue rate; instead, it is expected to result in more equitable fees for the various system designs recognized in chapter Comm 83.

### 13. Plumbing Product Review

- Current fee amounts for holding or treatment components for private onsite wastewater treatment systems would be increased 100 percent.

### 14. Sanitary Permits

- Current fee amounts for sanitary permits issued by governmental units (counties) would remain unchanged. A new fee would be created for permits issued by the Department.

### 15. Swimming Pool Plan Review

- Current fee amounts would be increased 100 percent and the current “discount” for simultaneous submittal of pool plans would be discontinued.

### 16. Electrician Certification

- Current fee amounts would be increased as follows:
  - Master Electrician Certification – 25 percent increase
  - Journeyman Electrician Certification – 50 percent increase
  - Beginning Electrician Certification – 20 percent increase

## Fiscal Estimate Assumptions

- Current Program Revenue reserves will be depleted in October, 2000.

- The proposed fee adjustments will provide sufficient revenues for a four-year period (Sept. 1, 2000 to Sept. 1, 2004).

- Each program or bundle of programs will be self-sufficient. (Program bundles correspond to Revenue Accounts.) Note: Time and Effort Survey results have been used to identify the distribution of Full Time Equivalents (FTE’s) among the programs of the Division.

- The average annual FTE cost for Fiscal Year (FY) 2001 will be \$85,000.

- Costs will increase at a rate of four percent per year for the four-year period between Sept. 2000 and Sept. 2004.

- Annual workloads will generally remain at FY 2000 levels except in programs where services are expanding or decreasing, such as fire safety system plan review and plumbing plan review, respectively.

- The 6.5 FTE increase in staff levels authorized by the FY 00–01 Budget Bill is included in Division expenditure projections.

- Potential staff increases, such as for the Commercial Building Soil Erosion Control program or Uniform Dwelling Code program have not been included in Division expenditure projections used for this fee increase proposal.

## Initial Regulatory Flexibility Analysis

1. Types of small businesses that will be affected by the rules.

The rules will affect any businesses that pay fees to the Safety and Buildings Division for the Division’s costs of providing certain plan examination, inspection and certification services. Plan examination services include review of plans for buildings, elevators, gas systems, plumbing and swimming pools. Inspection services include inspection of buildings, elevators, boilers, mechanical refrigeration, amusement rides and ski lifts. Certification services include licensing of blasters and certification of electricians.

2. Reporting, bookkeeping and other procedures required for compliance with the rules.

There are no new reporting, bookkeeping or other procedures required for compliance with the rules.

3. Types of professional skills necessary for compliance with the rules.

There are no types of professional skills necessary for compliance with the rules.

## Environmental Analysis

Notice is hereby given that the Department has considered the environmental impact of the proposed rules. In accordance with chapter Comm 1, the proposed rules are a Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

## Notice of Hearing

### Employe Trust Funds

[CR 00–11]

The Wisconsin Department of Employee Trust Funds will hold a public hearing to review the emergency rule and the proposed permanent rule, which renumbers and amends s. ETF 20.25 (1) and creates s. ETF 20.25 (1)(b), Wis. Adm. Code, relating to the distribution to annuitants of the total amount distributed from the transaction amortization account to the annuity reserve under the non-statutory provisions of 1999 Wis. Act 11, in accordance with the provision of s. 227.16 (1), Stats. The public hearing will be held on **Friday, February 11, 2000 at 1:00 p.m. at the Department of Employee Trust Funds, Room 2A, 801 West Badger Road, Madison, WI.**

## Written Comments

The public record on the emergency rule and the proposed permanent rule will be held open until **4:30 p.m. on Friday, February 25, 2000** to permit the submission of written comments from persons unable to attend the public hearing in person, or who wish to supplement testimony offered at the hearing. Any such written comments should be addressed to Shelly Schueller, Department of Employee Trust Funds, 801 W. Badger Road, P.O. Box 7931, Madison, WI 53707-7931.

## Analysis Prepared by the Department of Employee Trust Funds

Section 27 (1) (a) of 1999 Wis. Act 11 directs that \$4,000,000,000 be distributed from the Transaction Amortization Account of the Public Employee Trust Fund's fixed retirement investment trust to the reserves and accounts of the fixed retirement investment trust, in an amount equal to a percentage of the total distribution determined by dividing each reserve's and account's balance on January 1, 1999 by the total balance of the fixed retirement investment trust on that date.

Section 27 (1) (d) of the Act further directs that the total amount allocated to the annuity reserve by the legislation, shall be distributed as provided under s. 40.27 (2), Stats. That statutory subsection provides that surpluses in the fixed annuity reserve shall be distributed by the Employee Trust Funds Board upon the recommendation of the actuary. These distributions are made in the form of percentage increases in the amount of the monthly annuity in force. Section 40.27 (2) (b), Stats., provides that the ETF Board may, through administrative rule, apply prorated percentages based on the annuity effective date to annuities with effective dates during the calendar year preceding the effective date of the distribution. No distinction, other than annuity effective date, may be made.

The ETF Board previously adopted s. ETF 20.25 (1) with respect to prorating the annual fixed annuity dividend for annuities which began before the calendar year preceding the dividend. For these annuities, the prorated percentage is calculated by multiplying the number of full months the annuity was in force during the year times the percentage change applicable to annuities effective for the full year, dividing the result by 12 and rounding the answer to the nearest tenth of a percent. If the resulting increase would be less than 1%, no increase applies.

Had the ETF Board taken no action, the same prorating would apply to annuities which became effective during 1999 with regard to the distribution of the funds transferred into the annuity reserve by 1999 Wis. Act 11, section 27 (1) (a). The ETF Board promulgated an emergency rule, effective on December 31, 1999, identical to this proposed rule. Both this proposed rule and the emergency administrative rule currently in effect provide that there will be no prorating of the distribution of the funds transferred into the annuity reserve as a result of 1999 Wis. Act 11. The same percentage increase will be applied to annuities in effect for the full year or in effect for only part of 1999.

In December 1999, the Employee Trust Funds Board and Department of Employee Trust Funds commenced litigation concerning the constitutionality of portions of 1999 Wis. Act 11, including the \$4 billion transfer, and the action is now pending before the Supreme Court. See *Employee Trust Funds Board, et al. v. Lightbourn, et al.*, Case No. 99-3297-OA. The Supreme Court issued a preliminary injunction against implementation of Act 11. This rule-making is part of contingency planning by the Department of Employee Trust Funds and ETF Board in case the Act, or parts of it, are approved by the courts and is not prohibited under the terms of the injunction. This rule-making shall not be construed as an endorsement of the transfer of funds from the TAA as mandated by Act 11.

As provided by s. 227.24 (1) (c), Stats., the present emergency rule will expire on May 29, 2000, (150 days after its effective date) unless extended. It is the intention of the Department of Employee Trust Funds and ETF Board that if the \$4 billion transfer from the TAA is ultimately upheld by the courts and implemented, this rule will continue to control the treatment of the surplus in the annuity

reserve which results from the extraordinary distribution mandated by Act 11 in the same manner as the emergency rule currently does. If an injunction or other court action delays the TAA transfer until after the extraordinary dividend would be paid, then any amounts which become payable to annuitants as a result of the Act and this rule will be calculated retroactive to the normal annual dividend dates.

## Initial Regulatory Flexibility Analysis

This rule does not affect small businesses.

## Fiscal Estimate

The rule has no fiscal impact on county, city, village, town, school district, technical college district and sewerage district fiscal liabilities and revenues. This rule itself has no anticipated state fiscal effect during the current biennium and no future effect on state funds, which do not include the Public Employee Trust Funds. The costs of implementing an April 1, 2000, distribution to annuitants of funds transferred into the annuity reserve by the special TAA transfer mandated in this legislation was incorporated into the fiscal effect prepared for 1999 Assembly Bill 495. However, if the payment of the special dividend resulting from the extraordinary transfer from the TAA was to be delayed after April 1, 2000 – for example because of the present injunction or other court action, then previously unanticipated costs in distributing these funds will arise.

If the \$4 billion distribution survives review by the courts, then additional payments would be owed to annuitants, some of whom may have died in the interim. DETF anticipates at least some administrative costs in locating, notifying and processing claims by estates or heirs of deceased annuitants, similar to the costs incurred in making the distribution required by the Supreme Court in *WRTA v. Employee Trust Funds Board*, 207 Wis. 2d 1, 558 N.W.2d 83 (1997). The exact amount of these costs will depend, in large part, on how long the litigation over this legislation remains before the courts and the mortality experience among the affected annuitants during that period.

## Contact Information

David Stella, Administrator  
Division of Retirement Services  
Dept. of Employee Trust Funds  
P.O. Box 7931  
Madison, WI 53707

Telephone: (608) 267-9038

## Text of Emergency and Proposed Rule

**SECTION 1.** ETF 20.25 (1) is renumbered ETF 20.25 (1) (a) and amended to read:

ETF 20.25 (1) (a) A Except as otherwise provided in par. (b), a fixed annuity dividend, as recommended by the actuary and approved by the chair of the employe trust funds board and the department's secretary, shall be distributed based on each December 31 valuation as specified in s. 40.27 (2), Stats. The dividend shall be effective on the April 1 following the valuation date and shall apply to fixed annuities effective on or prior to the date of the valuation. As authorized under s. 40.27 (2) (b), Stats., different percentages shall be determined for annuities effective for less than a full year on the valuation date. The percentages shall be determined by multiplying the number of full months the annuity was in force times the percentage change applicable to annuities effective for the full year, dividing the result by 12 and rounding the answer to the nearest tenth of a percent. No increase shall be applied to any annuity for which the resulting increase would be less than one percent.

**SECTION 2.** ETF 20.25 (1) (b) is created to read:

ETF 20.25 (1) (b) The total amount distributed to the annuity reserve under 1999 Wis. Act 11, section 27 (1) (a) shall be distributed effective April 1, 2000, in the form of a percentage increase. The percentage shall be recommended by the actuary separate from the distribution of any surplus created by the annual distribution under s. 40.04 (3) (a) or otherwise. The percentage

under this paragraph shall be the same for all affected annuities, including those with effective dates after December 31, 1998 and before January 1, 2000.

## Notice of Hearing

### *Financial Institutions*

### *Division of Securities*

Notice is hereby given that pursuant to ss. 551.32 (4) and 551.63 (2), Stats., the Division of Securities of the Department of Financial Institutions will hold a public hearing at the time and place indicated below to consider the amendment and adoption of administrative rules under the Wisconsin Uniform Securities Law affecting s. DFI–Sec 5.01 (4) (b) and (e), relating to investment adviser representative competency examination grandfathering provisions.

### Hearing Information

<u>Date &amp; Time</u>	<u>Location</u>
March 13, 2000 Monday 10:00 A.M.	Conference Room 4th Floor 345 West Washington Ave. MADISON, WI

### Written Comments

Written comments in lieu of public hearing testimony may be submitted which must be received no later than the hearing date and should be addressed to the Administrator for the Division of Securities, 345 West Washington Avenue, P.O. Box 1768, Madison, Wisconsin 53701.

### Analysis Prepared by the Dept. of Financial Institutions, Div. of Securities

Statutory authority: ss. 551.32 (4) and 551.63 (2)

Statute interpreted: s. 551.32 (4)

These proposed permanent rules are being promulgated to be in place upon the expiration of identical emergency rules currently in effect that were issued by Order of the Administrator of the Division of Securities on December 23, 1999, and became effective on January 1, 2000 following publication in the official state newspaper and the required filings with the Secretary of State and the Revisor of Statutes Bureau. The proposed permanent rules, as do the current emergency rules, are necessary to establish certain “grandfathering”/examination–waiver provisions applicable to a newly–enacted investment adviser representative competency examination requirement, so as to be uniform with equivalent grandfathering provisions adopted in most states.

The Division recently adopted for January 1, 2000 effectiveness as part of its annual rule revision process for 1999, a new administrative rule in s. DFI–Sec 5.01 (3) that prescribes a new examination requirement for investment advisers and investment adviser representatives seeking licensure in Wisconsin on or after January 1, 2000. That new examination requirement, which includes completely revised Series 65 and Series 66 examinations, was developed over a 3–year period by a Project Group of the North American Securities Administrators Association (“NASAA”).

The new NASAA examination requirement (which also included certain “grandfathering”/examination–waiver provisions) was approved by vote of NASAA member states (including Wisconsin) at the NASAA 1999 Spring Conference to become effective on December 31, 1999. The NASAA membership vote was accompanied by a recommendation that for uniformity purposes, each NASAA member state complete the necessary steps to adopt and have effective by January 1, 2000, the new examination requirement conforming to the NASAA format in all respects.

Following the adoption on November 18, 1999 by the Division of the new investment adviser examination requirement in

s. DFI–Sec 5.01 (3) as part of the Division’s annual rule revision process, it was noted that the “grandfathering”/examination waiver provisions that had been included in s. DFI–Sec 5.01 (4) did not track the NASAA model language in two respects.

Because it is critical that the grandfathering provisions for the new Wisconsin investment adviser examination requirement be uniform with those of other NASAA member states so that applicants for licensing in Wisconsin receive equivalent treatment to that accorded them by other states in which they may be seeking licensure, both the emergency rulemaking and the permanent rulemaking are necessary.

The rulemaking action is comprised of two provisions which do the following:

1) Provide an examination waiver in new s. DFI–Sec 5.01 (4) (e) for any applicant licensed as an investment adviser or investment adviser representative in any jurisdiction in the U.S. on January 1, 2000; and

2) Provide an examination waiver in amended s. DFI–Sec 5.01 (4) (b) for any applicant that has been licensed as an investment adviser or investment adviser representative in any jurisdiction in the U.S. within two years prior to the date the application is filed.

### Text of Rule

SECTION 1. DFI–Sec 5.01 (4) (b) is amended to read:

DFI–Sec 5.01 (4) (b) The applicant ~~was~~ has been licensed as an investment adviser or licensed as an investment adviser representative ~~under ch. 551, Stats., in any jurisdiction in the United States~~ within 2 years prior to the date the application is filed.

SECTION 2. DFI–SEC 5.01 (4) (e) is created to read:

DFI–Sec 5.01(4) (e) The applicant was licensed as an investment adviser or licensed as an investment adviser representative in any jurisdiction in the United States on January 1, 2000, except that the administrator may require additional examinations for any individual found to have violated any state or federal securities law.

### Fiscal Estimate

The proposed rules have no state fiscal effect or local government costs. A copy of the full fiscal estimate may be obtained upon request to the Department of Financial Institutions, Division of Securities, 345 West Washington Avenue, 4<sup>th</sup> Floor, P.O. Box 1768, Madison, WI 53703.

### Initial Regulatory Flexibility Analysis

There is no particular small business impact to the proposed permanent rules because the grandfathering/examination waiver provisions benefit equivalently all investment adviser license applicants, whether or not they fall within the definition of a small business.

### Contact Information

For additional information, or if there are questions concerning the rule proposal, contact Randall E. Schumann, Legal Counsel for the Division, Division of Securities, Department of Financial Institutions, 345 West Washington Avenue, 4<sup>th</sup> Floor, P.O. Box 1768, Madison, WI 53703. Telephone direct–dial (608) 266–3414.

## Notice of Hearings

### *Health & Family Services*

### *(Community Services, Chs. HFS 30–)*

### *[CR 99–161]*

Notice is hereby given that, pursuant to ss. 48.975 (5) and 227.11 (2) (a), Stats., the Department of Health and Family Services will hold public hearings to consider the revision of ch. HFS 50, Wis. Adm. Code, relating to the adoption assistance program for families that adopt children with special needs, and the emergency rules now in effect on the same subject.



## Hearing Information

February 24, 2000  
Thursday  
From 10 a.m. to 1 p.m.

Room E-101  
North Central Technical College  
1000 West Campus Drive  
WAUSAU, WI

February 28, 2000  
Monday  
From 12 p.m. to 3 p.m.

Room B155  
State Office Building  
1 West Wilson Street  
MADISON, WI

Both hearing sites are fully accessible to people with disabilities. For the public hearing in Madison, parking for people with disabilities is available in the parking lot behind the building, in the Monona Terrace Convention Center Parking Ramp or in the Doty Street Parking Ramp. People with disabilities may enter the building directly from the parking lot at the west end of the building or from Wilson Street through the side entrance at the east end of the building.

## Analysis Prepared by the Department of Health and Family Services

This rulemaking order amends ch. HFS 50, the Department's rules for facilitating the adoption of children with special needs, to implement changes to the adoption assistance program statute, s. 48.975, Stats., made by 1997 Wisconsin Act 308. Those changes include permitting a written agreement for adoption assistance to be made following an adoption, but only in "extenuating circumstances;" permitting the amendment of an adoption assistance agreement for up to one year to increase the amount of adoption assistance for maintenance when there is a "substantial change in circumstances;" and requiring the Department to annually review the circumstances of the child when the original agreement has been amended because of a substantial change in circumstances, with the object of amending the agreement again to either continue the increase or to decrease the amount of adoption assistance if the substantial change in circumstances no longer exists. The monthly adoption assistance payment cannot be less than the amount in the original agreement, unless agreed to by all parties.

Section 48.975 (5), Stats., as amended by Act 308, directs the Department to promulgate rules that, among other things, define extenuating circumstances, a child with special needs and substantial change in circumstances.

Once the rule changes were developed, they were published by emergency order on November 16, 1999 to take effect on that date so that adoption assistance or the higher adoption assistance payments to which adoptive parents are entitled because of "extenuating circumstances" or a "substantial change in circumstances" under the statutory changes that were effective on January 1, 1999, could be made available to them as soon as possible rather than 7 to 9 months later which is how long the promulgation process takes for permanent rules. This is the proposed permanent order to amend ch. HFS 50 that will replace the time-limited emergency order that amended ch. HFS 50.

## Contact Person

To find out more about the hearings or to request a copy of the proposed rules or the emergency rules, write, phone or E-mail:

Jill Duerst  
Division of Children and Family Services  
P.O. Box 8916  
Madison, WI 53708-8916  
(608) 266-1142 or,  
if you are hearing impaired,  
(608) 266-7376 (TTY)  
[duersjm@dhfs.state.wi.us](mailto:duersjm@dhfs.state.wi.us)

If you are hearing or visually impaired, do not speak English, or have circumstances which might make communication at a hearing

difficult and if you, therefore, require an interpreter or a non-English, large-print or taped version of the hearing document, contact the person at the address or phone number shown above. Persons requesting a non-English or sign language interpreter should contact the person at the address or phone number given above at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written comments on the proposed rules or the emergency rules received at the above address no later than **March 2, 2000** will be given the same consideration as testimony presented at the hearings.

## Fiscal Estimate

This order amends ch. HFS 50 to implement changes made in s. 48.975, Stats., the adoption assistance program, by 1997 Wisconsin Act 308. Those changes include permitting a written agreement for adoption assistance to be concluded after the adoption is final, but only when there are "extenuating circumstances," and permitting the amendment of an adoption assistance agreement to increase the amount when, following adoption of a special needs child there is a "substantial change in circumstances." The amended rules define "extenuating circumstances," "child at high risk" and "substantial change in circumstances."

The rule changes will not affect the expenditures or revenues of state government or local governments. They implement the statutory changes. The adoption assistance program is administered by the Department.

Any change in costs as a result of these changes in the adoption assistance program are due not to the implementing rule changes but rather to Act 308 and were taken into consideration by the Legislature in deliberations when the bill, AB 601, was passed.

## Initial Regulatory Flexibility Analysis

These rule changes apply mainly to the Department and the adoptive parents of special needs children but may affect also prospective adoptive parents, adopted special needs children, special needs children available for adoption and adoption agencies. A few of the adoption agencies, namely, some of the 24 private child-placing agencies licensed to accept guardianship of children and to place children under their guardianship for adoption, may be small businesses as "small business" is defined in s. 227.114 (1) (a), Stats. However, in this rulemaking order adoption agencies are directly affected only by a revised requirement relating to reasonable placement efforts which does not require the agency to have new professional skills in order to comply with it.

## Notice of Hearing

*Commissioner of Insurance*  
[CR 00-6]

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedure set forth in s. 227.18, Stats., the Office of the Commissioner of Insurance (OCI) will hold a public hearing to consider the adoption of the proposed rule-making order affecting s. Ins 3.09, Wis. Adm. Code, relating to mortgage guarantee insurance.

## Hearing Information

Date & Time	Location
February 25, 2000 Friday 10:00 A.M.	Room 6 OCI 121 East Wilson St. MADISON, WI

## Analysis Prepared by the Office of the Commissioner of Insurance

Statutory authority: ss. 601.41 (3), 627.05 and 628.34 (12) and ch. 617

Statutes interpreted: ss. 600.01 and 628.34 (12) and ch. 617

This proposed rule change establishes standards for the transaction of mortgage guarantee business related to an affiliate when that affiliate is 50% owned by another party. Existing rules prohibit such transactions.

### **Written Comments**

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI within 14 days following the date of the hearing. Written comments should be addressed to:

Stephen Mueller, OCI  
P.O. Box 7873  
Madison, WI 53707

### **Fiscal Estimate**

There will be no state or local government fiscal effect.

### **Initial Regulatory Flexibility Analysis**

This rule does not impose any additional requirements on small businesses.

### **Contact Information**

A copy of the full text of the proposed rule changes and fiscal estimate may be obtained from the OCI internet WEB site at <http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting Tammi Kuhl, Services Section, Office of the Commissioner of Insurance, at (608) 266-0110 or at 121 East Wilson Street, P.O. Box 7873, Madison WI 53707-7873.

## **Notice of Hearing**

### *Commissioner of Insurance*

[CR 00-7]

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedure set forth in s. 227.18, Stats., the Office of the Commissioner of Insurance (OCI) will hold a public hearing to consider the adoption of the proposed rule-making order affecting s. Ins 23.35, Wis. Adm. Code, relating to adjusting minimum benefit requirements for prearranged funeral plans.

### **Hearing Information**

<b>Date &amp; Time</b>	<b>Location</b>
February 25, 2000 Friday 11:00 A.M.	Room 6 OCI 121 East Wilson St. MADISON, WI

### **Analysis Prepared by the Office of the Commissioner of Insurance**

Statutory authority: ss. 601.41(3) and 632.41 (2) (b) 2.

Statute interpreted: s. 632.41 (2) (b) 2.

This proposed rule change sets out specific minimum benefit requirements for insurance marketed to fund prearranged funeral plans where the premium for that insurance is payable in installments over time. Under current rules governing funeral policies, the multi-premium policy marketplace is nearly non-existent. This change is intended to make it more likely that insurers will issue policies with flexible funding arrangements. Consumer safeguards are added by correlating death benefits to the amount of the prearranged funeral plan with an "interest" factor added. In addition, limits on the payment period are tied to age at issue and policies that pay a death benefit less than face value are allowed only under certain conditions. This rule also requires disclosure where the policy death benefit may be less than the policy face value and the total premium to be paid over the life of the policy.

This rule change includes a provision that requires a premium rate filing for all funeral policies.

### **Written Comments**

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI within 14 days following the date of the hearing. Written comments should be addressed to:

Stephen Mueller, OCI  
P.O. Box 7873  
Madison, WI 53707

### **Fiscal Estimate**

There will be no state or local government fiscal effect.

### **Initial Regulatory Flexibility Analysis**

This rule does not impose any additional requirements on small businesses.

### **Contact Information**

A copy of the full text of the proposed rule changes and fiscal estimate may be obtained from the OCI internet WEB site at <http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting Tammi Kuhl, Services Section, Office of the Commissioner of Insurance, at (608) 266-0110 or at 121 East Wilson Street, P.O. Box 7873, Madison WI 53707-7873.

## **Notice of Hearing**

### *Insurance*

[CR 00-10]

Notice is hereby given that pursuant to the authority granted under s. 601.41(3), Stats., and the procedure set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting chs. Ins 13 & 50, Wis. Adm. Code, relating to town mutual insurance.

### **Hearing Information**

February 25, 2000 Friday 2:00 p.m., or as soon as the matter may be reached	Room 6, OCI 121 E. Wilson Street Madison, WI
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### **Written Comments**

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI within 14 days following the date of the hearing. Written comments should be addressed to: Stephen Mueller, OCI, P.O. Box 7873, Madison WI 53707.

### **Analysis Prepared by the Office of the Commissioner of Insurance**

Statutory authority: ss. 601.41(3), 601.42, & Ch. 612, Stats.

Statute interpreted: Ch. 612, Stats.

Analysis: The changes to chs. Ins 13 reflect both recent statutory changes to the operation of town mutuals and today's economic realities. This rule increases the number of counties in which a town mutual may do business, extends the fidelity bond requirement table, increases surplus requirements and eliminates obsolete sections on unearned premium reserves.

The change to ch. Ins 50 conforms to the ch. Ins 13 changes and broadens the exemption from filing annual audited financials for some town mutuals.

### **Fiscal Estimate**

There will be no state or local government fiscal effect.

### **Initial Regulatory Flexibility Analysis**

Many town mutual insurers are small businesses as defined in s. 227.114, Stats. This proposed rule does not establish different

standards for small businesses and does not change the definition of small business. It is possible that additional small town mutuals may qualify for the less stringent compliance and reporting standards previously established by rules of this agency. Representatives of the town mutual association have met with OCI staff and support these changes. Comments of interested persons will be heard at the public hearing on this rule change proposal. Any effect on small business should be beneficial.

### Contact Person

A copy of the full text of the proposed rule changes and fiscal estimate may be obtained from the OCI internet WEB site at: <http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting:

Tammi Kuhl, Services Section  
Office of the Commissioner of Insurance,  
at (608) 266-0110  
or at  
121 East Wilson Street  
PO Box 7873  
Madison WI 53707-7873

## Notice of Hearing

### Law Enforcement Standards Board [CR 99-115]

Notice is hereby given that pursuant to s. 165.85 (4) (cm) 2., Stats., and interpreting s. 165.85 (4) (cm) 2. a. and b., Stats., the Law Enforcement Standards Board will hold a public hearing at the following date, time and location to consider the creation of administrative rules pertaining to model, voluntary standards for law enforcement vehicular pursuits.

### Hearing Information

The hearing will be conducted at:

Date & Time	Location
February 23, 2000 Wednesday 1:00 P.M. to 4:00 P.M.	Portage Co. Public Library 1001 Main St. STEVENS POINT, WI

### Analysis Prepared by the Training And Standards Bureau, Wisconsin Dept. of Justice

The following proposed rules create model, voluntary standards for law enforcement vehicular pursuits. They define pursuits; create advisory standards that could be used by any law enforcement agency to determine whether to initiate or continue pursuits; establish law enforcement pursuit driving techniques; and, establish requirements for informing officers of their department's guidelines under s. 346.03 (6), Stats.

In addition, they establish curricula for basic and annual recertification training of law enforcement officers related to police pursuit standards, guidelines and driving techniques.

### Text of Rule

**SECTION 1.** Create s. LES 1.03 (18m) to read:

LES 1.03 (18m) "Police pursuit" means an active attempt by a traffic officer in a police vehicle to apprehend one or more occupants of a moving motor vehicle, the operator of which is resisting apprehension by disregarding the officer's visual or audible signal to stop his or her vehicle, increasing the speed of the vehicle or extinguishing the lights of the vehicle.

**SECTION 2.** Create s. LES 3.03 (7) (a) (intro.), 1. (intro.), a. and b., 2. (intro.), a and b. and 3 (intro.), a. through e. to read:

LES 3.03 (7) (a) A training guide entitled "Use Pursuit Guidelines" shall be approved by the board for subsection (7) and shall include student performance objectives. It shall also include the following model, advisory standards that could be used by any law enforcement agency to determine whether to initiate or continue police pursuit:

1. 'Initiation of pursuits.' Any law enforcement officer in an authorized vehicle may initiate a pursuit when the subject is attempting to avoid apprehension.

*(Staff Note: Section 1 above is an amendment to proposed rules adopted by the Law Enforcement Standards Board at its December 7, 1999 meeting in response to results of two public hearings. It inclusively replaces the following section for initiation of pursuits:*

1. 'Initiation of pursuits.' Any law enforcement officer in an authorized vehicle may initiate a pursuit when the subject is attempting to avoid apprehension and any of the following situations are present:

a. The subject has committed or is attempting to commit a crime which involves an actual or threatened action which an officer reasonably believes resulted in or could result in death or great bodily harm to a person or persons; or,

b. The subject, if allowed to escape, is likely to cause injury or death to a person or persons.)

2. 'Continuation of pursuits.' In determining whether or not to continue a pursuit that has been justifiably initiated, officers should consider the following factors:

a. Whether continuation of the pursuit would likely create a danger to the public, officer(s) or subject(s) which is apparently greater than the value of apprehending the subject(s), due to such factors as, but not limited to, road conditions, weather conditions, density of population, severity of the crime and necessity of pursuit by vehicle; and,

b. Whether the vehicle's registration or violator's identification has been established so that later apprehension may be accomplished, and, in the officer's opinion, there is no apparent continuing need for immediate apprehension (per provisions of s. 346.175, Stats.).

3. 'Termination of pursuits.' Law enforcement officers will terminate vehicle pursuits under any of the following conditions:

a. At any time a supervisor orders termination;

b. When the continuing distance between the pursuing and fleeing vehicles is such that further pursuit is futile;

c. When the pursued vehicle's location is unknown;

d. When the officer's vehicle or emergency equipment malfunctions; or

e. When it is necessary to stop to render aid to an injured person or persons, and no other unit is available to do so.

**SECTION 3.** Create s. LES 3.03 (7) (b) to read:

LES 3.03 (7) (b) A training guide entitled "Use Emergency Vehicle Driving Techniques" shall be approved by the board for subsection (7) and shall include student performance objectives for police pursuit driving techniques.

**SECTION 4.** Create s. LES 3.07 (title) and (1) to read:

**LES 3.07 Minimum standards for recertification training.** (1) Minimum standards for recertification training for law enforcement and tribal law enforcement officers shall require that law enforcement and tribal law enforcement officers with exception of those who serve on a temporary or probationary basis shall biennially complete at least 4 hours of training the curriculum of which shall include reference to employer's guidelines provided under s. 346.03 (6) Stats. Training may also include achievement of student performance objectives from board approved training guides entitled "Use Pursuit Guidelines" and "Use Emergency Vehicle Driving Techniques" and/or review, for policy development, or applicable research and new technology and/or training to employ new technology.



## Initial Regulatory Flexibility Analysis

Proposed rules of the Law Enforcement Standards Board do not affect small businesses.

### Fiscal Estimate

Proposed rules of the Law Enforcement Standards Board establish voluntary pursuit standards. Law enforcement agencies are not required to comply with the standards or to amend their policies to conform with the standards.

The proposed rules establish a curriculum for biennial training related to vehicular pursuits. As instruction will qualify for inclusion in the annual 24-hour recertification training requirement for each law enforcement officer for which the Department of Justice reimburses expenses, it will not generate any additional training expenses.

The Department of Justice provides staff services for the Law Enforcement Standards Board under s. 165.86, Stats. The current expense of those services will neither increase nor decrease as a result of proposed administrative rules for vehicular pursuits and related training.

There is no state fiscal effect and no local government costs anticipated.

### Contact Information

Dennis Hanson, Director  
Training and Standards Bureau  
Wisconsin Department of Justice  
123 West Washington Ave.  
P.O. Box 7070  
Madison, WI 53707-7070

## Notice of Hearings

### Natural Resources

*(Environmental Protection—General  
Chs. NR 100—)*

*(Environmental Protection—Water  
Supply, Chs. NR 800—)*

*[CR 00—2]*

Notice is hereby given that pursuant to ss. 227.11(2)(a), 280.11(1), 281.17(3) and (8) and 281.41(1), Stats., interpreting ss. 280.11(1), 281.17(3) and (8) and 281.41(1), Stats., the Department of Natural Resources will hold public hearings on modifications to chs. NR 108, 114, 809 and 811 and the creation of subch. III, ch. NR 809, Wis. Adm. Code, relating to safe drinking water and waterworks operator certification. U.S. EPA is now promulgating new drinking water regulations mandated by the 1996 Amendments to the Safe Drinking Water Act (SDWA) and will continue to do so over the next several years. As the primacy agent for U.S. EPA in Wisconsin, the Department must adopt and implement regulations at least as stringent as those promulgated by U.S. EPA.

Chapters NR 108 and 811 are modified primarily to ensure conformance of definitions between all codes addressing community water systems. Other changes correct old errors, or provide greater clarity and/or flexibility in existing requirements.

Modifications to ch. NR 114 are in response to SWDA requirements that small non-municipal water systems be operated by a certified person. A new subchapter added to ch. NR 114 requires these systems to be operated by a person who completes a training course, passes a written examination and obtains 6 hours of continuing education credits every 3 years.

Modifications to ch. NR 809 include:

*Consumer confidence regulation:* This regulation establishes a requirement for all public community water systems to issue a water quality report annually.

*Disinfectant/disinfectant by-products regulation:* In addition to new and revised MCLs, this regulation establishes new monitoring for disinfectant by-products and disinfectant by-product precursors. The most significant increased monitoring will occur in systems that utilize a surface water source. Additionally, all groundwater systems that disinfect will experience some increase in monitoring under this regulation.

*Interim enhanced surface water treatment regulation:* This regulation affects surface water systems and systems using groundwater under the direct influence of surface water. This rule will strengthen microbial protection by establishing removal requirements for *Cyptosporidium* through the filtration process, reducing allowable finished water turbidity levels, requiring monitoring of individual filter performance and by establishing disinfection profiling and benchmarking provisions.

*Variance and exemption regulation:* This regulation creates a new affordability-based small systems variance, which may be granted by a state to a public water system serving fewer than 3,300 persons, or, with the approval of EPA's administrator, to a system serving 3,301 – 10,000 persons.

*Restricted microbiological analytical methods and direct lab reporting:* The first change would require all samples collected to establish compliance with the total coliform MCL be analyzed using a single method. Direct reporting would require laboratories to transmit results of compliance samples directly to the Department and the facility concurrently. Additionally for positive results, which indicate a potential public health threat, laboratories would be required to transmit the results to the Department and the facility within 24 hours of obtaining the result.

## Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

a. Types of small businesses affected: Mobile home parks, condo developments and apartment complexes that have their own water supply system.

b. Descriptions of reporting and bookkeeping procedures required: Customers must be provided with an annual water quality report. Certified operators will be required to document attendance at training sessions.

c. Description of professional skills required: Skills to become a certified operator. Otherwise no new skills required.

## Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review documents would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

## Hearing Information

February 14, 2000  
Monday  
at 1:00 p.m.

Pinery Room  
Public Library  
1001 Main Street  
Stevens Point, WI

February 15, 2000  
Tuesday  
at 1:00 p.m.

Lounge  
Winnebago Co. Courthouse  
415 Jackson Ave.  
Oshkosh, WI

February 16, 2000  
Wednesday  
at 12:00 p.m.

Gov. Thompson Fish Hatchery  
951 W. Maple  
Spooner, WI



February 17, 2000  
Thursday  
at 9:00 a.m.

Room G55/G59  
Waukesha Co. Courthouse  
515 W. Moorland Blvd.  
Waukesha, WI

February 18, 2000  
Friday  
at 1:00 p.m.

Room 611A, GEF #2  
101 S. Webster St.  
Madison, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Don Swailes at (608) 266-7093 with specific information on your request at least 10 days before the date of the scheduled hearing.

### Written Comments

Written comments on the proposed rule may be submitted to Mr. Don Swailes, Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI 53707 no later than **March 10, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [ DG-3-00] and fiscal estimate may be obtained from Mr. Swailes.

### Fiscal Estimate

#### Fiscal Impacts

Cost increases accruing to the Department are a result of increased monitoring and reporting requirements under the CCR, IESWTR, and D/DBP rules, and development and implementation of the OpCert program. With new monitoring and reporting requirements on regulated facilities, there will also be increased enforcement activities as a result of new violations and ultimately, there will be an increase in plan review and technical assistance to systems as a result of installation of new equipment to meet new standards. All initial cost increases to the Department from CCR, IFS WTR, and DIDBP rules are covered through ongoing upgrades to our automated compliance tracking system and technical assistance set aside funds from federal drinking water revolving loan grants. Development and implementation of an OpCert program will be covered by a specific OpCert set aside from the drinking water state revolving loan funds. Monitoring and reporting increases will not be felt fully until the follow on regulations to the IESWTR and DIDBP rules are promulgated. When the next rules are promulgated, increased resources will be requested through the budget process.

Cost increases to local government will result from CCR requirements, new monitoring and analytical requirements associated with the IESWTR and D/DBP rules, and for school districts only, new requirements for a certified operators. CCR requirements for municipal systems are estimated by U.S. EPA at an average annual cost of \$442/year/system, but since all municipal systems have already provided the notice in 1999, addition of the CCR to State Codes will not create any additional cost. U.S. EPA has estimated the worst case average annual cost for implementation of the D/DBP rule to be about \$8900/year/disinfecting system. However, for the vast majority of Wisconsin's disinfecting municipal water systems, the cost should be less than \$1000/year. IESWTR costs are only incurred by Wisconsin's 20 surface water systems. These systems, as a result of federal direct implementation of the Information Collection Rule and the 1993 cryptosporidium incident in Milwaukee, have already either installed or are currently installing the equipment necessary to meet requirements of the IESWTR. Based on national cost estimates, average system cost of implementing the IESWTR is approximately \$1.1 15 million/year. However, that estimate assumes systems have made no improvements in their treatment processes prior to promulgation of the rule, which is not the case in Wisconsin.

#### Long-Range Fiscal Implications

Over a 2 -4 year period new rules associated with the IESWTR and the D/DBP regulation will create a need for additional Department resources. Resources would be used for both

contractors and permanent staff. In addition, other new regulations unrelated to the aforementioned rules must be incorporated in State Codes, further taxing existing resources.

## Notice of Proposed Rule

### Revenue

#### [CR 99-158]

Notice is hereby given that pursuant to s. 227.11 (2) Stats., and interpreting ss. 66.058 (3) and 79.10 (10), Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Department of Revenue will adopt the following rule as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **February 1, 2000**, it is petitioned for a public hearing by 25 natural persons who will be affected by the rule, a municipality which will be affected by the rule, or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

### Analysis Prepared by Dept. of Revenue

Statutory authority: s. 227.11 (2)

Statutes interpreted: ss. 66.058 (3) and 79.10 (10)

The lottery credit program was enacted by 1991 Wis. Act 39. Chapter Tax 20 was created to guide the administration of the lottery credit and first applied to the credit against 1991 property taxes. Chapter Tax 20 was amended to guide the administration of the lottery credit against property taxes for 1992 and thereafter.

Prior to 1996, homeowners claimed the credit on a property through an annual application in which they attested that as of the January 1 certification date, they were the owner of the property which they used as their primary residence. Also prior to 1996, an incorporated municipality could request the department of revenue's approval to administer the lottery credit within its jurisdiction.

In 1996, a circuit court found the distribution of the lottery credit to homeowners violated the uniformity clause of the state's constitution. As a result, no lottery credits were extended on 1996/97 property tax bills. Following 1997 Wis. Act 27, lottery credits were extended to all taxable properties, including personal property, on 1997/98 and 1998/99 property tax bills.

The 1997/99 and 1999/01 Legislatures approved a joint resolution to amend the Constitution by requiring that proceeds from lottery, pari-mutuel on-track betting and bingo be used for property tax relief for state residents; the proposed amendment further specified that the property tax relief would not have to conform to the rules for uniform taxation. On April 6, 1999, Wisconsin voters approved the proposed amendment.

1999 Wis. Act 5 requires that the lottery credit be distributed to owners of primary residences.

1999 Wis. Act 5 is similar to the law prior to 1996 in that the lottery credit is to be distributed to homeowners through a precertification process. However, 1999 Wis. Act 5 differs from the law prior to 1996 in the following respects:

- 1) The name of the credit is changed from the lottery credit to the lottery and gaming credit;
- 2) Whereas prior law required an annual certification, the act provides for a 5-year certification process;
- 3) Whereas prior law allowed the Department to authorize cities to administer the credit, the act authorizes only counties and the City of Milwaukee to administer the lottery credit and allows the Department to authorize a certification process other than the specified claim process; and
- 4) Whereas prior law provided \$.50 per claim, the act provides \$.70 per claim for administrative costs.

Finally, the reporting requirements for treasurers under the act differ from that under prior law.

1999 Wis. Act 9 allows a new homeowner to apply to the Department for and receive the 1999/2000 lottery and gaming credit on the property if the new homeowner can attest that, to his or her knowledge, the previous owner used the property as a primary

residence on the certification date. Payments for the computed credits would be made after the 1999 property tax bills have been issued. In subsequent years, such applications would be filed with the treasurer administering the credit.

Chapter Tax 20, Subchapter I is specific to the 1991 lottery credit and is no longer needed; therefore, its repeal is proposed. The amendment to Chapter Tax 20 is required to account for the law changes in 1999 Wis. Act 5. The proposed amendment will change the rule in the following ways:

- change the name from the lottery credit to the lottery and gaming credit;
- provide for an application every 5 years;
- explain how claims in interim years are made;
- revise the claimant information to be provided to the Department;
- explain the reimbursement procedures for administrative costs;
- repeal the authorization for approved cities to administer the credit;
- specify dates by which counties seek permission for alternative certification procedures.

### **Text of Rule**

**SECTION 1.** Chapter Tax 20 (title) is amended to read:

Chapter Tax 20  
LOTTERY AND GAMING CREDIT

**SECTION 2.** Tax 20, Subchapter I is repealed.

**SECTION 3.** Tax 20, Subchapter II (title) is repealed.

**SECTION 4.** Tax 20.11 (1) is amended to read:

Tax 20.11(1) “Application” means application to claim the lottery and gaming credit.

**SECTION 5.** Tax 20.11 (2) is repealed.

**SECTION 6.** Tax 20.11 (3) is amended to read:

Tax 20.11(3) “Approved parcel” means a parcel of taxable real estate or an item of personal property that contains the primary residence of an owner whose application for a lottery and gaming credit has been timely made under s. Tax 20.14 or s. Tax 20.18 or extended under s. Tax 20.13 and has not been disqualified by the department.

**SECTION 7.** Tax 20.11(3m) is created to read:

Tax 20.11(3m) “Certification date” means the January 1 of the year the tax is levied.

**SECTION 8.** Tax 20.11 (4) and (5) are amended to read:

Tax 20.11(4) “Credit” means the lottery and gaming credit under ss. 66.058(3)(c) and 79.10, Stats.

(5) “Credit value” means the value of property set by the legislature department as provided in s. 79.10(11)(c), Stats., for purposes of computing the lottery and gaming credit.

**SECTION 9.** Tax 20.11 (8m) is created to read:

Tax 20.11(8m) “Precertification year” means the first year in each 5-year cycle for filing claims for lottery and gaming credits, beginning with 1999 for taxable real or personal property and 2000 for mobile homes subject to a mobile home parking fee.

**SECTION 10.** Tax 20.12(title) and (3) are amended to read:

Tax 20.12 (title) **Computing the lottery and gaming credit.**

Tax 20.12 (3) The amount of the property tax or mobile home parking permit fee due after subtracting the lottery and gaming credit may not be less than zero.

**SECTION 11.** Tax 20.13 is repealed and recreated to read:

**Tax 20.13 Authorization for alternative certification procedures.** A county, or a city that collects taxes under s. 74.87, Stats., may request the department’s approval to use a certification procedure other than that under s. Tax 20.14 (1) for certifying claims in a precertification year. The request shall be in writing and shall

indicate the procedure to be used, which shall be consistent with that prescribed by the department. The request shall be made by July 1 of the year prior to the precertification year. Ss. Tax 20.11, 20.12, 20.14 (1) (a) 2., (b), (c) and (d), 20.15 (1) (e), (2) ,(3), (4) and (5), 20.16, 20.17, 20.18 and 20.19 as they apply to credits under s. Tax 20.14 apply to credits extended under this section.

**SECTION 12.** Tax 20.14 (1) (a) is renumbered s. Tax 20.04 (1) (a) 1. and is amended to read:

**Tax 20.14 How to claim the credit.** (1) TAXABLE PROPERTY. (a) 1. ‘Precertification years.’ An owner of taxable property who qualifies for the lottery and gaming credit may claim the credit on an application prescribed by the department. The owner must attest that as of the certification date of the precertification year, he or she is the owner of the property described on the application and that as of that date he or she uses the property as his or her primary residence. The completed application shall be filed with the county treasurer except that ~~in approved cities and in a city that collects taxes under s. 74.87, Stats.,~~ the application shall be filed with the city treasurer. ~~The certification date for the tax levied in 1992 is July 1, 1992. Thereafter, the certification date is the January 1 of the year the tax is levied. Beginning with the credit for 1999 property taxes, a claim that is made under this subdivision is valid for 5 years, except as provided under s. Tax 20.19(2).~~

**Note:** A copy of the prescribed application for the 1999 credit, including instructions, is attached as an appendix.

**SECTION 13.** Tax 20.14 (1) (a) 2. is created to read:

Tax 20.14 (1) (a) 2. ‘Interim years.’ An owner of taxable property who becomes eligible to claim a credit in years other than a precertification year may claim the credit by filing an application with the treasurer of the county in which the property is located or, if the property is located in a city that collects taxes under s. 74.87, Stats., with the treasurer of that city. The owner must attest that as of the certification date, he or she is the owner of the property described on the application and that as of that date he or she uses the property as his or her primary residence. Except as provided under s. Tax 20.19(2), claims made under this subdivision are valid until the next following precertification year.

**SECTION 14.** Tax 20.14 (1) (c) is amended to read:

Tax 20.14 (1) (c) An owner who qualifies for the credit against taxes but whose tax bill does not reflect the credit may claim the credit until January 31 following the issuance of the tax bill by filing the application under par. (a) with the treasurer collecting the taxes. If the application is approved, the treasurer shall proceed under s. Tax 20.15 (1) (e). Applications made after January 31 shall be filed with the department as provided under s. Tax 20.18.

**SECTION 15.** Tax 20.14 (1) (d) is created to read:

Tax 20.14 (1) (d) 1. If a property that has been transferred to a new owner qualifies for the credit because a previous owner used the property as his or her primary residence on the certification date, the new owner of the property may apply for the credit on a form prescribed by the department. The applicant shall attest that to his or her knowledge, the property was used as a primary residence by the previous owner of the property as of the certification date. Applications made under this paragraph for the credit for 1999 property taxes shall be filed with the department. For each accepted claim under this paragraph, the department shall direct the treasurer under par. (a) to compute the credit, subtract it from the amount due for the approved parcel of the owner and make an appropriate entry in the tax roll or the department shall issue a check to the taxpayer in the amount equal to the computed credit. Beginning with the lottery and gaming credit for 2000 property taxes, applications made under this paragraph shall be filed with the treasurer of the county in which the property is located or, if the property is located in a city that collects taxes under s. 74.87, Stats., with the treasurer of that city. Applications made after January 31 shall be filed with the department for processing under s. Tax 20.18 (2).

2. A claim made under this paragraph is valid until the next following precertification year. If the claimant under this paragraph does not own or use the property as his or her primary residence on the certification date of any year subsequent to the year of the claim, the claimant shall withdraw the claim as required under sub. (3).

**SECTION 16.** Tax 20.14 (2) (a) is renumbered s. Tax 20.14 (2) (a) 1. and is amended to read:

Tax 20.14(2) MOBILE HOMES. (a) 1. 'Precertification years.' The owner of a mobile home subject to a monthly mobile home parking permit fee who qualifies for the credit may claim the credit on an application prescribed by the department. The owner must attest that as of January 1 of the precertification year he or she is the owner of the mobile home described on the application and as of that date he or she uses the mobile home as his or her primary residence. The completed application must be filed with the taxation district treasurer no later than ~~January 31~~ February 10 of the year the fees are payable. Beginning with the credit for fees payable in 2000, a claim that is made under this subdivision is valid for 5 years, except as provided under s. Tax 20.19 (2).

**SECTION 17.** Tax 20.14(2)(a)2. is created to read.

Tax 20.14 (2) (a) 2. 'Interim years.' An owner of a mobile home who becomes eligible to claim a credit in years other than a precertification year may claim the credit by filing an application with the taxation district treasurer no later than February 10 of the year the fees are payable. The owner must attest that as of the January 1 of the year the fees are payable, he or she is the owner of the property described on the application and that as of that date he or she uses the property as his or her primary residence. Except as provided under s. Tax 20.19 (2), claims made under this subdivision are valid until the next following precertification year.

**SECTION 18.** Tax 20.14 (2) (b) and (c) are amended to read:

Tax 20.14 (2) (b) The taxation district treasurer shall compute the amount of the lottery and gaming credit under s. Tax 20.12 (2). One twelfth of the credit so determined shall be subtracted from each monthly mobile home parking permit fee otherwise due for the parking site occupied by the owner under par. (a) on January 1.

(c) The amount of the lottery and gaming credit pertaining to months in which a fee is not due for the parking site of an owner under par. (a) shall be recorded by the taxation district treasurer and remitted to the department of administration by January 20 of the following year. The taxation district treasurer shall charge back to the school district the corresponding credits settled for under s. Tax 20.17.

**SECTION 19.** Tax 20.14 (3) is created to read:

Tax 20.14 (3) WITHDRAWING A CLAIM. Within 30 days of the date on which the claimant no longer owns the parcel of taxable real or personal property or the mobile home subject to a mobile home parking fee on which a claim was based or no longer uses the property as his or her primary residence, the claimant shall inform the treasurer administering the credit under s. Tax 20.14 that the he or she is no longer eligible to claim a credit for the property. Failure to do so may subject the owner to penalties under s. Tax 20.19 (2). This subsection also applies to credits extended under s. Tax 20.13.

**SECTION 20.** Tax 20.15 (1) (a), (b) and (e), (2), (3) and (4) (a) 1. and 2. are amended to read:

**Tax 20.15 Responsibilities of county treasurer and taxation district treasurer.** (1) **CERTIFICATION OF LOTTERY AND GAMING CREDIT.** (a) The treasurer administering the credit under s. Tax 20.14(1) (a)1. shall prepare applications for parcels likely to qualify for the lottery and gaming credit and those upon request. Prepared applications shall include the parcel number and the property address or other description of the property. The prepared application for the lottery and gaming credit on property taxes for 1999 and for each precertification year thereafter shall be distributed to the owner of the parcel.

(b) The treasurer under s. Tax 20.14 (1) (a) shall accept applications for the lottery and gaming credit for taxable property through the October 31 prior to issuance of the tax bill. The treasurer shall accept facsimiles of applications or other documents evidencing a claim that include all the information contained in the application form prescribed by the department if such facsimiles or other documents are received by the treasurer by October 31. The treasurer shall not accept applications postmarked earlier than the certification date.

(e) An owner who qualifies for the lottery and gaming credit but whose tax bill does not reflect the credit may claim the credit until January 31 following the issuance of the tax bill by filing the application under s. Tax 20.14 (1) (a) with the treasurer responsible for collecting the January payment of the owner's property taxes. The treasurer shall compute the credit, subtract it from the amount due for the approved parcel of the owner and make an appropriate entry in the tax role. If the tax has been paid in full, the treasurer shall provide a refund. ~~Except for approved cities, the~~ The treasurer shall, on or before settlement under ss. 74.25 or 74.30, Stats., convey to the county treasurer the parcel number, property address or other description of the property and the name and mailing address for each claim accepted under this paragraph.

(2) **TAX ROLL ENTRIES.** The tax roll shall indicate the amount of lottery and gaming credits ~~claimed for~~ extended to approved parcels.

(3) **PROPERTY TAX BILLS.** The treasurer under s. Tax 20.14 (1) ~~or s. Tax 20.13~~ shall cause the lottery and gaming credit to appear on tax bills for approved parcels for which an application has been received under sub. (1) (b) ~~or extended under s. Tax 20.13.~~ The total amount of the lottery and gaming credit shall be deducted from the net property tax included in the first instalment. If the lottery and gaming credit exceeds the amount of net property taxes included in the first instalment, the excess shall be deducted from subsequent instalments but no instalments may be reduced below zero. On tax bills for approved parcels issued by a city that collects general property taxes under s. 74.87, Stats., the lottery and gaming credit may be prorated over instalment payments.

(4) **INFORMATION PROVIDED TO THE DEPARTMENT.** (a) *March report.* 1. On or before March 1, the county treasurer shall report to the department the total number and amount of credits ~~claimed under s. Tax 20.14 (1) or extended under s. Tax 20.13 against taxes levied in the previous December~~ in each taxation district in the county except that for ~~taxation districts in approved cities and~~ taxation districts in a city that collects taxes under s. 74.87, Stats., the city treasurer shall report to the department. The report shall be on a form prescribed by the department and shall be signed by the treasurer.

2. On or before March 1, each taxation district treasurer shall report to the department the total number and amount of credits claimed through the preceding ~~January 31~~ February 10 for mobile homes subject to a monthly parking permit fee. The report shall be on a form prescribed by the department and shall be signed by the taxation district treasurer.

**SECTION 21.** Tax 20.15 (4) (c) 1. and 2. are repealed and recreated to read:

Tax 20.15 (4) (c) *Claimant report.* 1. 'Taxable property.' a. Precertification years. On or before November 1, 1999 and on or before August 16 of each precertification year thereafter, the treasurer with whom applications for credits are filed under s. Tax 20.14 (1) (a) 1. shall provide the department a report of all claims made under ss. Tax 20.14 (1) (a) 1. and (d) for that year's lottery and gaming credit, and treasurers under s. Tax 20.13 shall provide a report for all claims to be applied on the property tax roll for the year of precertification. The report shall indicate for each individual claim the parcel number, property address or other description of the property, and the name and mailing address for purposes of mailing the tax bill. The report shall be in a computer-readable format. On or before March 1 of the year following the precertification year, treasurers under sub. (1) (a) and s. Tax 20.13 shall provide the department an updated report of all claims made in the precertification year, including late claims made under sub. (1) (e). The March 1 report shall be in a computer-readable format and shall indicate for each individual claim the parcel number, property address or other description of the property, and the name and mailing address for purposes of mailing the tax bill.

b. Interim years. On or before May 1 of each year other than precertification years, the treasurer with whom claims for credits are filed under s. Tax 20.14 (1) (a) 2. shall file with the department a report of all claims made under s. Tax 20.14 (1) (a) 2. and (d) for that year's lottery and gaming credit. The report shall contain the parcel

numbers, property addresses or other descriptions of properties for which claims were filed and the names and mailing addresses for purposes of mailing the tax bills. The report shall be in computer-readable format. By March 1 of the following year, the treasurer shall file with the department a report of all claims for the previous year's lottery and gaming credit, including claims made under ss. Tax 20.14 (1) (a) 2. and (d), claims made in a precertification year that are valid for the previous year and late claims made for lottery and gaming credits for the previous year. This subdivision also applies to interim year credits extended under s. Tax 20.13.

**Example:** On May 1, 2000 the county treasurer provides the department a report of all claims for the 2000 lottery and gaming credit made in 2000 through 1) applications made to the county treasurer and 2) late claims made to the municipal treasurer and 3) late claims made to the department. **Prior-year claims that remain valid are not included in the May 1 report.** On March 1, 2001, the treasurer provides the department a report of all claims made for the 2000 credit – both prior year claims that are valid for the 2000 credit and claims made in 2000 as well as late claims made in 2001 (for the 2000 credit).

2. 'Mobile homes.' a. Precertification years. On or before November 1, 1999 and on or before August 16, 2004 and every 5<sup>th</sup> year thereafter, each taxation district administering credits to mobile homes subject to a mobile home parking fee shall provide the department an estimate of the number of claims to be made under s. Tax 20.14 (2) (a) 1. for the next precertification year. On or before May 1, 2000 and every 5<sup>th</sup> year thereafter, each taxation district administering credits to mobile homes subject to a mobile home parking fee shall provide the department a report of all claims made under s. Tax 20.14 (2) (a) 1. for that year's lottery and gaming credit. The report shall indicate for each individual claim the account number and address of the mobile home and the claimant's name and mailing address.

b. Interim years. On or before May 1 of each year other than precertification years, each taxation district administering credits to mobile homes subject to a mobile home parking fee shall file with the department a report of all claims made under s. Tax 20.14 (2) (a) 2. for that year's lottery and gaming credit, including claims made in a precertification year that continue to be valid. The report shall indicate for each individual claim the account number and address of the mobile home and the claimant's name and mailing address.

**SECTION 22.** Tax 20.15 (4) (d) is amended to read:

Tax 20.15 (4) (d) *Corrections report.* On or before October 1, the treasurer under sub. (1) and the treasurer under s. Tax 20.13 shall report to the department all corrections and adjustments made to the lottery and gaming credit claims of the previous year under s. Tax 20.18(2).

**SECTION 23.** Tax 20.15 (5) is renumbered s. Tax 20.15 (5) (a) and is amended to read:

Tax 20.15 (5) **RECORD RETENTION.** (a) ~~Each~~ Except for credits extended under s. Tax 20.13, each claim for a lottery and gaming credit shall be supported by a signed application or a facsimile thereof which shall be available for inspection by the department in the office of the treasurer under sub. (1) or (2) for 4-5 calendar years beginning with the year for which the credit was claimed.

**SECTION 24.** Tax 20.15(5)(b) is created to read:

Tax 20.15 (5) (b) All computer programs and records used to extend credits under s. Tax 20.13 shall be available for inspection by the department in the office of the treasurer authorized under s. Tax 20.13 for 5 calendar years beginning with the year for which the credit was extended.

**SECTION 25.** Tax 20.16 (title) and (1) (title) are amended to read:

Tax 20.16 (title) **Payment of lottery and gaming credits and administrative reimbursement.**

(1) (title) **LOTTERY AND GAMING CREDIT.**

**SECTION 26.** Tax 20.16 (1) (a) is renumbered s. Tax 20.16 (1).

**SECTION 27.** Tax 20.16 (1) (b) is repealed.

**SECTION 28.** Tax 20.16(2) is repealed and recreated to read:

Tax 20.16(2) **ADMINISTRATIVE REIMBURSEMENT.** (a) On November 19, 1999 the department of administration shall pay:

1. to the county or municipality using the claims procedure under s. Tax 20.14 (1), \$0.70 for each application on file as of October 15, 1999 as reported under s. Tax 20.15 (4) (c) 1. a.

2. to the county or municipality using an alternative procedure under s. Tax 20.13, the lesser of \$0.70 for each claim as reported under s. Tax 20.15 (4) (c) 1. a. or the actual cost incurred in identifying the claims reported under s. Tax 20.15 (4) (c) 1. a. A statement detailing the costs incurred shall document actual costs.

3. to the municipality using the claims procedure under s. Tax 20.14 (2), \$0.70 for each estimated application for the 2000 lottery and gaming credit as reported under s. Tax 20.15 (4) (c) 2. a.

(b) On the first Friday in September in 2004 and every 5th year thereafter, the department of administration shall pay:

1. to the county or municipality using the claims procedure under s. Tax 20.14 (1), \$0.70 for each application received under s. Tax 20.14 (1) (a) 1. as of August 1 of a precertification year as reported under s. Tax 20.15 (4) (c) 1. a.

2. to the county or municipality using an alternative procedure under s. Tax 20.13, the lesser of \$0.70 for each claim as reported under s. Tax 20.15 (4) (c) 1. a. or the actual cost incurred in identifying the claims reported under s. Tax 20.15 (4) (c) 1. a. A statement detailing the costs incurred shall document actual costs.

3. to the municipality using the claims procedure under s. Tax 20.14 (2), \$0.70 for each estimated claim to be made in the next precertification year as reported to the department under s. Tax 20.15 (4) (c) 2. a.

(c) Correction payments made under s. 79.10 (7r) (c), Stats., for underpayments of the lottery and gaming credit shall be made on the first Friday in September of the year following payments under pars. (a) and (b). If there are overpayments of the lottery and gaming credit made under s. 79.10 (7r) (b), Stats., the department shall collect the overpayment from the county or taxation district. If the department does not receive the overpayment by June 30 of the year following the payment under s. 79.10 (7r) (b), Stats., it shall certify to the department of administration on or before the first Friday in August the amount as a state special charge. The department of administration shall include the state special charge in its certification under s. 70.60, Stats.

**SECTION 29.** Tax 20.17 (title), (1) (a), (2) and (4) are amended to read:

**Tax 20.17 (title) Settlement for lottery and gaming credits.**

Tax 20.17(1) (a) Settle with taxing jurisdictions for the payment of lottery and gaming credits under s. Tax 20.16 (1) (a).

(2) Settlement for lottery and gaming credits shall be the same as settlement of other tax payments except that lottery and gaming credits may only be used to reduce general property taxes; they may not be applied against special assessments, special charges and special taxes.

(4) The settlement under s. 74.29, Stats., shall include the amount of lottery and gaming credits to be paid to the county treasurer under s. Tax 20.16 (1) (b) 1.

**SECTION 30.** Tax 20.18 (1) (e) is amended to read:

Tax 20.18 (1) (e) The amount certified under par. (c) for each taxation district shall be added to, or deducted from, the total lottery and gaming credits of the following year paid to the taxation district in March of the following year.

**SECTION 31.** Tax 20.18 (2) is repealed and recreated to read:

Tax 20.18 (2) If the department determines by October 1 of the year of any distribution under s. Tax 20.16 (1) (a) that there was an omitted lottery and gaming credit due to an eligible claim made after January 31, the department shall issue a check to the taxpayer in the amount equal to the computed credit. The department shall convey to the county treasurer the parcel number, property address or other description of the property and the name and mailing address for each omitted claim.

**SECTION 32.** Tax 20.19 (1) and 20.19 (2) (intro.) are amended to read:

**Tax 20.19 Audit; penalties.** (1) The department shall audit claims for the lottery and gaming credits and credits extended under s. Tax 20.13. The department may audit the computer programs and records of county treasurers and treasurers of a taxation district that collects taxes under s. 74.87, Stats., used to extend credits under s. Tax 20.13.

(2) If the department determines that a credit was extended to a claimed for an approved parcel or a mobile home subject to a monthly parking permit fee by a person who that does not qualify for the credit on the approved parcel or mobile home, the department shall proceed as follows:

**SECTION 33.** Tax 20.19 (2) (b) is repealed and recreated to read:

Tax 20.19 (2) (b) If the determination is after the tax roll is prepared, the department shall instruct the appropriate taxation district to collect the credit as a special charge on the next property tax bill issued for the property.

### **Initial Regulatory Flexibility Analysis**

The proposed rule does not have a significant economic impact on a substantial number of small businesses.

### **Fiscal Estimate**

The proposed amendment to ch. Tax 20 is required to bring the rule into conformity with current law as affected by the changes in 1999 Wis. Acts 5 and 9. The proposed amendment has no fiscal effect independent of the statutory changes made in 1999 Wis. Acts 5 and 9.

### **Contact Information**

Please contact Rebecca Boldt at (608) 266-6785, if you have any questions regarding this proposed rule order.

Rebecca Boldt  
Division of Research and Analysis  
Dept. of Revenue  
125 S. Webster St.  
P.O. Box 8933  
Madison, WI 53703

## **Notice of Hearing**

### **Transportation** **[CR 00-15]**

Notice is hereby given that pursuant to ss. 85.16(1) and 227.11(2), Stats., and interpreting s. 85.20, Stats., the Department of Transportation will hold a public hearing in **Room 994 of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the 14th day of February, 2000, at 10:00 AM**, to consider the amendment of ch. Trans 4, Wis. Adm. Code, relating to the state public transit operating assistance program, and ch. Trans 8, Wis. Adm. Code, relating to allocation of federal public transit assistance program funds to urbanized areas under 200,000 population.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

The public record on this proposed rule making will be held open until close of business, **February 14, 2000**, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Richard A. Martin, Department of Transportation, Bureau of Transit and Local Roads, Room 951, P. O. Box 7913, Madison, WI 53707-7913.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

## **Analysis Prepared by the Wisconsin Department of Transportation**

STATUTORY AUTHORITY: ss. 85.16(1) and 227.11(2)

STATUTE INTERPRETED: s. 85.20

General Summary of Proposed Rule. Ch. Trans 4 establishes the Department's administrative interpretation of s. 85.20, Stats., and prescribes administrative policies and procedures for implementing the state urban public transit operating assistance program authorized under s. 85.20, Stats. 1999 Wis. Act 9 requires the Department to amend ch. Trans 4 by adding a section that requires that cost proposals submitted by a publicly owned transit system in response to a request for proposals issued by a public body for the procurement of transit services to be funded under the state urban transit operating assistance program must include an analysis of fully allocated costs. The analysis must include all of the publicly owned system's costs, including operating subsidies and capital grants. This analysis shall be the basis for evaluating costs when ranking proposals.

In addition, this rule-making will clarify existing provisions of ch. Trans 4 as well as incorporate changes to reflect current program policy and conditions and improve program administrative procedures.

These changes consist of the following:

- Removes language relative to state aid distribution that is contradictory to current statutory language.
  - Modifies the definition of eligible expenses to include return on investment, short term interest and management fees for private transportation providers.
  - Changes the definitions of "urban area" and "urban mass transit system" to eliminate ambiguity.
  - Clarifies the required competitive bid process for private providers contracting with public bodies and allows public bodies sponsoring shared-ride taxi systems to charge administrative expenses.
  - Prohibits paying for expenses that are already paid for with Federal Transit Administration capital funds.
  - Prohibits using state aid to pay for expenses related to services which duplicate those provided by another public transit system.
  - Eliminates obsolete language relating to user-side subsidy programs.
  - Specifies that management performance audits will be conducted for bus systems only.
  - Specifies that the cost of services not included in the annual state aid application will not be eligible for aid until the following year.
  - Requires that a community planning to implement a new transit system notifies the Department by April 15 of even-numbered years in order to be eligible for aid under s. 85.20, Stats., in the upcoming biennium.
  - Eliminates the necessity of submitting the original program application to the appropriate transportation district office.
  - Modifies performance indicators to agree with those recommended by the Transit Advisory Council in 1997.
  - Revises sections to make the rule easier to follow.
- Chapter Trans 8 establishes the Department's administrative interpretation of the Governor's apportionment under the Federal Transit Assistance Section 5307 formula grant program for urbanized area transit systems and prescribes administrative policies and procedures for implementing the program. The amendments to ch. Trans 8 will clarify existing provisions of the rule as well as incorporate changes to reflect current program policy and conditions and improve program administrative procedures.
- These amendments include:
- Changes all references to Section 9 of the Urban Mass Transportation Act of 1964 to Section 5307;
  - Changes all references to Trans 4 to agree with current version;
  - Defines "capitalized maintenance costs" and specifies how they can be funded;

- Adds wording to clarify that combined federal and state operating assistance may be limited by s. 85.20, Stats.;
- Changes the date by which the Department is required to provide projections of federal and state funding levels to recipients to as soon as possible after October 1;
- Specifies that capital projects required to comply with the Americans with Disabilities Act can be funded at up to 90% of costs;
- Eliminates the mandatory priority rank order for funding capital projects if available funding for a given year is not sufficient to fund all projects;
- Removes the language that allows for a second distribution of operating assistance if all capital needs have been met;
- Repeals s. Trans 8.05 which calls for the Department to review the policies and procedures established in the rule annually; and
- Eliminates obsolete terminology in various parts of the rule.

### ***Fiscal Estimate***

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district or sewerage district. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

### ***Initial Regulatory Flexibility Analysis***

This proposed rule will have no adverse impact on small businesses.

### ***Copies of Proposed Rule***

Copies of the proposed rule may be obtained upon request, without cost, by writing to Richard A. Martin, Department of Transportation, Bureau of Transit and Local Roads, Room 951, P. O. Box 7913, Madison, WI 53707-7913, or by calling (608) 266-6812. Hearing-impaired individuals may contact the Department using TDD (608) 266-3351. Alternative formats of the proposed rule will be provided to individuals at their request.

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*NOTICE OF SUBMISSION OF PROPOSED RULES TO THE PRESIDING OFFICER OF  
EACH HOUSE OF THE LEGISLATURE, UNDER S. 227.19, STATS.*

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*Please check the Bulletin of Proceedings for further information on a particular rule.*

**Corrections (CR 97-14):**

Ch. DOC 309 – Relating to inmate visitation.

**Natural Resources (CR 99-95):**

S. NR 812.05 – Relating to the disposal of pollutants: injection prohibition.



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## ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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*The following administrative rules have been filed with the Revisor of Statutes Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication of these rules could be delayed. Contact the Revisor of Statutes Bureau at (608) 266-7275 for updated information on the effective dates for the listed rules.*

**Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board (CR 99-102):**

An order affecting chs. A-E 1, 2, 8 and 10, relating to the repeal of ch. A-E 10, professional geologist registration, and removal of all references to "professional geologists", "professional geology" and "geological".

Effective 03-01-00.

**Commerce (CR 99-64):**

An order affecting s. Comm 5.30 (4) and chs. Comm 41 and 42, relating to boilers and pressure vessels.

Effective 03-01-00.

**Commerce (CR 99-80):**

An order affecting ss. Comm 82.10, 83.01 and 83.03, relating to private sewage systems.

Effective 04-01-00.

**Commerce (CR 99-120):**

An order affecting chs. Comm 51 to 55, 57 to 59 and 64 and ss. Comm 62.93 and 66.32, relating to fire safety requirements in the Commercial Building Code.

Effective 04-01-00.

**Insurance, Commissioner of (CR 98-183):**

An order affecting chs. Ins 3 and 9 and ss. Ins 6.11 and 51.80, relating to revising requirements for managed care plans, preferred provider plans and limited service health organization plans to comply with recent changes in state laws.

Effective 03-01-00.



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## RULES PUBLISHED IN THIS WIS. ADM. REGISTER

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*The following administrative rule orders have been adopted and published in the **January 31, 2000 Wisconsin Administrative Register**. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code, and also to the subscribers of the specific affected Code.*

*For subscription information, contact Document Sales at (608) 266-3358.*

**Commerce (CR 99-89):**

An order creating ch. Comm 111, relating to certified capital companies.

Effective 02-01-00.

**Corrections (CR 97-67):**

An order affecting ch. DOC 309, relating to inmate access to legal materials and legal services.

Effective 02-01-00.

**Employment Relations Commission (CR 99-104):**

An order affecting ch. ERC 33, relating to school district professional employe collective bargaining agreements and the calculation of a qualified economic offer.

Effective 02-01-00.

**Natural Resources (CR 97-136):**

An order affecting ss. NR 132.085 and 132.09, relating to regulation of metallic mineral mining.

Effective 02-01-00.

**Natural Resources (CR 98-180):**

An order affecting ss. NR 200.03 and 206.03, relating to WPDES (Water Pollutant Discharge Elimination System) permit exemptions for private sewage systems with a design capacity of less than 12,000 gallons per day.

Effective 02-01-00.

**Natural Resources (CR 98-196):**

An order affecting chs. NR 105, 106, 211 and 215, relating to regulating the discharge of chloride to surface waters of the state.

Effective 02-01-00.

**Natural Resources (CR 99-25):**

An order creating ch. NR 169, relating to the reimbursement of response action costs for response actions taken at eligible dry cleaning facilities.

Effective 02-01-00.

**Nursing Home Administrator Examining Board (CR 99-114):**

An order affecting ss. NHA 1.02, 4.01 and 4.03, relating to experience and reciprocity.

Effective 02-01-00.

**Podiatrists Affiliated Credentialing Board (CR 99-38):**

An order creating chs. Pod 1 to 6, relating to the regulation and licensure of podiatrists.

Effective 02-01-00.

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## SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

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The following administrative rule revisions and corrections have taken place in January, 2000, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

### REVISIONS

#### Commerce:

*(Financial Resources for Businesses and Communities, Chs. Comm 105-128)*

Ch. Comm 111 (entire chapter)

#### Corrections:

##### Ch. DOC 309

S. DOC 309.155 (entire section)  
S. DOC 309.25 (entire section)  
SS. DOC 309.26 to 309.29 (entire sections)

#### Employment Relations Commission:

##### Ch. ERC 33

S. ERC 33.01 (entire section)  
S. ERC 33.03 (entire section)  
S. ERC 33.05 (3)  
S. ERC 33.13 (2) (b) and (d)

#### Natural Resources:

*(Environmental Protection--General, Chs. NR 100--)*

##### Ch. NR 105

S. NR 105.06 (Tables 1 and 5)

##### Ch. NR 106

SS. NR 106.80 to 106.96 (entire sections)

##### Ch. NR 132

S. NR 132.085 (entire section)  
S. NR 132.09 (3)

Ch. NR 169 (entire chapter)

*(Environmental Protection--WPDES, Chs. NR 200--)*

##### Ch. NR 200

S. NR 200.03 (3) (d), (4) and (5)

##### Ch. NR 206

S. NR 206.03 (17)

##### Ch. NR 211

S. NR 211.40 (entire section)

##### Ch. NR 215

S. NR 215.06 (26)

#### Nursing Home Administrator Examining Board:

##### Ch. NHA 1

S. NHA 1.02 (1) and (2)

##### Ch. NHA 4

S. NHA 4.01 (1) (c)  
S. NHA 4.03 (entire section)

#### Podiatrists Affiliated Credentialing Board:

Chs. Pod 1 to 6 (entire chapters)

### EDITORIAL CORRECTIONS

Corrections to code sections under the authority of s. 13.93 (2m) (b), Stats., are indicated in the following listing:

#### Corrections:

##### Ch. DOC 309

S. DOC 309.245 (entire section) was renumbered from s. DOC 309.255 under s. 13.93 (2m) (b) 1., Stats.  
S. DOC 309.255 (entire section) was renumbered to be s. DOC 309.245 under s. 13.93 (2m) (b) 1., Stats.

#### Employment Relations Commission:

##### Ch. ERC 2

S. ERC 2.02 (entire section) had a correction made under s. 13.93 (2m) (b) 1., Stats.

##### Ch. ERC 6

S. ERC 6.02 (entire section) had a correction made under s. 13.93 (2m) (b) 1., Stats.

**Ch. ERC 13**

S. ERC 13.04 (entire section) had a correction made under s. 13.93 (2m) (b) 1., Stats.

**Health and Family Services:****(Health, Chs. HFS 110--)****Ch. HFS 112**

S. HFS 112.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. HFS 112.04 (4) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Natural Resources:****(Environmental Protection--General, Chs. NR 100--)****Ch. NR 132**

S. NR 132.02 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. NR 132.03 (3), (13), (21) and (22) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. NR 132.05 (6) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. NR 132.06 (2), (3) (d) and (g), (4) (e) and (6) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. NR 132.07 (1), (3) (h) and (4) (k) and (L) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. NR 132.08 (2) (g) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. NR 132.09 (2) (a) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. NR 132.10 (1) (a), (g) and (j) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. NR 132.11 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. NR 132.12 (2) and (3) (a) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. NR 132.13 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. NR 132.14 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. NR 132.17 (intro.), (3) (c) and (d) and (6) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. NR 132.19 (2) (a) and (5) (c) had corrections made under s. 13.93 (2m) (b) 7., Stats.

**(Environmental Protection--WPDES, Chs. NR 200--)****Ch. NR 206**

S. NR 206.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**ERRATA**

Items reprinted to correct printing errors such as dropped copy (or other errors) are indicated in the following listing:

**Natural Resources:****(Fish, Game, etc., Chs. NR 1--)****Ch. NR 46**

S. NR 46.30 (entire section) reprinted to correct table titles.

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## *FINAL REGULATORY FLEXIBILITY ANALYSES*

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### 1. Commerce (CR 99–89)

Ch. Comm 111 – Certified Capital Companies.

Summary of Final Regulatory Flexibility Analysis:

The Department received substantial input on the rules and modified the rules based on that input to accommodate the recommendations and suggestions.

Summary of Comments of Legislative Standing Committees:

The rules were reviewed by the Assembly Committee on Financial Institutions and the Senate committee on Economic Development, Housing, and Government Operations. No comments were received.

### 2. Corrections (CR 97–67)

Ch. DOC 309 – Inmate access to legal materials and legal services.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule is not expected to impact on small businesses as defined in s. 227.114 (1)(a), Stats.

Summary of Comments:

No comments reported.

### 3. Employment Relations Commission (CR 99–104)

Ch. ERC 33 – School district professional employe collective bargaining agreements and the calculation of a qualified economic offer.

Summary of Final Regulatory Flexibility Analysis:

Proposed rule affects collective bargaining with school district professional employees and does not impact small business.

Summary of Comments:

No comments were reported.

### 4. Natural Resources (CR 97–136)

Ch. NR 132 – Regulation of metallic mineral mining.

Summary of Final Regulatory Flexibility Analysis:

Typically, companies involved in metallic mineral mining projects in Wisconsin have been large corporations. Given the cost intensive nature of mineral exploration and development activities, permitting and regulatory compliance, and project construction, it is unlikely that any small business would be capable of successfully developing a mining project in Wisconsin.

Summary of Comments by Legislative Review Committees:

The proposed rules were reviewed by the Assembly Environment Committee and the Senate Committee on Agriculture and Environmental Resources. On December 9, 1997, the Senate Committee held a public hearing. As a result of that hearing, the Committee requested modifications to s. NR 132.085(5) to establish a minimum level of funding of a trust fund to be \$2 per ton of mining waste disposed of or backfilled in the mining operation and specifying in s. NR 132.085(5)(b) a standard for identifying worst case preventive or remedial measures that better protects public health and welfare and the environment.

At its January, 1999 meeting the Natural Resources Board modified the order to include the concept of a minimum amount of a trust fund. While a specific standard for identifying worst case measures was not incorporated, the pertinent provision of the rule was revised to clarify the manner in which costs and the level of funding will be considered.

On February 22, 1999, the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform requested further modifications. The Committee requested that the fund be adequate to fund all worst case remedial and preventive measures that are “possible”. Second, the Committee recommended that the fund be fully capitalized very early in the life of a mining project, potentially prior to construction.

At its June, 1999 meeting, the Natural Resources Board modified the rule to clarify the intent, but with the requirement that the occurrence must have a “reasonable possibility” of occurring. Also, a provision was added requiring the permittee to post a secondary form of financial surety to supplement the trust fund during the operational phase of a mining project.

On July 22, 1999, the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform objected to portions of s. NR 132.085(5)(a) and (b). The Joint Committee for Review of Administrative Rules did not hold a hearing on the objection.

### 5. Natural Resources (CR 98–180)

Chs. NR 200 and 206 – WPDES permit exemptions for private sewage systems with a design capacity of less than 12,000 gallons per day.

Summary of Final Regulatory Flexibility Analysis:

DNR already has regulatory responsibility over owners of large scale private systems and can issue discharge permits to these owners without administrative rule revisions. Under the terms of the 1991 Interagency Memorandum of Understanding between DNR and Commerce, DNR has only issued permits to municipally owned large systems and refrained from issuing permits to private systems. Pursuant to the new agreement, nonmunicipal (privately owned) systems may be subject to the same DNR permit requirements as municipally owned systems such as additional monitoring and reporting.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. On October 13, 1999, the Assembly Committee on Natural Resources extended their review period for 30 days. The Department was not contacted during this period for any additional information.

**6. Natural Resources (CR 98–196)**

Chs. NR 105, 106, 211 and 215 – Regulating the discharge of chloride to surface waters of the state.

Summary of Final Regulatory Flexibility Analysis:

Costs associated with the chloride rule are difficult to determine due to the case-by-case nature of implementation. For example, source reduction measures that would be indicated for one vegetable processing facility may not be at all applicable for another vegetable processor, even though they are both in the same discharge category. It should be noted that plant efficiency implementations invariably result from undertaking source reduction programs intended for improving effluent quality. That is to say, while there may be some capital expenditures for gaining compliance with effluent limitations, the “investment” is typically paid back quickly. This is the other reason why it is difficult to determine costs associated with the chloride rule.

Summary of Comments by Legislative Review Committee:

The proposed rule was reviewed by the Assembly Committee on Environment and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. On October 14, 1999, the Assembly Committee on Environment extended the review period for 30 days. However, the Department was not contacted for any further information.

**7. Natural Resources (CR 99–25)**

Ch. NR 169 – Reimbursement of response action costs for response actions taken at eligible dry cleaning facilities.

Summary of Final Regulatory Flexibility Analysis:

The Department anticipates that this rule will provide economic relief to small dry cleaning businesses because eligible costs that they now would incur cleaning up environmental contamination may be eligible for reimbursement from this fund when moneys are available.

Summary of Comments by Legislative Review Committees:

The rule was reviewed by the Assembly Committee on Environment and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. There were no comments.

**8. Nursing Home Administrator (CR 99–114)**

Chs. NHA 1 & 4 – Experience and reciprocity.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule is not expected to impact on small businesses as defined in s. 227.114 (1)(a), Stats.

Summary of Comments:

No comments reported.

**9. Podiatrists Affiliated Credentialing Board (CR 99–38)**

Chs. Pod 1 to 6 – Regulation and licensure of podiatrists.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule is not expected to impact on small businesses as defined in s. 227.114 (1)(a), Stats.

Summary of Comments:

No comments reported.

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## *EXECUTIVE ORDERS*

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*The following is a listing of recent Executive Orders issued by the Governor.*

**Executive Order 386.** Relating to the Proclamation of an Energy Emergency.

**Executive Order 387.** Relating to the Creation of the Governor's Task Force on Racial Profiling.

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## PUBLIC NOTICES

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### Public Notice

#### *Dept. of Agriculture, Trade and Consumer Protection*

##### Notice of Dollar Amount Adjustments for Repair Charges Subject to Mechanic's Liens

Under s. 779.41 (1), Stats., mechanics or repair businesses who transport, repair or perform any work on personal property at the request of the owner have a statutory lien on the property for the just and reasonable charges associated with the work, and may retain possession of the property until the charges are paid.

Generally, a mechanic's lien under s. 779.41, Stats., has a priority over any previously recorded security interest in the personal property but only for appropriate charges below specified dollar amounts.

Under s. 779.41 (1m), Stats., the Dept. of Agriculture, Trade and Consumer Protection is required to annually publish adjusted dollar amounts for charges on repairs to personal property subject to mechanic's liens. The adjustments are based on the annual change in the consumer price index, all items, U.S. city average, as determined by the Bureau of Labor Statistics of the U.S. Department of Labor.

The Department has determined that current dollar amounts specified under s. 779.41 (1) (intro), (1) (a), (b), and (c), Stats., shall be increased by 1.6%, according to the prior year annual change in the consumer price index. Thus, dollar amounts for charges under the mechanic's lien law are adjusted as follows:

Under s. 779.41 (1) (intro), mechanic's liens generally, \$1,595.

Under s. 779.41 (1) (a), mechanic's liens on a trailer or semitrailer designed for use with a road tractor, \$4,790.

Under s. 779.41 (1) (b), mechanic's liens on road machinery, including mobile cranes, trench hoes, farm tractors, machines of husbandry, or off-highway construction vehicles and equipment, \$7,980.

Under s. 779.41 (1) (c) 1. to 4., mechanic's liens on vehicles:

1. More than 10,000 and less than 20,000 pounds, \$3,195.
2. 20,000 pounds or more but less than 40,000 pounds, \$6,305.
3. 40,000 pounds or more, but less than 60,000 pounds, \$9,580.
4. 60,000 pounds or more, \$12,770.

These revised dollar amounts under the mechanic's lien law shall apply to work commenced on or after January 1, 2000 for which a lien is claimed. These revised dollar amounts shall remain in effect until the first day of the first month following publication of new adjusted dollar amounts in the Wisconsin Administrative Register.

#### **Contact Information**

Merry Fran Tryon, Director  
Consumer Protection Bureau  
Dept. of Agriculture, Trade and Consumer Protection  
2811 Agriculture Drive  
P.O. Box 8911  
Madison, WI 53708-8911

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### Public Notice

#### *Dept. of Workforce Development*

##### Child Care Co-Payment Schedule for Licensed and Certified Care

The current copayment schedule included in the *Wisconsin Administrative Code* at Table s. DWD 56.08 (1) (c) may be changed by publication in the Wisconsin Administrative Register, pursuant to s. DWD 56.08 (3) (b). The following page shows the new copayment schedule for licensed and certified child care with changes passed as part of the budget bill. Its effective date is **February 27, 2000**.

**Child Care Co-Payment Schedule for Licensed and Certified Care**

Look down the column of the appropriate family size until you find the gross family monthly income level at or just less than the family income. Look to the right to find the appropriate co-payment by family and type of care.

	FAMILY SIZE										WEEKLY LICENSED CARE CO-PAY AMOUNT					WEEKLY CERTIFIED CARE CO-PAY AMOUNT				
	2	3	4	5	6	7	8	9	10 or more	1	2	3	4	5 or more	1	2	3	4	5 or more	
70% FPL	\$645	\$810	\$974	\$1,139	\$1,303	\$1,468	\$1,632	\$1,797	\$1,961	\$4	\$7	\$11	\$14	\$18	\$2	\$5	\$8	\$10	\$13	
75% FPL	\$691	\$868	\$1,044	\$1,220	\$1,396	\$1,573	\$1,749	\$1,925	\$2,101	\$4	\$9	\$13	\$17	\$21	\$3	\$6	\$9	\$12	\$14	
80% FPL	\$737	\$925	\$1,113	\$1,301	\$1,489	\$1,677	\$1,865	\$2,053	\$2,241	\$6	\$10	\$14	\$19	\$23	\$5	\$7	\$10	\$14	\$16	
85% FPL	\$783	\$983	\$1,183	\$1,383	\$1,582	\$1,782	\$1,982	\$2,182	\$2,381	\$9	\$13	\$17	\$21	\$26	\$6	\$9	\$12	\$14	\$18	
90% FPL	\$830	\$1,041	\$1,253	\$1,464	\$1,676	\$1,887	\$2,099	\$2,310	\$2,522	\$10	\$16	\$21	\$26	\$31	\$7	\$11	\$14	\$18	\$22	
95% FPL	\$876	\$1,099	\$1,322	\$1,545	\$1,769	\$1,992	\$2,215	\$2,438	\$2,662	\$13	\$19	\$26	\$31	\$38	\$9	\$14	\$18	\$22	\$26	
100% FPL	\$922	\$1,157	\$1,392	\$1,627	\$1,862	\$2,097	\$2,332	\$2,567	\$2,802	\$14	\$21	\$27	\$34	\$40	\$10	\$14	\$19	\$24	\$28	
105% FPL	\$968	\$1,215	\$1,461	\$1,708	\$1,955	\$2,202	\$2,448	\$2,695	\$2,942	\$17	\$23	\$30	\$36	\$42	\$12	\$16	\$21	\$25	\$30	
110% FPL	\$1,014	\$1,272	\$1,531	\$1,789	\$2,048	\$2,306	\$2,565	\$2,823	\$3,082	\$19	\$26	\$31	\$38	\$44	\$14	\$18	\$22	\$26	\$31	
115% FPL	\$1,060	\$1,330	\$1,600	\$1,871	\$2,141	\$2,411	\$2,681	\$2,952	\$3,222	\$21	\$27	\$34	\$40	\$46	\$14	\$19	\$24	\$28	\$33	
120% FPL	\$1,106	\$1,388	\$1,670	\$1,952	\$2,234	\$2,516	\$2,798	\$3,080	\$3,362	\$23	\$30	\$36	\$42	\$49	\$16	\$21	\$25	\$30	\$34	
125% FPL	\$1,152	\$1,446	\$1,740	\$2,033	\$2,327	\$2,621	\$2,915	\$3,208	\$3,502	\$26	\$31	\$38	\$44	\$50	\$18	\$22	\$26	\$31	\$35	
130% FPL	\$1,198	\$1,504	\$1,809	\$2,115	\$2,420	\$2,726	\$3,031	\$3,337	\$3,642	\$27	\$35	\$42	\$50	\$57	\$19	\$24	\$30	\$34	\$40	
135% FPL	\$1,244	\$1,562	\$1,879	\$2,196	\$2,513	\$2,831	\$3,148	\$3,465	\$3,782	\$30	\$38	\$46	\$55	\$63	\$21	\$26	\$33	\$38	\$44	
140% FPL	\$1,290	\$1,619	\$1,948	\$2,277	\$2,606	\$2,935	\$3,264	\$3,593	\$3,922	\$31	\$40	\$49	\$57	\$66	\$22	\$28	\$34	\$40	\$46	
145% FPL	\$1,336	\$1,677	\$2,018	\$2,359	\$2,699	\$3,040	\$3,381	\$3,722	\$4,062	\$34	\$42	\$50	\$59	\$67	\$24	\$30	\$35	\$42	\$47	
150% FPL	\$1,383	\$1,735	\$2,088	\$2,440	\$2,793	\$3,145	\$3,498	\$3,850	\$4,203	\$36	\$44	\$53	\$61	\$70	\$25	\$31	\$37	\$43	\$49	
155% FPL	\$1,429	\$1,793	\$2,157	\$2,521	\$2,886	\$3,250	\$3,614	\$3,978	\$4,343	\$38	\$46	\$55	\$63	\$72	\$26	\$33	\$38	\$44	\$50	
160% FPL	\$1,475	\$1,851	\$2,227	\$2,603	\$2,979	\$3,355	\$3,731	\$4,107	\$4,483	\$40	\$49	\$57	\$66	\$74	\$28	\$34	\$40	\$46	\$52	
165% FPL	\$1,521	\$1,909	\$2,296	\$2,684	\$3,072	\$3,460	\$3,847	\$4,235	\$4,623	\$41	\$50	\$59	\$67	\$76	\$29	\$35	\$42	\$47	\$53	
170% FPL	\$1,567	\$1,966	\$2,366	\$2,765	\$3,165	\$3,564	\$3,964	\$4,363	\$4,763	\$42	\$53	\$61	\$70	\$78	\$30	\$37	\$43	\$49	\$54	
175% FPL	\$1,613	\$2,024	\$2,435	\$2,847	\$3,258	\$3,669	\$4,080	\$4,492	\$4,903	\$43	\$54	\$63	\$72	\$80	\$30	\$38	\$44	\$50	\$56	
180% FPL	\$1,659	\$2,082	\$2,505	\$2,928	\$3,351	\$3,774	\$4,197	\$4,620	\$5,043	\$45	\$56	\$66	\$74	\$82	\$31	\$40	\$46	\$52	\$58	
185% FPL	\$1,705	\$2,140	\$2,575	\$3,009	\$3,444	\$3,879	\$4,314	\$4,748	\$5,183	\$46	\$58	\$67	\$76	\$84	\$32	\$42	\$47	\$53	\$59	
				185% of the Federal Poverty Level																
				+200% of the Federal Poverty Level																
190% FPL	\$1,751	\$2,198	\$2,644	\$3,091	\$3,537	\$3,984	\$4,430	\$4,877	\$5,323	\$47	\$59	\$70	\$78	\$86	\$34	\$43	\$49	\$54	\$61	
195% FPL	\$1,797	\$2,256	\$2,714	\$3,172	\$3,630	\$4,089	\$4,547	\$5,005	\$5,463	\$49	\$61	\$72	\$80	\$89	\$34	\$44	\$50	\$56	\$62	
200% FPL	\$1,843	\$2,313	\$2,783	\$3,253	\$3,723	\$4,193	\$4,663	\$5,133	\$5,603	\$50	\$62	\$74	\$82	\$90	\$35	\$46	\$52	\$58	\$63	

NOTE: The copayment rate for the following categories of parents is found by selecting the lowest income line (70% FPL and then finding the copayment listed, under either licensed care or certified care, for the appropriate number of children, foster parents, kinship care parents, teen parents who are not Leamire participants. Parents who have left a W-2 employment position for unsubsidized work also qualify for the minimum copay for one month. Children who are authorized for 20 hours or less are subject to one half of their share of the family copay listed above.





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