



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
101 East Wilson Street | Suite 127 | P.O. Box 7125 | Madison, WI 53703-7125
(608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

Report From Agency

REPORT

OF

ETHICS COMMISSION

Clearinghouse Rule 20-010
ETH 1
Wisconsin Administrative Code

The Wisconsin Ethics Commission proposes a rule to repeal ETH 1.855 (3), and to amend ETH 1.20 (3), 1.20 (4), 1.25, 1.39 (1) (b), 1.56 (2), 1.60 (1) (a), 1.60 (1) (c), 1.60 (2), 1.70 (2), 1.70 (3), and 1.85; related to campaign finance.

ANALYSIS

1. **Proposed rule:** see proposed order attached immediately following this report.
2. **Statutes interpreted:** Chapter 11, Stats.
3. **Statutory authority:** The Wisconsin Ethics Commission is specifically directed to promulgate rules to administer Chapter 11 pursuant to s. 11.1304(17), Stats.

11.1304 Duties of the ethics commission. The commission shall:
(17) Promulgate rules to administer this chapter.

The Commission also has general authority for the promulgation of rules to carry out the requirements of Chapters 11, 13, and 19.

s. 19.48(1), Stats.:

19.48 Duties of the ethics commission. The commission shall:
(1) Promulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter.

s. 227.11(2)(a), Stats.:

227.11 Extent to which chapter confers rule-making authority.
(2) Rule-making authority is expressly conferred on an agency as follows:

Wisconsin Ethics Commissioners

Paul Connell | Mac Davis | David R. Halbrooks | Scot Ross | Pat Strachota | Timothy Van Akkeren

Administrator

Daniel A. Carlton, Jr.

(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

4. **Explanation of agency authority:** The Ethics Commission is required to promulgate rules to administer Chapter 11, Stats.

The Government Accountability Board previously reviewed the provisions of Wis. Admin. Code ETH 1 as required by 2015 Wisconsin Act 117. In that review, the Board noted several provisions that were inconsistent with the new law, but it did not address other statutory and administrative references within ETH 1 that needed to be updated to harmonize the language with the newly created Chapter 11 or current administrative procedures before it was dissolved. This proposed rule would update provisions that currently contain references to the prior version of Chapter 11. The Ethics Commission previously sought to modify other inconsistent provisions in CR 19-035, which became effective June 1, 2020.

In review of Clearinghouse Rule 19-035, the Legislative Council Rules Clearinghouse report recommended the Ethics Commission should review the entire chapter to ensure consistency between the rule and Chapter 11 as re-created by 2015 Wisconsin Act 117. As such a review would require a broader statement of scope than initially proposed, rather than amending the scope of CR 19-035, the Ethics Commission proposes a new rule to amend those provisions of WIS. ADMIN. CODE ETH 1 that contain outdated language (e.g., “personal campaign committee” instead of “candidate committee”) or are otherwise not consistent with Chapter 11 as re-created by 2015 Wisconsin Act 117 (e.g., removing references to collecting the place of employment of a contributor) that were not previously identified as needing further revision.

5. **Related statute(s) or rule(s):** N/A.
6. **Plain language analysis:** The rule repeals or amends several provisions of ETH 1 to eliminate or modify references to statutory provisions or terms that were repealed or replaced under the new campaign finance law created by 2015 Act 117. The rule will also extend ETH 1.60 and 1.70 to additional committee types for consistency.
7. **Summary of, and comparison with, existing or proposed federal regulations:** N/A.
8. **Comparison with similar rules in adjacent states:** N/A.
9. **Summary of factual data and analytical methodologies:** Commission staff reviewed and compared the current text of the rule with the new statutory framework established by 2015 Wisconsin Act 117.
10. **Analysis and supporting documentation used to determine effect on small businesses:** N/A
11. **Effect on small business:** N/A

12. Agency contact person:

David P. Buerger
David.Buerger@wisconsin.gov
(608) 267-0951

13. Place where comments are to be submitted and deadline for submission:

Written comments on the proposed rule could be accepted via mail to the agency contact person or via email to eth.rulecomments@wi.gov. Rule comments were accepted if they were received by June 15, 2020.

14. List of persons who appeared or registered for or against the proposed rule at any public hearing held by the agency: No persons appeared for or against the proposed rule at the hearing held by the agency on June 16, 2020. Written comments were submitted by:

Dylan Helmenstine
4881 Page Ln
Black Earth, WI 53515

William Leadholm
507 W. Wilson St., Apt 607
Madison, WI 53703

Ryan Buroker
1320 Bad Axe Ct
Viroqua, WI 54665

15. Summary of public comments to the proposed rule and the agency's response to the comments:

Mr. Helmenstine appears to take issue with the removal of the requirement of ETH 1.20 (3) for a committee to obtain, when applicable, the name and address of a contributor's principal place of employment. This requirement was removed from state law in the repeal and re-creation of Chapter 11 by 2015 Wisconsin Act 117. The proposed change to ETH 1.20 (3) makes this provision mirror the various requirements of Chapter 11 to report only the occupation instead of both occupation and principal place of employment. *Compare* WIS. STAT. § 11.06(1)(b) (2013) *with* WIS. STAT. § 11.0204(1)(a)3.

Mr. Leadholm proposes the Commission establish a requirement for a contributor to a conduit to submit proof of their occupation and proposes raising the threshold for disclosure of occupation from \$200 to \$500. However, the Commission has no ability to impose such a

requirement or raise the threshold for reporting of occupation information as that is set by WIS. STAT. § 11.0704(1)(b)2.

Mr. Buroker's comments were not related to the proposed rule.

16. Explanations of modifications to the proposed rule as a result of the public comments or testimony received at public hearings: N/A

17. Legislative Council staff clearinghouse report: See Clearinghouse Report to Agency attached immediately following this report.

18. Response to Legislative Council staff recommendations in the clearinghouse report: The Ethics Commission agrees with and adopts the suggested changes presented in the Legislative Council report.

The Commission believes the expansion of ETH 1.60 & 1.70 in Sections 6-10 of the proposed rule are consistent with the objective of the rulemaking and were appropriately identified as potentially subject to revision in the scope statement. WIS. ADMIN. CODE ETH 1.60 addresses how consulting services are reported and WIS. ADMIN. CODE ETH 1.70 addresses how travel reimbursements are reported. The addition of legislative campaign committees and political parties to these sections simply serve to make reporting consistent across all committee types who may be engaged in this activity. Inclusion of these additional committee types also avoids any question that the omission of a committee type means that committee type should report that activity differently.