

STATE OF WISCONSIN
DEPARTMENT OF REVENUE

ORDER OF THE DEPARTMENT OF REVENUE ADOPTING EMERGENCY RULES

ORDER

The Wisconsin Department of Revenue (DOR) proposes an order to: create Tax 17; relating to innovation grant programs pursuant to 2023 Wisconsin Act 12.

The scope statement for this rule, SS 030-24, was approved by the Governor on March 7, 2024, published in Register No. 819A3 on March 18, 2024, and approved by the Secretary of Revenue on April 10, 2024.

FINDING OF EMERGENCY

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

2023 Wisconsin Act 12 creates two new grant programs (Innovation Grant and Innovation Planning Grant) to be administered by DOR. The provisions outline the eligibility requirements, grant award calculation, and audit requirements. The grant programs encourage local government innovation, transferring existing duties or services in key areas (i.e., public safety, public works, public health, etc.) to realize cost savings and efficiencies. Due to the preferred 2024 effective date for the grant programs, legislative review schedule, potential impact to communities, and complex subsequent implementation required, emergency rulemaking is necessary to preserve public peace, health, safety, and welfare, and ensure communities avoid significant delays in accessing the available funds.

ANALYSIS BY DOR

Statutes interpreted: ss. [79.038](#), Wis. Stats.

Statutory authority: ss. [227.11 \(2\)](#) and [79.038 \(1\) \(b\) \(3\)](#), Wis. Stats.

Explanation of agency authority: s. [227.11 \(2\)](#), Wis. Stats., provides statutory rule-making authority for DOR as follows:

[\(a\)](#) "Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute..."

[\(b\)](#) "Each agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from its decisions by promulgating the policies as rules ..."

S. [79.038 \(1\) \(b\) 3](#), Wis. Stats., provides statutory rule-making authority for DOR as follows:

"In calculating the projected savings under this paragraph to be realized by a transfer of fire protection or emergency medical services involving an entity that engages volunteer fire fighters or emergency medical services practitioners, the department

shall attribute to all volunteer fire fighter or emergency medical services practitioner positions fair market compensation for the services provided by the volunteer fire fighter or emergency medical services practitioner positions. The department shall promulgate rules specifying the method of determining fair market compensation for the services provided by a volunteer fire fighter position and emergency medical services practitioner position for purposes of this paragraph.”

Related statute or rule: There are no other applicable statutes or rules.

Plain language analysis: The proposed emergency and permanent rules will specify the method of determining fair market compensation for the services provided by a volunteer fire fighter position and emergency medical services practitioner position.

Summary of, and comparison with, existing or proposed federal regulation: DOR is not aware of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Summary of comments received during preliminary comment period and public hearing on the statement of scope: On March 28, 2024, DOR received a directive from JCRAR to hold a preliminary public hearing and comment period for the Scope Statement. On April 1, 2024, a notice was posted in the Wisconsin Administrative Register with information on the April 5, 2024, public hearing and comment period. The preliminary public hearing was virtually held on April 5, 2024. There were no comments provided at the hearing. In addition, there were no written comments submitted during the comment period.

Comparison with rules in adjacent states: DOR is not aware of a similar rule in an adjacent state.

Summary of factual data and analytical methodologies: DOR's website currently specifies calculations and provides examples for counties, municipalities, and tribes to complete processes provided by state law. The proposed language is consistent with these existing processes.

Analysis and supporting documents used to determine effect on small business: This rule order provides innovation grant information as required by 2023 Wisconsin Act 12. No additional analysis or supporting documents were used to determine the effect on small business.

Anticipated costs incurred by private sector: DOR does not expect increased costs by the private sector.

Effect on small business: There may be a positive economic boost for small business as the law allows local governments to transfer services to a private entity.

Agency contact person: Please contact Scott Shields at (608) 266-8223 or scott.shields@wisconsin.gov, if you have any questions regarding this proposed rule.

Place where comments are to be submitted and deadline for submission: Comments may be submitted to the contact person shown below no later than the date on which the public hearing on this proposed rule is conducted. Information as to the place, date, and time of the public hearing will be published in the Wisconsin Administrative Register.

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scott.shields@wisconsin.gov

TEXT OF RULE

SECTION 1. Tax 17 is created to read:

Tax 17.01 Purpose. The purpose of this chapter is to clarify the administration of innovation grants and innovation planning grants under s. 79.038, Stats.

Tax 17.02 Definitions. In this chapter:

- (1) "Department" means the Wisconsin Department of Revenue.
- (2) "Notice date" is November 13, 2024 and represents the date identified on the notice of filing innovation grant program rules, as required by 2023 Wisconsin Act 12, section 244 (1).
- (3) "Transfer" means a transition of responsibility for providing a service or duty from one or more local government to another local government, non-profit organization, or private entity.
- (4) "Tribe" means the federally recognized tribes within the state of Wisconsin.

Tax 17.03 Volunteer fire fighter and emergency medical services practitioner fair market compensation. To determine the fair market compensation for the services provided by a volunteer fire fighter and emergency medical services practitioner, counties, municipalities, and tribes shall use wage and fringe benefit information from the United States Bureau of Labor Statistics according to the method set forth on the department's website.

Tax 17.04 Innovation planning grants.

- (1) Eligibility. Municipalities and tribes with a population not exceeding 5,000.
 - (a) To determine a municipality's eligibility, the department shall use the population defined in s. 79.005, Stats., as of the date the application is submitted to the department.
 - (b) To determine a tribe's eligibility, the department shall use the most recent population data from the United States Census Bureau as of the date the application is submitted to the department.
- (2) Application. The innovation planning grant application shall be completed and submitted by a municipality or tribe electronically via the department's website.

Tax 17.05 Innovation grants.

- (1) Eligibility. All counties, municipalities, and tribes within the state of Wisconsin are eligible to apply for the innovation grant.
- (2) Application. The innovation grant application shall be completed and submitted electronically via the department's website.
- (3) Audit and certifications
 - (a) Counties, municipalities, and tribes participating in an approved innovation project should maintain detailed records using general accepted accounting principles.
 - (b) The department may require additional documentation to complete an audit required by s. 79.038 (1) (f) 1., Stats.

- (c) The department may require grant participants to submit a report or certification to the department attesting the required cost savings have been realized.
- (d) The department may direct the department of administration to delay the final grant distribution while the department determines the grant participant has realized its projected savings either through audit or review of the certification described above.
- (e) The department shall direct the department of administration to reduce the final grant distribution of any county, municipality, or tribe that has not realized the projected savings outlined in the approved innovation project.

SECTION 2. EFFECTIVE DATE. This rule takes effect upon publication in the state newspaper and shall remain in effect for 150 days, as provided in s. 227.24 (1) (c), Wis. Stats., subject to extensions under s. 227.24 (2), Wis. Stats.

END RULE TEXT

DEPARTMENT OF REVENUE

Dated: _____

By: _____
David Casey
Secretary of Revenue