

STATEMENT OF SCOPE

Department of Administration

Rule No.: Wis. Admin. Code Chapter Adm. 95

Relating to: Service Award Program

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

Not applicable.

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to update Wis. Admin. Code Ch. Adm. 95 to reflect the recent amendments to the Service Award Program that were made in the 2017-19 state budget (2017 Wisconsin Act 59). Additionally, 2017 Wisconsin Act 12 made various terminology changes throughout the statutes, necessitating updates to the terms used in Ch. Adm. 95.

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

The Service Award Program was originally created by 1999 Wisconsin Act 105 and is codified at Wis. Stat. § 16.25. Administered by the Department of Administration in partnership with private vendors, the Service Award Program assists local entities with recruiting and retaining volunteer firefighters, first responders, and emergency medical personnel by providing monetary awards to volunteers based upon their age and length of service. Municipal contributions to a volunteer's account are annually matched by state contributions appropriated by the legislature under Wis. Stat. § 20.505(4)(er). Upon meeting the applicable vesting requirements, a volunteer can receive payments out of his or her account. Accounts are administered by private vendors pursuant to contracts with the State under Wis. Stat. § 16.25(4).

The new policies to be included in the rule were enacted in 2017 Wisconsin Acts 12 and 59. Act 12 updated the terminology used throughout the statutes for emergency medical personnel, replacing "first responder" with "emergency medical responder" and replacing "emergency medical technician" with "emergency medical services practitioner," among other changes. A review of Ch. Adm. 95 is needed to update these terms to ensure consistency with the statutes.

Act 59 made several substantive changes to the Service Award Program, including the following:

1. Amended § 16.25(3)(d)1. to provide that the state contribution to a volunteer's account must be equal to twice the amount of the annual municipal contributions to that account—instead of the 1:1 ratio used previously—and to increase the statutory cap on the dollar amount of the state's annual contribution to \$390 (indexed to the consumer price index going forward).
2. Amended § 16.25(3)(g) to provide for full vesting at age 60 and 15 years of service, and providing for partial vesting at a minimum age of 53 and minimum 10 years of service.
3. Amended § 16.23(3)(j) to double the length of time a volunteer may experience a break in providing services without the volunteer's account being closed.

The purpose of the proposed rule is to ensure that Ch. Adm. 95 reflects and implements these statutory changes. Policy alternatives to be considered in the rulemaking process include determining whether the partial vesting formula currently set forth in § Adm. 95.07(2)(b) should remain in light of the new partial vesting thresholds set forth in Wis. Stat. § 16.25(3)(g), or whether a new formula should be developed. Additionally, the Department will consider any other rule revisions within the Department's rulemaking authority that may be necessary to align Ch. Adm. 95 to the statutory language as amended or otherwise improve the Department's administration of the statutes.

4. Detailed explanation of statutory authority for the rule (including statutory citation and language):

Wisconsin Stat. § 227.11(2)(a) expressly grants authority to the Department of Administration to “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. Wisconsin Stat. § 16.25(3) charges the Department with administering the Service Award Program, and the proposed rule revisions are necessary to effectuate the purpose of § 16.25 as amended by 2017 Wisconsin Acts 12 and 59.

Wisconsin Stat. § 16.25(3)(g)-(i) contain several provisions specifically charging the Department to promulgate rules implementing the requirements of those paragraphs, including determining the manner of payment and the amounts to be paid to certain volunteers under the program.

Wisconsin Stat. § 16.25(4)(a) provides that the Department “shall establish by rule” the requirements for vendors to participate in the Service Award Program.

Wisconsin Stat. § 16.25(5) provides that the Department “shall establish by rule” a process by which a volunteer may appeal to the secretary any decision made by the department or by a vendor that affects a substantial interest of the volunteer under the program.

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

It is estimated that approximately 100 hours of staff time will be required.

6. List with description of all entities that may be affected by the proposed rule :

The proposed rule will affect all volunteers enrolled in service award programs across Wisconsin. Also affected will be the municipalities and other local entities who make contributions to the program and the private vendors who contract with the State pursuant to Wis. Stat. § 16.25(4) and Wis. Admin. Code §§ Adm. 95.12 and 95.13 to administer the program.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

There are no federal regulations directly regulating the Service Award Program, although federal tax regulations do provide special treatment for length of service award programs in section 457 of the Internal Revenue Code, and Wis. Stat. § 16.25(2) requires the Department to “administer the program so as to treat the length-of-service awards as a tax-deferred benefit under the Internal Revenue Code.”

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

There is no anticipated economic impact from implementing the proposed rule, other than the impact of the revised dollar amounts and vesting thresholds set forth in the legislature's amendments to Wis. Stat. § 16.25(3) in 2017 Wisconsin Act 59. Nor are the proposed rule revisions likely to have a significant economic impact on small businesses.

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