

CR 82-21

CERTIFICATE

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STATE OF WISCONSIN )  
MINING INVESTMENT AND LOCAL IMPACT FUND BOARD ) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Laurence Lewis, Chairman of the Mining Investment and Local Impact Fund Board and custodian of the official records of said board, do hereby certify that the amendments to rules relating to the process whereby municipalities may appeal a board decision on a discretionary grant, were duly approved and adopted by this board on December 7, 1981.

I further certify that said copy has been compared by me with the original on file in this board and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the City of Madison, this 28<sup>th</sup> day of April A.D. 1982.

Laurence Lewis, Chairman  
(Officer)

9-1-82

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ORDER OF THE Mining Investment and Local Impact Fund Board to amend Tax 13.06 (3) (c) 4, pertaining to the appeals process whereby municipalities may appeal a Board decision on a discretionary grant. Analysis prepared by the Mining Investment and Local Impact Fund Board.

The Mining Investment and Local Impact Fund Board's Administrative Rule governing the process by which a municipality may appeal a Board decision on a discretionary grant is contradictory to s. 227.12, Stats. The Board's Rule requires that a municipality submit an appeal within 30 days after notification of a Board decision. This appeal must include new information not available to the Board when the original decision was made. The Board must respond to the appeal within 60 days after receiving the appeal. The revised rule would mean that:

- 1) A municipality must file its appeal within 20 days after notification of the Board decision.
- 2) The appeal must be based on at least one of the following: a) material error of law, b) material error of fact, or c) new information.
- 3) The municipality may file an appeal with the circuit court within 30 days of the original Board decision, or within 30 days of the Board's decision on a rehearing.
- 4) The Board must respond to an appeal within 30 days after receipt of the appeal.

The proposed Rule change would make the Board's appeals process consistent with s. 227.12, Stats.

Pursuant to authority vested in the state of Wisconsin mining investment and local impact fund board by ss. 70.395 and 227.014 Stats., the state of Wisconsin mining investment and local impact fund board hereby amends Rules interpreting s. 227.12, Stats., as follows:

Section Tax 13.06 (3) (c) 4 of the Wisconsin administrative code is amended to read:

4. Appeals process. Any municipality wanting to appeal a funding decision by the board must submit a written appeal to the board with ~~30~~ 20 days after notification. The 20-day period commences on the day after the mailing of the board's decision. The written appeal shall ~~include any~~ specify in detail: a) how the board has made a material error of law, b) how the board has made a material error of fact, or c) new, pertinent information which was not available to the board at the time of its decision. A representative of an appealing municipality may appear before the board, prior to board action on the appeal. The board will take action on an appeal case within ~~60~~ 30 days after receipt of the written appeal. ~~If, after action by the board, the municipality still feels aggrieved, further appeals shall be made to the appropriate circuit court.~~ Any municipality that feels aggrieved by a funding decision of the board may petition the circuit court for a review of the board's decision within 30 days of its original decision, or if a rehearing has been sought as provided in this subdivision, within 30 days of the board's decision on the appeal. The 30-day period commences on the day after the mailing of the board's decision. The appeal must be served on the board and filed in the office of the clerk of circuit court as specified in s. 227.16, Stats.

Adopted under the procedures of s. 227.02 (1) (a), Stats., the rules, amendments, and repeals contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register pursuant to authority granted by s. 227.026 (1) (b), Stats.

Mining Investment and Local Impact Fund Board

Dated Feb. 21 <sup>r</sup> 1982

Laurance J. Lewis, Chairman  
Officer

ORIGINAL  UPDATED  
 CORRECTED  SUPPLEMENTAL

~~XXXXXX~~/Adm. Rule No.  
Tax 13.06 (3)(c)4.  
Amendment No. if Applicable

Subject Discretionary Payment Program -- Process Whereby Municipalities May Appeal a Board Decision

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation  Increase Existing Revenues
- Decrease Existing Appropriation  Decrease Existing Revenues
- Create New Appropriation

- Increase Costs -- May Be Possible to Absorb Within Agency's Budget  Yes  No
- Decrease Costs

Local:  No local government costs

- 1.  Increase Costs  
 Permissive  Mandatory
- 2.  Decrease Costs  
 Permissive  Mandatory

- 3.  Increase Revenues  
 Permissive  Mandatory
- 4.  Decrease Revenues  
 Permissive  Mandatory

5. Types of Local Governmental Units Affected:  
 Towns  Villages  Cities  
 Counties  Others Federally  
Recognized Tribal Councils

Fund Sources Affected

- GPR  FED  PRO  PRS  SEG  SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The Mining Investment and Local Impact Fund Board makes annual discretionary awards to municipalities to alleviate some or all of their mining-related costs. If a municipality objects strongly to the Board's grant decision, the municipality may appeal that decision. This rule amends the time period within which the municipality must file their appeal and the Board must respond to the petition of that particular municipality. The rule does not make any substantive changes to the appeal procedure which would generate additional costs to municipalities or the State.

Long-Range Fiscal Implications

Agency Mining Investment and Local Impact Fund Board

Authorized Signature/Telephone No.

*Elizabeth Kohl* 266-7235

Date 1-28-82

## Report

### 1. Findings of Fact

The Mining Investment and Local Impact Fund Board's Administrative Rule governing the process by which a municipality may appeal a Board decision on a discretionary grant is contradictory to s. 227.12, Stats.

### 2. Conclusions

The proposed Rule change has been undertaken to make the Board's appeals process consistent with s. 227.12, Stats.

### 3. Public Hearings

In reference to s. 227.02 (1) (a), Stats., the Board consulted with the Wisconsin Department of Justice as to whether a public hearing would be required. Because the proposed rule is procedural rather than substantive, it was agreed that a hearing would not be required.

### 4. Response to Legislative Council Staff Recommendations

Acceptance of recommendations in whole.