CLEARINGHOUSE RULE 16-067

Comments

[NOTE: All citations to "Manual" in the comments below are to the <u>Administrative Rules Procedures Manual</u>, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

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

a. The introductory clause should read: "The Wisconsin Department of Administration proposes an order to amend ss. ER 10.01 and 18.02 (3) (c) 1., (4) (d), and (5) (c), relating to the hours worked and vacation calculations.". [s. 1.02 (1), Manual.]

b. In the comparison with rules in adjacent states section, the agency should generally describe the annual leave and limited-term appointment provisions for state employees in adjacent states. In addition, the agency should include a description of analysis and supporting documents used to determine the effect on small business. [s. 1.02 (2) (a) 7. and 9., Manual.]

c. In s. ER 10.01, the title should be written in bold print. [s. 1.05 (2) (b), Manual.]

d. In s. ER 10.01, "1043 1039" should be replaced with "~~1043~~ <u>1039</u>". [s. 1.06 (1), Manual.]

e. In the treatment clause for SECTION 2, "is amended" should be inserted before "to read". [s. 1.04, Manual.]

f. In s. ER 18.02 (3) (c) 1., the title should be enclosed in single quotation marks. [s. 1.05 (2) (e), Manual.]

g. In s. ER 18.02 (3) (c) 1., the following text should be underscored because it is new material: "employees in nonexempt status under the federal Fair Labor Standards Act, 29 USC 201 to 219". In addition, in the table, under hours earned each year, the first number in each line should be stricken-through and the second number should be underscored. [s. 1.06 (1), Manual.]

h. In s. ER 18.02 (4) (d), the table should be replaced with the following

ANNUAL LEAVE RATE	CONVERSION FACTOR
80 hr. rate	.038314 per hour
<u>104 hr. rate</u>	<u>.050000 per hour</u>
120 hr. rate	~~.057471~~ <u>.057692</u> per hour
136 hr. rate	~~.065134~~ <u>.065385</u> per hour
<u>144 hr. rate</u>	<u>.069231 per hour</u>
160 hr. rate	~~.076628~~ <u>.076923</u> per hour
176 hr. rate	~~.084291~~ <u>.084615</u> per hour
<u>184 hr. rate</u>	<u>.088462 per hour</u>
200 hr. rate	~~.095785~~ <u>.096154</u> per hour
216 hr. rate	~~.103448~~ <u>.103846</u> per hour

In addition, should the conversion factor for the 80 hr. rate also be changed? [s. 1.06 (1), Manual.]

i. In s. ER 18.02 (5) (c), "2088 2080" should be replaced with "~~2088~~ <u>2080</u>". [s. 1.06 (1), Manual.]

j. The effective date section should read: "This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.". [s. 1.02 (4), Manual.]

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

a. In the statutes interpreted section, s. 230.35 (1), Stats., should be added and the citations should be arranged in numerical order. Thus, the text should read: "ss. 230.04 (5), 230.26, and 230.35 (1) and (1m), Stats.". The same comment applies to the related statute or rule section.

b. In the statutory authority section, s. 230.26 (1), Stats., which provides rule-making authority relating to limited term appointments, should be added.

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

a. In the summary of proposed rule section, it appears that the changes in the proposed rule result from: (1) a reduction in the number of work hours, from 2088 to 2080, in a calendar year, which is needed to conform with the STAR project; and (2) an increase in the number of annual leave hours for nonexempt employees, which is needed to be consistent with state statute. The summary should clearly explain these reasons, thus providing more context for the changes in the proposed rule. In addition, the first reference to "FLSA" should be replaced with "federal Fair Labor Standards Act (FLSA)". [s. 1.01 (8), Manual.]