

STATE OF WISCONSIN
DEPARTMENT OF REVENUE

PROPOSED ORDER OF THE DEPARTMENT OF REVENUE CREATING RULES

ORDER

The Wisconsin Department of Revenue (DOR) proposes an order to: create Tax 21; 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.

ANALYSIS BY DOR

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

Statutory authority: ss. [227.11 \(2\)](#), [79.038 \(1\) \(b\) \(3\)](#) and [20.002 \(13\)](#), 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."

S. [20.002 \(13\)](#), Wis. Stats., provides statutory authority to include tribes as eligible for innovation grants:

"Indian grants. Notwithstanding any statute to the contrary, wherever any law authorizes a grant of state funds to be made by a state agency to any county, city, village or town for any purpose, funds may also be granted by that state agency to any federally recognized tribal governing body for the same purpose. The grants are subject to the same conditions and restrictions as apply to grants to counties and municipalities, if any. This subsection shall not be construed to require any grant of state funds to be made to any federally recognized tribal governing body."

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

Plain language analysis: The proposed emergency and permanent rules will specify the following:

- Tax 21.01 provides the purpose – to clarify the administration of innovation grants and innovation planning grants under s. 79.038, Stats.
- Tax 21.02 defines terms – department, municipality, transfer and tribe
- Tax 21.03 describes the methodology to determine fair market compensation attributed to the volunteer services of fire fighters and emergency medical services practitioners
- Tax 21.04 provides innovation planning grant information on eligibility and DOR's application to apply for the grant
- Tax 21.05 provides innovation grant information on eligibility, DOR's application to apply for the grant, and audit processing
- Tax 21.06 provides the notice date
- Section 2 provides the effective date upon publication in the register

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: This rule does not have a direct effect on small business.

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.

Scott Shields
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2135 Rimrock Road
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Madison, WI 53708-8971
scott.shields@wisconsin.gov

TEXT OF RULE

SECTION 1. Tax 21 is created to read:

Chapter Tax 21 INNOVATION GRANTS AND INNOVATION PLANNING GRANTS

Tax 21.01 Purpose. The purpose of this chapter is to clarify the administration of innovation grants and innovation planning grants under s. 79.038, Stats.

Tax 21.02 Definitions. In this chapter:

- (1) "Department" means the Wisconsin department of revenue.
- (2) "Municipality" is defined as provided by s. 79.005 (1m), Stats.
- (3) "Transfer" means a transition of responsibility for providing a service or duty from one or more municipalities, counties or tribes to another municipality, county, tribe, non-profit organization, or private entity.
- (4) "Tribe" means a federally recognized American Indian Tribe or band in the state of Wisconsin.

Tax 21.03 Volunteer fire fighter and emergency medical services practitioner fair market compensation. To determine the fair market compensation attributed to the volunteer services provided by a fire fighter and emergency medical services practitioner, counties, municipalities, and tribes shall complete the following:

- (1) **METHODOLOGY.** Use the methodology set forth on the department's website.
 - (a) Consider incurred costs or determine the fair market wages to attribute based on the Wisconsin regional and county data from the United States bureau of labor statistics using the median hourly wage rates for the occupational codes applicable to fire fighters and emergency medical services practitioners.
 - (b) Consider incurred costs or determine the fair market fringe benefits to attribute based on the Wisconsin regional and county data from the United States bureau of labor statistics.
 - (c) Consider incurred costs to determine the training and equipment costs to attribute.

Note: See the [department's website](#) for the method.

Tax 21.04 Innovation planning grants. The department shall determine eligibility for the innovation planning grant as follows:

- (1) **ELIGIBILITY.** Municipalities and tribes with a population not exceeding 5,000 are eligible for the innovation planning grant.
 - (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.
- Note: See the [department's website](#) for the electronic application.

Tax 21.05 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.
- Note: See the [department's website](#) for the electronic application.
- (3) AUDIT AND CERTIFICATIONS.
- (a) Each county, municipality, and tribe participating in an approved innovation project shall maintain detailed records for a minimum period of four years after receiving the first grant payment distribution .
- (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 each grant participant 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 an audit under s. 79.038 (1) (f) 1., Stats, or review of the report or certification in par. (c), is pending.
- (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 as required under s. 79.038 (1) (d) 3., Stats.

Tax 21.06 Notice date. The 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).

SECTION 2. EFFECTIVE DATE; GENERAL. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

END RULE TEXT

DEPARTMENT OF REVENUE

Dated: _____

By: _____
David Casey
Secretary of Revenue