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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Colleges and Universities...

COMMITTEE NOTICES ...

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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
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- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (November 2012)

Assembly

Record of Committee Proceedings

Committee on Colleges and Universities

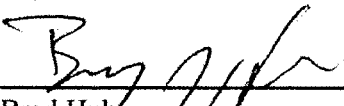
Clearinghouse Rule 05-107

Relating to training program grants.

Submitted by Technical College System Board.

January 30, 2006 Referred to Committee on Colleges and Universities.

March 1, 2006 No action taken.



Brad Hub
Committee Clerk



REPORT TO THE LEGISLATURE

CLEARINGHOUSE RULE 05-107
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD
CHAPTER TCS 17, WIS. ADMIN. CODE

Submitted by:

Wisconsin Technical College System Board
345 West Washington Avenue
PO Box 7874
Madison, Wisconsin 53707-7874

January 26, 2006

**ORDER OF THE
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD
ADOPTING RULES RELATING TO TRAINING PROGRAM GRANTS
(Clearinghouse Rule 05-107)**

**ANALYSIS OF PROPOSED TCS 17
PREPARED BY THE
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD**

I. PLAIN LANGUAGE ANALYSIS

- 1. Statutes interpreted:** Wis. Stats. § 20.292(1)(eh) and § 38.41
- 2. Statutory authority:** Wis. Stats. § 38.41
- 3. Explanation of agency authority:** Section 38.41(4), Stats., authorizes the technical college system board to promulgate rules to implement and administer the awarding of grants to technical college district boards to provide skills training or other education related to the needs of business.
- 4. Related statute or rule:** none
- 5. Plain language analysis:** No grant award criteria are specified in statute. The purpose of the rule is to implement and administer the awarding of training program grants to technical college districts to provide skills training or other education related to the needs of business. To be eligible for grant awards, technical college districts will develop proposals with a business to provide skills training or education to improve employee skill levels, and workplace efficiency and productivity. Grant proposals will also be assessed for the extent to which the proposed training or education supports regional workforce and economic development efforts.
- 6. Summary of, and comparison with, existing or proposed federal regulations:** not applicable
- 7. Comparison with rules in adjacent states:** not applicable
- 8. Summary of factual data and analytical methodologies:** not applicable
- 9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:** not applicable
- 10. Effect on small business:** Small businesses may access training or education through the training program grants, but there is no mandated participation in the program.

11. Agency contact person: Morna Foy, Executive Assistant, Wisconsin Technical College System, 345 W. Washington Ave, P.O. Box 7874, Madison, Wisconsin 53707-7874, telephone (608) 266-2449, e-mail morna.foy@wtcsystem.edu.

12. Place where comments are to be submitted and deadline for submission: Written comments were accepted by the agency contact person listed above until 4:00 p.m. on January 4, 2006.

II. STATEMENT EXPLAINING THE NEED FOR THE PROPOSED RULE

2005 Wis. Act 25 (the 2005-2007 biennial budget bill) created a new grant program to address a critical need of Wisconsin employers for skills training and education necessary to protect the state's economic vitality and health. An annual appropriation of \$1,000,000 GPR was established. These funds are to be awarded by the WTCS Board as grants to technical college districts to provide skills training or other education related to the needs of business. The statutes do not provide specific grant eligibility criteria.

Section 38.41(4), Stats., requires the WTCS Board to promulgate rules to implement and administer these grants to technical college district boards to provide skills training or other education related to the needs of business. The proposed rule defines the purpose of grant funds, criteria for awarding grants, and establishes a match requirement and reporting requirements that demonstrate the effect of training and education provided with grant funds on employee skill levels, workplace efficiency and productivity.

III. PERSONS WHO APPEARED OR REGISTERED FOR OR AGAINST THE PROPOSED RULE AT THE PUBLIC HEARING OR WHO SUBMITTED WRITTEN TESTIMONY

Appearances in favor of the rule: none

Registrations in favor of the rule: none

Appearances opposed to the rule: none

Registrations opposed to the rule: none

Appearances for information only: none

Written testimony submitted to the agency: none

IV. EXPLANATION OF MODIFICATIONS MADE IN THE PROPOSED RULE AS A RESULT OF THE PUBLIC COMMENTS OR TESTIMONY RECEIVED AT THE PUBLIC HEARING

No public comments or testimony were provided at the public hearing. No modifications to the rule resulted.

V. RESPONSE TO THE LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS

1. Statutory Authority

The proposed rule provides that the technical college system board must approve grant guidelines that may be updated as needed. Legislative Council commented that to the extent that any of the guideline requirements, including the allowable activities, meet the statutory definition of the term “rule,” they must be promulgated as administrative rules.

The WTCS Board believes that the overarching legislative intent in establishing these grants is to increase access for all Wisconsin employers and employees to skill training and education to protect the state’s economic vitality and health and that the training provided should be driven by the specific needs of the employers and employees receiving training. The authorizing legislation does not specify any limitations to the use of grant funds. The WTCS Board believes that the proposed TCS 17 rule appropriately delineates the standards and statements of policy by which the WTCS Board will administer Wis. Stats. § 20.292(1)(eh) and § 38.41. The grant guidelines specifying limitations to the use of grant funds are based on WTCS historic experience with contract training. To enable the districts to rapidly respond to changes in regional economic conditions, allowable uses in the guidelines can be changed on an annual basis to reflect specific training needs of employers and employees and the available grant appropriation. In section 5 of its report on proposed rule TCS 17, the Legislative Council Clearinghouse identifies specific issues not currently addressed by rule. In some cases, these issues are addressed in WTCS grant guidelines. Please refer to section V.5 of this report for the WTCS response to the specific issues raised.

2. Form, Style and Placement in Administrative Code

Legislative Council commented on five form, style and placement issues in the rule.

The WTCS accepts these recommendations in whole and has incorporated them into the final draft of the proposed rule.

3. Conflict with or Duplication of Existing Rules

No comments provided.

4. Adequacy of References to Related Statutes, Rules and Forms

No comments provided.

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

Legislative Council commented on six clarity, grammar, punctuation, and use of plain language issues in the rule.

5.a., 5.c. and 5.f. The WTCS accepts these recommendations in whole and has incorporated them into the final draft of the proposed rule.

5.b. Is there a need to specify the minimum or maximum grant awards, business eligibility provisions, or the length of grants or training contracts in administrative rule? The WTCS Board believes that the overarching legislative intent in establishing these grants is to increase access for all Wisconsin employers and employees to skill training and education to protect the state's economic vitality and health.

The statutory language authorizing these grants does not specify training should be targeted to projects of a certain size and the WTCS Board does not believe targeting funds in such a way would result in demonstrable improvements in the state's economic vitality and health beyond those resulting from the State's increased investment in workforce training. Therefore, the WTCS Board has not limited projects to a certain size by establishing permanent grant award minimums or maximums as administrative rule. Grant minimums and maximums are established in the annual grant guidelines, based on a history of WTCS contract training projects, to ensure that available funding can be reasonably distributed throughout the state. The grant limits in the guidelines can be changed on an annual basis to reflect changes in the grant appropriation.

The statutory language authorizing these grants does not specify any limitation of services based on the type, size, location or other characteristics of the employees or businesses that receive training. Broad eligibility criteria were stricken from the authorizing legislation by gubernatorial veto. The WTCS Board does not believe that these training opportunities were intended only for a specific group or type of business, neither the proposed administrative rule nor the grant guidelines address characteristics of businesses or employees eligible for training.

The WTCS Board believes that the legislative intent of these training funds is to provide assistance to Wisconsin employers and employees as quickly as possible. The Department of Administration establishes policy on encumbrances including aids to localities such as grants to technical college districts. Because the WTCS Board expects grants awarded under TCS 17 to provide training as quickly as possible and DOA policy limits the expenditure of such grants to the fiscal year in which they are awarded, the WTCS Board believes it is not necessary to establish an additional rule regarding the length of training contracts funded by these grants.

5.d. Is there a need for businesses assisted by the grants to file reports on the use and effect of training grant funds? The WTCS Board believes there is not a need for businesses assisted by the grants to file such reports. Section TCS 17.07 requires technical college districts to submit data and information on the use and effect of grant funds. The WTCS Board believes this reporting requirement is an appropriate responsibility of the technical college districts as the recipients of grant funds. The technical college districts develop proposals and competitively apply for these grants and are responsible for ensuring that grant funds are used and accounted for appropriately. In addition, training funded by these grants will be provided under s.38.14 contracts, which require the training recipients to submit information on costs, impact, and number of individuals served. The WTCS Board expects the technical college districts to be responsible for compiling information on the use and effect of the grant funds from those

businesses and employees who benefit from the delivery of training services as well as from other district and state labor information sources.

5.e. Is there a need for the grant proposal to include a means by which success of the grant is to be measured? The WTCS Board believes there is a need to codify measures of grant success and to require technical college districts to address how success will be measured in their grant proposals. TCS 17.05 (2), (3) and (4) identify criteria for awarding grants that provide technical college districts with the measures of success for these training programs: improved employee skill levels, workplace efficiency and productivity; improved availability of services to businesses and increased investment in the development of incumbent workers; and increased support for regional workforce and economic development efforts. In addition, Section TCS 17.04 requires grant proposals to include a description of the goals and expectations of the proposed training program. This provision requires the technical college districts to work with businesses and employees to identify their training needs and goals and how those needs and goals will be met specifically by the proposed training program; in effect, how the success of the grant will be demonstrated and measured.

6. Potential Conflicts with, and Comparability to, Related Federal Regulations

No comments provided.

7. Compliance with Permit Action Deadline Requirements

No comments provided.

VI. **FINAL REGULATORY FLEXIBILITY ANALYSIS AND ECONOMIC IMPACT REPORTS**

None required.

TEXT OF RULE

SECTION 1. Chapter TCS 17 (title) is created to read:

CHAPTER TCS 17 (title)

TRAINING PROGRAM GRANTS

TCS 17.01 PURPOSE. The purpose of this chapter is to establish procedures to implement and administer training grants to technical college districts to provide skills training or other education related to the needs of business under s. 38.41, Stats.

TCS 17.02 DEFINITIONS. In this chapter:

- (1) "Board" means the technical college system board established under ch. 15.94, Stats.
- (2) "District" means a technical college district established under ch. 38, Stats.
- (3) "District board" means the district board in charge of the technical colleges of a district.
- (4) "Instructional materials, software, and equipment" means instructional materials, software and equipment to be directly used or consumed by the business employees during instructional activities.
- (5) "Staff development" means learning activities that can be expressly designed to increase the expertise of a technical college district instructor who will deliver instruction described in the grant application.
- (6) "Technical college" means a Wisconsin technical college established under ch. 38, Stats.

TCS 17.03 GENERAL. (1) Only technical college districts are eligible to apply for grants funds under this chapter.

(2) The board shall approve grant guidelines and may update as needed. The guidelines shall contain application instructions, requirements and procedures, application deadline dates, allowable uses of funds, and award limits.

TCS 17.04 GRANT APPLICATIONS. (1) At times established by the board, a district may submit a proposal for a grant to provide skills training or other education related to the needs of business.

- (2) Each grant proposal shall include all of the following:
 - (a) A description of the process used to identify both employee and company needs and the goals and expectations of the program.
 - (b) A description of the nature of the business receiving training as well as its products or services, including a description of the impact of the business on the local or regional economy.
 - (c) A description of the allowable activities to be funded by the grant.
 - (d) A standard financial report and detailed budget.

TCS 17.05 GRANT AWARD CRITERIA. When considering approval or disapproval, in whole or in part, of a grant award, the board shall consider:

- (1) Whether the grant proposal indicates that the district will allocate sufficient financial resources to successfully provide the training or education as proposed in the grant proposal.
- (2) The extent to which the proposed training or education will improve employee skill levels, workplace efficiency and productivity.
- (3) The extent to which the proposed training or education will improve the availability of services to businesses and promote an increased investment in the development of incumbent workers.
- (4) The extent to which the proposed training or services support regional workforce and economic development efforts.

TCS 17.06 CONDITIONS OF THE GRANT AWARD. (1) District boards or employers receiving skills training or education under the grant shall contribute matching funds, other than in-kind matching funds, equal to at least 25% of total approved project costs.

- (2) Grant award funds, including matching funds, may not be used for administration, marketing, or indirect costs.
- (3) The board may establish limitations on the percentage of the grant award funds and matching funds that may be used to purchase or lease instructional materials, software, equipment or supply items and that may be used to fund staff development costs. Such limitations shall be specified in the grant guidelines approved by the board under s. TCS 17.02(2).


TCS 17.07 REPORTING REQUIREMENTS. A district receiving a grant under this chapter shall submit to the board data and information on the use and effect of grant funds as specified in the grant guidelines approved by the board under s. TCS 17.02(2).

PROPOSED EFFECTIVE DATE

The proposed effective date for this rule is May 1, 2006.

Date: January 24, 2006

Wisconsin Technical College System Board



Daniel Clancy, President

Fiscal Estimate - 2005 Session

Original Updated Corrected Supplemental

Adm Code: TCS 17 Introduction Number

Description
 Training grants – Workforce Advancement Training Grants to technical college districts to provide skills training or other education related to the needs of business.

Fiscal Effect

State:
 No State Fiscal Effect
 Indeterminate
 Increase Existing Appropriations Increase Existing Revenues
 Decrease Existing Appropriations Decrease Existing Revenues
 X Create New Appropriations
 Increase Costs - May be possible to absorb within agency's budget
 Yes No
 Decrease Costs

Local:
 No Local Government Costs
 Indeterminate
 1. Increase Costs 3. Increase Revenue
 Permissive Mandatory Permissive Mandatory
 2. Decrease Costs 4. Decrease Revenue
 Permissive Mandatory Permissive Mandatory
 5. Types of Local Government Units Affected
 Towns Village Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected	Affected Ch. 20 Appropriations
X GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

Agency/Prepared By Morna Foy (608) 266-2449	Authorized Signature	Date 11/9/2005
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LRB Number/ Adm Code: TCS 17	Introduction	Estimate Type	Original
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Description
 Training grants – Workforce Advancement Training Grants to technical college districts to provide skills training or other education related to the needs of business.

Assumptions Used in Arriving at Fiscal Estimate

This rule implements s. 38.41(1) Wis. Stats., which authorizes the technical college system to award grants to technical college districts to provide skills training or other education related to the needs of business and s. 38.41(3) which requires the technical college system board to promulgate administrative rules to implement and administer the training grant program. A total of \$1,000,000 GPR is available each year to fund training grant awards under s. 20.292(1)(eh). This grant program was created in 2005 Wisconsin Act 25; the 2005-07 biennial budget bill.

Long-Range Fiscal Implications

The functions required by these rules can be absorbed with existing staff.

Fiscal Estimate Worksheet - 2005 Session

Detailed Estimate of Annual Fiscal Effect

Original Updated Corrected Supplemental

Adm. Rule: TCS 17 Introduction Number

Description
 Training Grants (Workforce Advancement Training Grants)

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): -0-

II. Annualized Costs:	Annualized Fiscal Impact on funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$0	0
(FTE Position Changes)	(0.0 FTE)	(0.0 FTE)
State Operations - Other Costs	0	0
Local Assistance	0	0
Aids to Individuals or Organizations	1,000,000	0
TOTAL State Costs by Category	\$1,000,000	\$0

B. State Costs by Source of Funds		
GPR	\$1,000,000	
FED		
PRO/PRS		
SEG/SEG-S		

III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)

	Increased Rev	Decreased Rev
GPR Taxes	\$	\$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	\$	\$

NET ANNUALIZED FISCAL IMPACT

	State	Local
NET CHANGE IN COSTS	\$1,000,000	\$
NET CHANGE IN REVENUE	\$	\$

Agency/Prepared By: WTCS/Morna Foy (608)266-2449 Authorized Signature: _____ Date: _____



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **05-107**

AN ORDER to create chapter TCS 17, relating to training program grants.

Submitted by **TECHNICAL COLLEGE SYSTEM BOARD**

11-11-2005 RECEIVED BY LEGISLATIVE COUNCIL.

12-07-2005 REPORT SENT TO AGENCY.

RS:RW

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 05-107

Comments

NOTE: All citations to “Manual” in the comments below are to the **Administrative Rules Procedures Manual**, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]

1. Statutory Authority

Section TCS 17.03 (2) provides that the technical college system board must approve grant guidelines that may be updated as needed. The guidelines will contain application instructions, requirements and procedures, application deadline dates, allowable uses of funds, and award limits. To the extent that any of the guideline requirements meet the definition of the term “rule” in s. 227.01 (13), Stats., they must be promulgated as administrative rules. The rule-making process may not be evaded through the use of agency guidelines or manuals. See, also, the use of the phrase “allowable activities” in s. TCS 17.04 (2).

2. Form, Style and Placement in Administrative Code

a. The use of capitalization in the definition section and elsewhere in the rule is inconsistent. See s. 1.01 (4), Manual.

b. See s. 1.02 (4) for the proper form for drafting the effective date provision.

c. In s. TCS 17.04 (2) (b), the word “their” should be replaced by “its.” Also, the numbering of the paragraphs should be corrected. Finally, the use of the phrase “and or” should be replaced by the word “or.”

d. In s. TCS 17.06 (3), the notation “s.” should be inserted before the cross-reference. [See, also, s. TCS 17.07 (1).]

e. Section TCS 17.07 does not create two or more subunits. Consequently, the notation "(1)" should be deleted.

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

a. In s. TCS 17.01, the word "under" should precede the statutory cross-reference.

b. The rule contains limited details on the parameters of the grant program. For example, there are no minimum or maximum grant awards specified, and no provisions on business eligibility or on length of contracts or grants. Reliance on future board "guidelines" under s. TCS 17.03 (2) may not be consistent with s. 227.10, Stats., which requires general agency policies to be promulgated as a rule.

c. Section TCS 17.05 (1) is drafted in an awkward manner. Is the provision intended to assess whether the grant, if approved, is adequate to achieve its objectives? If so, this could be stated in a clearer fashion.

d. Section TCS 17.07 has requirements for district reporting; is there a need for businesses assisted by the grant to also file or submit reports?

e. The board may wish to consider whether there is a need for the grant proposal to include a means by which the "success" of the grant is to be measured. If so, this could be added to the list of provisions included in the application for the grant.

f. It is not clear whether grants can be approved for an amount less than the amount requested. If it is expected that this might happen, s. TCS 17.05 (intro.) could be amended to provide for "approval or disapproval, *in whole or in part*, ..." to clarify the scope of the board's authority.