



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Pam Shannon
Clearinghouse Director

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Co-Assistant Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 11-041

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

a. The first entry after the heading “DRAFT REPORT ON CLEARINGHOUSE RULE” should be an enumeration of the sections treated by the proposed order and the nature of the treatment, as well as an introductory clause consisting of a relating clause concisely stating the subject of the proposed order. [s. 1.02 (1), Manual.] If the changes suggested in comment e., below, are made, the treatment clause and relating clause would then read: “AN ORDER to amend ETF 20.35 (1) (b) and (c), (2), (3), (4) (c) 3., (5), (6), (7) (a), and (8) (b) and (c); and to create ETF 20.35 (8) (d), (9), and (10), relating to the division of Wisconsin retirement system accounts under a qualified domestic relations order”.

b. In the analysis of the proposed rule, the department should cite statutes, not rules, in the section of the analysis titled, “Statutes Interpreted”.

c. Section ETF 20.35 (3) (c) 4. should be omitted, and the treatment clause of SECTION 2 amended, since subd. 4. does not appear to be modified by the proposed rule.

d. In s. ETF 20.35 (6) (a), the “are” on line 7 should be underscored.

e. The amendments to language in s. ETF 20.35 (8) (b) and (c) are appropriately placed in SECTION 6 of the rule. However, sub. (8) (a) is not being amended and should be omitted from the rule. Further, because sub. (8) (d) contains newly-created language, it should be moved to SECTION 7, with the following treatment clause: “ETF 20.35 (8) (d) is created to read:”. Also,

the underscoring should be deleted because it is not used when creating an entire rule unit. [s. 1.06 (1), Manual.] On the first line of par. (d), “par.” should be changed to “sub.” Current SECTION 7 should be renumbered as SECTION 8.

f. In the treatment clause to what will now be SECTION 8, the second “20.35” should be deleted. Again, none of the language in SECTION 8 should be underscored, as it is all newly-created language. In s. ETF 20.35 (10) (title), a period should replace the comma at the end of the subsection title.

g. In s. ETF 20.35 (10) (a), at the end of the subsection, “subsection” should be spelled out rather than abbreviated.

h. The proposed rule should conclude with a provision setting forth the effective date of the rule. [s. 1.02 (4) (a), Manual.]

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

For consistency with s. 227.11 (2) (a) 2., Stats., the department should refer to s. 40.03 (2) (t), Stats., in the “Statutes Interpreted” section of the rule analysis, rather than in the section titled, “Statutory Authority”. Section 40.03 (2) (t), Stats., relates to the subject matter of the proposed rule-making but does not appear to comply with s. 227.11 (2) (a) 2., Stats., as a source of statutory authority for a proposed rule. Additionally, the department should identify other provisions of ch. 40, Stats., relating to domestic partnership or domestic partners, or both, which provide statutory authority. (See, e.g., s. 40.02 (2m), (20), (21c), and (21d), Stats.)

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

a. In s. ETF 20.35 (1) (c), the department should insert “Stats.,” after the reference to s. 770.01 (2), and a comma after “domestic partnership”.

b. In s. ETF 20.35 (2) (a), the word “a” should be replaced by “as” before “provided”.

c. In s. ETF 20.35 (8), the hyphen in the phrase “based on-services” should be deleted.

d. A colon should replace the period at the end of s. ETF 20.35 (10) (c) (intro.). [s. 1.03 (1) (b), Manual.]