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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 13-069

#### 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 November 2011.]**

#### 2. Form, Style and Placement in Administrative Code

a. The summary of the proposed rule provided in the analysis should be expanded to provide a description of the substantive provisions of the rule that may be understood without the need to refer to former ch. Comm 108, since that former chapter is not readily available online or elsewhere. In addition, without the ability to refer to former ch. Comm 108, it is not possible for the reader to assess the validity of the department’s statements regarding the utility or lack thereof of provisions of that chapter that are not recreated in the proposed rule.

b. The rule should create Subchapter I and an appropriate title for that subchapter. In addition, a title is needed for subchapter IV, and all subchapter titles should be written in solid capital letters. [See s. 1.05 (2) (a) of the Manual.]

c. Throughout the rule, in Notes that quote statutory language, the department should omit the quotation mark at the beginning and end of each quotation.

d. In s. Adm 93.03 (17), the phrase “community development” should be inserted after “federal”.

e. In s. Adm 93.03 (19), “the HUD” should be changed to “HUD”.

f. Should s. Adm 93.03 (20) be rewritten to take into consideration that in any location in Wisconsin, more than one “local government” levies property taxes? Are the references to “local government” and “municipality” in this subsection in conflict with the definitions of those terms? Would it be useful to include an example of a calculation made under this subsection?

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

- a. The reference, in s. Adm 93.08, to both s. Adm 93.04 and 24 CFR 570 is redundant.
- b. In s. Adm 93.19 (1) (m), the citation to s. Adm 93.04 (3) is incorrect because s. Adm 93.04 does not have subsections.

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

- a. Section Adm 93.05 should require the department to create the application instruction manual referred to in s. Adm 93.07. In addition, the rule should provide guidelines for the department to follow in establishing all of the following elements required to be included in the manual: (1) the “scoring system” required under s. Adm 93.09 (1) (a); (2) the “minimum local financial participation” referred to in s. Adm 93.09 (1) (b); and (3) the point systems related to distress indicators, local government need, utility rates and leveraging referred to in ss. Adm 93.10 to 93.13. In addition, if local financial participation is required for any program, as is implied in s. Adm 93.09 (1) (b), that requirement should be clearly set forth in the rule.
- b. The rule should provide guidelines that the department must follow in establishing the distribution amounts referred to in s. Adm 93.06 (1). In addition, what is “program income” referred to in s. Adm 93.06 (2)?
- c. Should the rule define “public facilities project” as used in s. Adm 93.09 (1) (a)?
- d. It appears that s. Adm 93.09 (1) (b) should be expanded to provide more detailed information regarding the level of local financial participation that is required and the circumstances under which the department may waive that requirement.
- e. Section Adm 93.14 should describe the purpose of economic development grants. In addition, the rule should provide more detail on how the department will consider the factors listed when making grants, and more detail on what is meant by “other economic factors”.
- f. Section Adm 93.15 should specify with whom a person receiving a grant or loan must execute an agreement, and should specify the consequences that will be imposed if the agreement is breached. For example, what consequences must be imposed if jobs are not created or retained as provided in the agreement?
- g. Section Adm 93.16 should explain how a local government might acquire “program income” from awarding grants. Should “grants” be changed to “loans”?
- h. Section Adm 93.17 should provide more guidance regarding how the various factors listed will be considered when the department awards public facilities economic development grants. In addition, the introductory language implies that not all of the listed factors must be present. However, it would seem that many, if not all, of those elements should be required to be present in all instances in which a local government is awarded a grant. For example, it would seem that any project should be required to serve a public purpose, have reasonable costs, and be financially feasible. If there are circumstances under which a grant may be provided when these

elements are not present, the rule should spell those out in detail. Section Adm 93.19 (1) should likewise be reviewed to determine whether there are circumstances under which any of the factors cited in that subsection are not necessary elements of a project funded under that section.

i. For all types of awards made by the department under ch. Adm 93, the corresponding subchapter should specify any deadlines applicable to the submission of applications by prospective grantees and the issuance of award decisions by the department.

j. Section Adm 93.18 (1) should specify with whom a business that will benefit from a public facilities economic development project must execute a development agreement, and should specify the consequences that will be imposed if the agreement is breached. For example, what consequences must be imposed if jobs are not created or retained as provided in the agreement?

k. Section Adm 93.18 (2) should provide objective standards to be followed by the department in determining the maximum amount of funds that may be awarded based on each full-time job projected to be created or retained by a business.

l. Should s. Adm 93.20 provide any guidelines or restrictions on the granting or loaning of funds by local governments?

m. Section Adm 93.21 (1) should specify the purposes for which a grant awarded under that section may be used by a local government. In addition, the introductory clause should be rewritten so that it is clear whether the factors listed must be present in order for an award to be made.

n. Section Adm 93.22 (2) should provide more specificity regarding what is meant by a “proportionate share” of amounts recovered.