



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 24-043

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

a. The amendment of s. EL 12.01 (2) and (5) may be reflected in a single SECTION of the rule text, beginning with a treatment clause that states, “EL 12.01 (2) and (5) are amended to read:”. [s. 1.03 (2) (c) 2., Manual.] Note the current treatment clause for SECTION 1 of the proposed rule inaccurately refers to amendment of s. EL 12.02.

b. The proposed rule must include an effective date SECTION to indicate the date on which the rule changes take effect. [s. 1.03 (4), Manual.] Relatedly, is it necessary for the agency to specify the initial applicability of the proposed rule, as described in s. 1.03 (3) of the Manual?

c. The proposed language inserted into s. EL 12.01 (5) is not a definition. Options to amend the definition and to comply with the Legislative Audit Bureau’s (LAB) recommendations include:

- (1) Insert “, known as WisVote,” after “the election administration software application”.
- (2) Instead of changing the definition of Statewide Voter Registration System, insert a Note that the Statewide Voter Registration System is currently known as WisVote. See s. PSC 160.02 (21) (a) 4. as an example.
- (3) Strike “Statewide Voter Registration System” and substitute “WisVote” in ss. EL 12.01 (5) and 12.03 (5) (b).

The agency’s choice among these or other options depends on the relationship between WisVote and the term “Statewide Voter Registration System”, as well as whether it is desirable to refer to WisVote as a clarification or as a term that carries the force of law. On the one hand, if the reference to WisVote is a clarification of “Statewide Voter Registration System”, it may be created as a Note, and changed from time to time, but it will not carry the force of law. [See option 2, above, and s. 1.12 (1) (c) and (2) (b), Manual.] Alternatively, if the term is intended to carry the force of law, and explain or replace the term “Statewide Voter Registration System”, it should be

incorporated into the rule text. However, as a result, the term may not be changed without future rulemaking, and text such as the current rule text “and the name may change in the future” should be omitted in order to avoid the insinuation that such name change could occur in the absence of future rulemaking. [See options 1 and 3, above.]

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

a. SECTION 9 of the analysis cites LAB Report 21-19 and refers specifically to pages 9 and 10 of the report. It appears that LAB recommendations related to the proposed rule also appear on pages 12 and 13 of the report.

b. In the rule analysis, as ss. 6.36 and 7.15 (1m), Stats., are listed as statutes interpreted by the proposed rule, it may be more helpful to explain the role of these provisions relative to the proposed rule in the Plain Language Analysis, rather than describing them as “Related Statutes or Rules”. Additionally, in this description, the statement that the “Commission has named [the official registration] list WisVote, but the name could be changed in the future” may not be accurate. As reflected in the current and proposed administrative rule, WisVote is the name of the statewide voter registration system, not the name of the official registration list. It may be more accurate to state that the official registration list is compiled and maintained by the election administration software application called WisVote.

c. In s. EL 12.02 (7), consider amending the existing rule text to use an active voice: “The commission shall notify the governing body of any municipality whose municipal clerk fails to meet the training standards set out in this chapter.”. Additionally, consider restructuring the underscored material so that the request made by the commission and each municipality’s response to that request follow more closely and so that the chronological order of the notice being sent after an election cycle is clearer. For example, it appears this text could be written: “The commission shall request each municipality to submit to the commission its official municipal mailing address. Each municipality shall provide the requested information within 7 days of the request. The commission shall notify the top elected official in each municipality of a training deficiency by first class mail and within 30 days of an election cycle’s end.”

d. In the last sentence of s. EL 12.02 (7), do not capitalize “commission”.