

Clearinghouse Rule 19-104

STATE OF WISCONSIN
DEPARTMENT OF VETERANS AFFAIRS

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF VETERANS
DEPARTMENT OF VETERANS : AFFAIRS
AFFAIRS : ADOPTING RULES
: (CLEARINGHOUSE RULE)

The Department of Veterans Affairs is petitioning the Joint Committee for Review of Administrative Rules to repeal rules the department has determined to be an unauthorized rule using the process under s. 227.26 (4), Stats.

PROPOSED ORDER

An order of the Department of Veterans Affairs to repeal ch. VA 10 relating to grants for the Korean conflict veterans memorial.

Analysis prepared by the Department of Veterans Affairs.

ANALYSIS

Statutes interpreted:

Section 227.26 (4), Stats., and 2005 Wisconsin Acts 22 and 25

Statutory authority:

Section 45.04, 2003 Stats., 227.11 (2) (a), Stats., and 2005 Wisconsin Acts 22 and 25.

Explanation of agency authority:

Pursuant to s. 45.04, 2003 Stats., the Department of Veterans Affairs was required to award grants and promulgate rules relating to the construction of memorials to honor state veterans who served in the U.S. armed forces. Pursuant to s. 45.04 (2), 2003 Stats., one memorial was to be constructed to honor state veterans who served during the Korean conflict. Pursuant to s. 45.04 (6), 2003 Stats., the Department was required to promulgate rules specifying the requirements and eligibility of the grants.

Section 45.04, 2003 Stats., was repealed with the repeal and recreation of ch. 45, as affected by 2005 Wisconsin Act 22, effective July 22, 2005. The funding for the grants was removed in the budget bill as affected by 2005 Wisconsin Act 25, effective July 26, 2005.

Section 227.11 (2) (a), Stats., sets forth the parameters of an agency’s rule-making authority, stating an agency, “may promulgate rules interpreting provisions of any statute enforced or administered by the agency. . .but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Related statute or rule:

Not applicable

Plain language analysis:

The proposed rule repeals chapter VA 10, relating to the grant for the Korean conflict veterans memorial.

Section s. 45.04, 2003 Stats., required the Department to award grants and promulgate rules relating to the veterans memorial grant program. This grant program was initially created under the 1988 budget bill as affected by 1987 Wisconsin Act 399.

2005 Wisconsin Act 22 repealed and recreated chapter 45, thus repealing several provisions considered no longer necessary, including language under s. 45.04, 2003 Stats., relating to the construction of veterans memorials that had already been constructed. The repeal of s. 45.04, 2003 Stats., also eliminated the Department’s administrative requirements and authority relating to the grant program. The appropriation for the grants was removed in the budget bill as affected by 2005 Wisconsin Act 25, effective July 26, 2005.

The Department has determined that chapter VA 10 is an unauthorized rule and is repealing this chapter pursuant to s. 227.26 (4), Stats.

Agency contact person:

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TEXT OF RULE

SECTION 1. Chapter VA 10 is repealed.

SECTION 2. EFFECTIVE DATE. The rules repealed in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
