

**Report From Agency**



REPORT TO THE LEGISLATURE

CLEARINGHOUSE RULE 12-032  
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD  
TCS 2.0, WIS. ADMIN. CODE

Submitted by:

Wisconsin Technical College System Board  
4622 University Avenue  
PO Box 7874  
Madison, Wisconsin 53707-7874

September 28, 2012

**ORDER OF THE  
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD  
AMENDING RULE RELATING TO DISTRICT BOARD MEMBER APPOINTMENTS  
CR 12-032**

The Wisconsin Technical College System Board proposes an order to revise TCS 2.02 (1), (3), and (5), 2.04 (3) (a) 4. and 6., and (4) (c) and (d); and to create TCS 2.02 (5m), 2.04 (3) (a) 4m., and (4) (e), relating to district board member appointments.

**ANALYSIS PREPARED BY THE  
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD**

1. **Statutes interpreted:** Wis. Stats. § 38.08 (1) (a)
2. **Statutory authority:** Wis. Stats. § 38.04 (15)
3. **Explanation of agency authority:** Wis. Stats. § 38.04 (15) assigns responsibility for review of district board appointments to the Wisconsin Technical College System stating that “the board shall, by rule, establish criteria and procedures for the review of district board member appointments.”
4. **Related statute or rule:** TCS 2
5. **Plain language analysis:** 2011 Wisconsin Act 286 created new district board and appointment committee membership requirements for the Milwaukee Area Technical College (MATC) District. The proposed amendments to TCS 2 will align administrative rule provisions to MATC’s district board membership with the member representation established by the Legislature and the Governor in 2011 Wisconsin Act 286.
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:** None
11. **Agency contact person:** Morna Foy, Vice President, Wisconsin Technical College System, 4622 University Avenue, P.O. Box 7874, Madison, Wisconsin 53707-7874, telephone (608) 266-2449, e-mail [morna.foy@wtcssystem.edu](mailto:morna.foy@wtcssystem.edu).

12. **Place where comments are to be submitted and deadline for submission:** A public hearing and notice were not required under s. 227.16 (2) (b), Stats., however, written comments could be submitted by 4:00 pm on September 15, 2012 to Morna Foy at the Wisconsin Technical College System, 4622 University Avenue, PO Box 7874, in Madison, WI 53707-7874 or by email to [morna.foy@wtcsystem.edu](mailto:morna.foy@wtcsystem.edu) with a subject line of TCS 2. No comments were received.

**FINAL REGULATORY FLEXIBILITY ANALYSIS** - Not Applicable

**FISCAL ESTIMATE** - Attached

## **TEXT OF RULE**

**SECTION 1. TCS 2.02 (1), (3), and (5) are amended to read:**

**TCS 2.02 Definitions.** (1) “Appointment committee” means the appointment committee constituted under s. 38.10 (1) (a), (b), ~~or (c)~~, or (d), Stats.

(3) ~~“Business and industry”~~ With the exception of the district board governing the Milwaukee area technical college, “business and industry” includes every trade, occupation and profession.

(5) ~~“Employer”~~ Except as provided in (5m), “employer” means any person who receives earnings as payment for personal services and possesses the power to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or adjust employee grievances, or effectively recommend such action, if in connection with the exercise of such power the person exercises independent judgment in relation to the power. Employer does not include a person acting in the capacity of officer or agent of a labor organization.

**SECTION 2. TCS 2.02 (5m) is created to read:**

TCS 2.02 (5m) For the district board governing the Milwaukee area technical college, “employer” means a business entity, as defined in s. 13.62 (5), Wis. Stats., a nonprofit organization that provides health care services, credit union, or cooperative association.

**SECTION 3. TCS 2.04 (3) (a) 4. and 6. are amended to read:**

TCS 2.04 (3) (a) 4. ~~Position~~ Except as provided under subd. 4m., position sought as an employer, employee, additional, elected official or school district administrator member.

6. ~~Sex~~ Gender and status as a member of a minority as defined under s. TCS 2.02 ~~(5)-(9)~~.

**SECTION 4. TCS 2.04 (3) (a) 4m. is created to read:**

TCS 2.04 (3) (a) 4m. For the district board governing the Milwaukee area technical college, position sought as a school district administrator, elected official, additional member, or member representing an employer. A person seeking appointment as an additional member shall indicate whether he or she is a school district administrator, elected official, or member representing an employer. Candidates seeking appointment as a member representing an employer must identify if the employer has 15 or more employees or 100 or more employees, and whether it is a manufacturing business.

**SECTION 5. TCS 2.04 (4) (c) and (d) are amended to read:**

TCS 2.04 (4) (c) ~~Reasonably~~ Except as provided in (e), reasonably represent the various businesses and industries in the district as required for employer and employee members of the district board.

TCS 2.04 (4) (d) ~~Result~~ Except as provided in (e), result in a district board consisting of 9 members, including 2 employer members, 2 employee members, 3 additional members, a school district administrator as defined under s. 115.001 (8), Stats., and employed by a school board of a school district located in the district, and one elected official who holds a state or local office as defined in s. 5.02, Stats., except for the office of party committeeman or party committeewoman.


**SECTION 6. TCS 2.04 (4) (e) is created to read:**

TCS 2.04 (4) (e) For the Milwaukee area technical college district, result in a district board consisting of 9 members who are residents of the district, 7 of whom are residents of Milwaukee County, consisting of one school district administrator as defined under s. 115.001 (8), Stats., one elected official who holds a state or local office, as defined in s. 5.02, Stats., 2 additional members, and 5 persons representing employers as defined in s. TCS 2.02 (5) (b). Three of the members shall represent employers with 15 or more employees, 2 of the members shall represent employers with 100 or more employees, and at least 2 of the members shall represent employers who are manufacturing businesses.

**SECTION 7. Effective Date:** 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.

Dated this 28<sup>th</sup> day of September, 2012.

Wisconsin Technical College System Board



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Morna Foy, Vice President  
Wisconsin Technical College System

## ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS

Type of Estimate and Analysis

Original     Updated     Corrected

Administrative Rule Chapter, Title and Number

TCS 2, District Board Member Appointments

Subject

District Board Member Appointments

Fund Sources Affected

Chapter 20, Stats. Appropriations Affected

GPR     FED     PRO     PRS     SEG     SEG-S

Fiscal Effect of Implementing the Rule

No Fiscal Effect (for  
WTCS Board)  
 Indeterminate

Increase Existing Revenues  
 Decrease Existing Revenues

Increase Costs  
 Could Absorb Within Agency's Budget  
 Decrease Costs (for technical college districts)

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes     No

Policy Problem Addressed by the Rule

Alignment of statutory and administrative rule provisions regarding the appointment of district board members.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

None

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Alignment of statutory and administrative rule provisions regarding the appointment of district board members. Alternative would be to rely on statutory provisions.

Long Range Implications of Implementing the Rule

Alignment of statutory and administrative rule provisions regarding the appointment of district board members.

Compare With Approaches Being Used by Federal Government

Not applicable

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Not applicable

Name and Phone Number of Contact Person

Morna Foy, 266-2449