



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 RULE 04-081

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 October 2002.]

1. Statutory Authority

The analysis accompanying the rule clearly notes that the statutory definition of “prevailing wage rate” is susceptible of at least two different interpretations. Apparently, the department has been operating under one interpretation for several years and now seeks to operate under the other as it “more closely complies with statutory intent.” Is that determination supported by any evidence? Presumably, if the Legislature was not satisfied with the current interpretation, it could have modified the law. Also, it may be argued that if the Legislature had intended for the department to consider the *sum* of the prevailing rate of pay plus the benefits component it could have specifically said so in the statute. In any event, the analysis should better identify the reasons for this new understanding of the statutory intent.

2. Form, Style and Placement in Administrative Code

The preface to the rule should include a section discussing whether any related statutes or rules exist. [See s. 227.14 (2) (a), Stats.]

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

The term “contributions rate,” as used throughout the rule, needs to be defined. Presumably, the term refers to the “hourly contribution for health insurance benefits, vacation benefits, pension benefits and any other bona fide economic benefit” as referred to in the applicable statutes. However, as the term is neither defined, nor, apparently, used elsewhere in the rule, a definition should be provided.