



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 21-036

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

1. Statutory Authority

The proposed rule meets the standard that is required to submit a petition under s. 227.26 (4), Stats., for expedited repeal of an unauthorized rule. For purposes of the expedited repeal process, an “unauthorized rule” is a rule for which an agency lacks the authority to promulgate the rule due to the repeal or amendment of the law that previously authorized its promulgation.

In this case, 1983 Wisconsin Act 27 repealed s. 38.29, 1981 Stats., which governed the district budget limitations. The proposed rule removes the associated administrative rule provisions.

2. Form, Style and Placement in Administrative Code

a. In the rule summary’s listing of statutory authority, the citations to ss. 227.26 (4) and 227.29 (1) (a), Stats., should be removed, as those provisions establish the expedited rulemaking process and the biennial agency review requirement, and do not remove or confer rulemaking authority for the subject matter addressed in the proposed rule.

b. SECTION 1 of the proposed rule should be divided into six SECTIONS to separately treat ss. TCS 4.04, 4.07, 4.08, 4.09, 4.13, and 4.14. Subunits of one rule provision may be treated together in one SECTION, but may not be combined with subunits from a different rule provision. [s. 1.03 (2) (a) 3., (b) 2., and (c) 2., Manual.]

c. The repeal of ss. TCS 4.04 (1), 4.07 (2), 4.13 (2), and 4.14 (1) result in single subunits. If repeal of subunits in a series results in one remaining subunit, that subunit should be consolidated with the introduction into a single rule unit, often by way of consolidating, renumbering, and amending the provisions. [s. 1.11 (4), Manual; and see s. 1.04 (7), Manual, for information on how to consolidate, renumber, and amend a provision.]

d. The repeal of s. TCS 4.08 (3) necessitates the renumbering of s. TCS 4.08 (4). [See s. 1.04 (7), Manual, for information on how to consolidate, renumber, and amend a provision.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

In the rule summary's listing of statutes interpreted and statutory authority, it may be helpful to insert "1981" before "Stats.", in both instances of the reference to s. 38.29, Stats. That statute currently relates to chauffeur training grants, as created in 1985 Wisconsin Act 29.