



STATE OF WISCONSIN
Department of Safety and Professional Services
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Governor Scott Walker Secretary Dave Ross

**AUCTIONEER BOARD
VIRTUAL MEETING/TELECONFERENCE
Room 121C, 1400 E. Washington Avenue, Madison
Contact: Brittany Lewin 608-261-5406
December 12, 2013**

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions and deliberations of the Board.

9:00A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-2)

B. Legislative Administrative Rule Matters

1) Review of Legislative Report for CR 13-056 and Proposed Final Draft of Rules **(3-10)**

C. Public Comments

ADJOURNMENT

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**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Shawn Leatherwood		2) Date When Request Submitted: December 2, 2013	
Items will be considered late if submitted after 4:30 p.m. and less than:			
<ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 08 work days before the meeting for all others 			
3) Name of Board, Committee, Council, Sections: Auctioneer Board			
4) Meeting Date: December 12, 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative matter: Legislative Report for CR 13-056 and Proposed final draft of rules	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: The Board will review the Legislative report and decide whether to submit a dissenting report pursuant to Wis. Stats. s. 480.06 (4).			
11) Shawn Leatherwood	Authorization	December 2, 2013	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

**STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
DEPARTMENT OF SAFETY AND : **CR 13-056**
PROFESSIONAL SERVICES :
:

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

None.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA are attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The Auctioneer Board reviewed Wis. Admin. Code s. SPS 128.04 (6) and determined that the rule limited the number of eligible course instructors to auctioneers registered in this state, who have actively practiced auctioneering for the past five years, attorneys that practices in the area of auctioneering, or appraisers approved by the Appraiser Qualifications Board. This list excludes many other qualified professional from sharing their knowledge with auctioneers. For example, auctioneers would benefit from licensed real estate salespersons that could provide continuing education on real estate matters.

After making this determination, the Auctioneer Board advised the Department to promulgate a rule that would broaden the scope of potential course instructors. Pursuant to s. 480.04, Stats., the Auctioneer Board does not have rule-making authority but acts as an advisor to the Department of Safety and Professional Services in rule-making matters. By promulgating these proposed rules, the Department and the Auctioneer Board seeks to enlarge the pool of eligible course instructors to those persons that are experts in their field, possess the required years of experience, and conducts a course that has been approved by the Department.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Department held a public hearing on October 15, 2013. No one from the public testified at the public hearing or submitted written comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

None.

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	DEPARTMENT OF SAFETY AND
DEPARTMENT OF SAFETY AND	:	PROFESSIONAL SERVICES
PROFESSIONAL SERVICES	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 13-056)

PROPOSED ORDER

An order of the Department of Safety and Professional Services to amend s. SPS 128.04 (6) (a) and to create s. SPS 128.04 (6) (d), relating to course instructors.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

ss. 480.04 (1) and (2), 480.08 (6), Stats.

Statutory authority:

ss. 15.405 (3), 480.08 (6), Stats.

Explanation of agency authority:

Pursuant to s. 15.405 (3), Stats., the Department of Safety and Professional Services has oversight of the Auctioneer Board as an attached board of the Department. Per, s. 480.04 (2), Stats., the Auctioneer Board does not have rule-making authority. However, under s. 480.04 (1), Stats., the Auctioneer Board may advise the Department on matters relating to auctioneers. Per section 480.08 (6), Stats., the department may promulgate rules, on behalf of the Auctioneer Board, governing the requirements and procedures for auctioneers obtaining continuing education. The topic of these proposed rules is the requirements concerning instructors administering continuing education courses. Therefore, the Department is authorized both generally and specifically to promulgate these proposed rules.

Related statute or rule:

s. SPS 128.04 Wis. Adm. Code

Plain language analysis:

Currently, per Wis. Admin. Code s. SPS 128.04 (6), course instructors offering continuing education for auctioneers in Wisconsin must be either an auctioneer registered in this state, actively practicing auctioneering for the past five years; or an attorney that practices in the area of auctioneering, or an appraiser approved by the Appraiser Qualifications Board (AQB). The Auctioneer Board reviewed s. SPS 128.04 (6) and determined that the rule limited the number of eligible course instructors by excluding instructors from other disciplines that may be knowledgeable about auctioneering. By promulgating these proposed rules, the Department and the Auctioneer Board seek to enlarge the pool of eligible instructors to those who are experts in their field, have the required years of experience, and have a course approved by the Department.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois: In Illinois auctioneers are regulated by the Department of Financial and Professional Regulation, Division of Professional Regulation. Continuing education courses must be approved by the Division. Illinois further requires that continuing education must be, “developed and presented by persons with education and/or experience in subject matter of the CE course”. 68 Ill. Adm. Code 1440.310 (b) (8) (c).

Iowa: Iowa does not regulate continuing education requirements for auctioneers.

Michigan: Michigan does not regulate continuing education requirements for auctioneers.

Minnesota: Minnesota does not regulate the continuing education requirements for auctioneers.

Summary of factual data and analytical methodologies:

The Auctioneer Board reviewed Wis. Admin. Code s. SPS 128.04 and determined a revision to the rule was necessary because the rule limited the type of course instructors that may conduct continuing education in Wisconsin. The pool of eligible instructors is currently restricted to auctioneers registered in Wisconsin, attorneys who are engaged in the field of auctioneering law, and appraisers approved by the AQB. The Board sought to enlarge the pool of course instructors by drafting this proposed rule. No other factual data or analytical methodologies were used.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Shawn Leatherwood, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at Shancethea.L Leatherwood@wisconsin.gov.

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

Comments may be submitted to Shawn Leatherwood Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Shancethea.L Leatherwood@wisconsin.gov. Comments must be received on or before October 15, 2013 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. SPS 128.04 (6) (a) is amended to read:

SPS 128.04 (6) (a) Be an auctioneer ~~registered in this state~~ who is currently practicing auctioneering, and who has engaged in such practices for at least 5 years.

SECTION 2. SPS 128.04 (6) (d) is created to read:

SPS 128.04 (6) (d) Be an instructor in a course approved under s. SPS 128.04 (1) and be a person, in good standing in the jurisdiction in which he or she is credentialed, with at least 5 years of education and experience in the subject matter of the approved course.

SECTION 3. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Secretary Ross
Department of Safety and Professional
Services

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