

AGENCY DECLARATORY RULING

Under Wis. Stat. § 227.41(1) to (4), the Department of Administration (“DOA”) may issue a declaratory ruling in response to a petition from an interested person. A declaratory ruling “bind[s] the agency and all parties to the proceedings on the statement of facts alleged...”.

The Petitioner must submit a written petition that contains “a reference to the rule or statute with respect to which the declaratory ruling is requested, a concise statement of facts describing the situation as to which the declaratory ruling is requested, [and] the reasons for the requested ruling, and the names and addresses of persons other than the petitioner, if any, upon whom it sought to make the declaratory ruling binding.”

Upon receiving a petition, DOA must either accept or reject the petition within a reasonable period. If rejected, DOA must provide reasons for the rejection. If accepted, DOA must afford petitioner a public hearing prior to issuing a ruling. Rulings are subject to judicial review.

ATTORNEY GENERAL OPINION

Under Wis. Stat. § 165.015, the Attorney General shall issue opinions at the request of the governor, a house of the legislature, certain committees, or by the head of any state agency such as the Department of Administration (“DOA”). DOA’s request would meet the request criteria described in 77 Op. Att’y Gen. Preface (1988) by including the following:

- Specifically asking whether Chapter 137 (or “UETA”) allows WWA to satisfy the requirements of Wis. Stat. s. 563.93(2g)(e) by providing the purchaser of a Class A raffle ticket with his or her portion via an electronic record of the ticket. .
- Setting forth a tentative conclusion to the question asked.
- Thoroughly describe the policies and procedures that Wisconsin Waterfowl Association (“WWA”) employs when conducting the electronic delivery of raffle tickets.
- In addition, this request could also confirm that Chapter 137 does not alter Chapter 563 in other respects. (e.g., confirming that the specific statutory requirement to place tickets in buckets is not altered by Chapter 137 and cannot be conducted electronically.)

ADMINISTRATIVE ADJUDICATION

Under Wis. Stat. § 227.42 and Wis. Adm. Code § GAME 3.03, the Wisconsin Waterfowl Association (“WWA”) may request an administrative hearing. In such a request, WWA would meet the requirements of Wis. Stat. § 227.42(1) as follows:

- WWA’s substantial monetary and organizational advancement interests in continuing to electronically deliver raffle tickets is harmed by the Division of Gaming’s (the “Division”) cease and desist letter.
- The legislature did not intend for WWA’s interest to be unprotected.
- WWA’s injury is distinct as WWA is a raffle licensee and the Division’s cease and desist was issued specifically to WWA.
- WWA and the Division dispute the material fact of whether the purchaser’s raffle ticket has been provided to the purchaser.

If the Department of Administration (“DOA”) denies WWA’s request for a hearing, it must provide reasons for the denial. If DOA grants WWA a hearing, it shall appoint a hearing officer who shall hear the evidence and then issue a decision within 7 days as described in Wis. Adm. Code § GAME 3.06.