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CORRESPONDENCE MEMORANDUM

DATE: August 24, 2011

TO: Employee Trust Funds Board
Teachers Retirement Board
Wisconsin Retirement Board

FROM: David H. Nispel, General Counsel

SUBJECT: Clearinghouse Rule #11-040
Proposed Administrative Rule Making Technical and Minor Substantive Changes to Existing Administrative Rules

Staff recommends the Board approve the final version of this proposed rule.

The Department of Employee Trust Funds (ETF) proposes to revise and update existing administrative rules to indicate many forms can be obtained from the Department's website, to recognize the use of e-mails in communications involving the Department, and to make other technical and minor substantive changes reflecting Department practices and recent legislation. Sections 32, 35, and 40 of the proposed rule are of particular interest to the retirement boards.

Board approval of the final version of the proposed rule is the next step in the administrative rule promulgation process. The Group Insurance Board recently approved the rule. The ETF Board, WR Board, TR Board, and Deferred Compensation Board also will need to approve the rule at their meetings in September and November. If approved by all the boards, the rule will be submitted to the Governor's office and the State Legislature for consideration. Prior to this date, ETF has taken the following action:

- Scope statement approved by ETF Secretary (November 23, 2010)
- Scope statement published in the Wisconsin Administrative Register (December 15, 2010)

Reviewed and approved by Robert J. Conlin, Deputy Secretary.

Signature: [signature] Date: 8/30/2011

Board	Mtg Date	Item #
JI	9.15.11	4B
TR	9.15.11	3A
WR	9.15.11	2A
ETF	9.15.11	4B

- Submitted the proposed rule and a report to the Legislative Council Administrative Rules Clearinghouse (June 16, 2011)
- Submitted the proposed rule and Legislative Council report to the Department of Administration and Legislative Reference Bureau along with a notice of the scheduled public hearing (June 16, 2011)
- Submitted the proposed rule and economic impact analysis to the Governor's Office, Senate Chief Clerk and Assembly Chief Clerk (June 16, 2011)
- Published the notice of hearing in the Wisconsin Administrative Register (July 15, 2011)
- Held a public hearing (July 29, 2011)

The final draft report on the proposed administrative rule is attached to this memorandum. Changes to the rule were made in response to comments received in the Legislative Council Staff Clearinghouse Report. The rule now conforms to recommended form and style. There were no appearances at the public hearing and no written comments were received.

Department staff will be available at the meeting to discuss this memorandum and answer any questions you may have regarding the proposed revisions.

Attachment: Final Draft Report on Clearinghouse Rule #11-040

STATE OF WISCONSIN
DEPARTMENT OF EMPLOYEE TRUST FUNDS
EMPLOYEE TRUST FUND BOARD
WISCONSIN RETIREMENT BOARD
TEACHERS RETIREMENT BOARD
GROUP INSURANCE BOARD
DEFERRED COMPENSATION BOARD

FINAL DRAFT REPORT ON CLEARINGHOUSE RULE #11-040

FINAL RULE to repeal ETF 10.71 (1) (b), (c) and (d), 10.84 (3), ETF 20.02 (3) (a) 3. Note, 20.19 (3) (b), ETF 40.10 (2) (e), to renumber ETF 10.71 (1) (e), 10.78 (1) Note, 10.78 (3) and (4), 11.02 (9), (10), (11), (12), and (13), ETF 70.02 (2), (3), (4) and (4m), 70.03 (2), (3), (4), (5), (6), (7), (8), (9), (10) and (11), 70.04 (2), (3), (4), (5), (6), (7), (8) and (9), to amend ETF 10.01 (2) (b) 2. and 3., 10.03 Note, 10.07 Note, 10.12 (6) Note, 10.30 (2) Note, 10.30 (5) (a) Note, 10.30 (5) (b) Note, 10.71 (1) (a), 10.78 (1), 10.82 (2) (b) 2. f. Note, 10.84 (2), 11.03 (4) (a), 11.03 (4) (b), 11.03 (4) (c), 11.04 (6) (b), 11.05 (2), 11.05 (5) (a), 11.06 (4) (c), 11.08 (2) (b) 1., 11.09 (3) (introductory), 11.12 (5) (a), ETF 20.02 (3) (c) Note, 20.055 (2) Note, 20.10 Note, 20.17 (2) (c) Note, 20.17 (6) (b) Note, 20.19 (3) (a), ETF 20.35 (2) (b), 20.35 (2) (b) Note, ETF 40.01 (2) Note, 40.10 (2), ETF 50.46 Note, 50.48 (1) Note, 50.52 (2) (a), 50.58 (1) (b), ETF 52.06 (5) Note, 52.06 (9), ETF 60.60 (3) Note, ETF 70.02 (1), 70.03 (1), 70.04 (1), 70.15 Note, and to create ETF 11.02 (9), 11.02 (10), 11.03 (4) (a) Note, 11.09 (3) Note, ETF 20.017, 20.045 (4), and ETF 40.10 (3) (intro), (a), (b), (c), (d), and (e) relating to technical and minor substantive changes in existing ETF administrative rules.

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Agency Person to be Contacted for Questions

Please direct any questions about the proposed rule to David Nispel, General Counsel, Department of Employee Trust Funds, P.O. Box 7931, Madison WI 53707. Telephone: (608) 264-6936. E-mail address: david.nispel@etf.state.wi.us.

Statement Explaining Need for Rule

This rule-making is needed to revise and update current rules to indicate that many forms can be obtained from the department's website, to recognize the use

of e-mail in department communications, and to make other technical and minor substantive changes reflecting department practice and recent legislation.

Analysis Prepared by the Department of Employee Trust Funds

1. Statutes interpreted:

Sections 40.01 (1), 40.01 (2), 40.02 (48m), 40.03 (1) (j), 40.03 (6) (j), 40.03 (7) (f), 40.03 (8) (f), 40.08 (1m), 40.23 (2m) (em) 1.c., 40.24 (4), 40.24 (7) (a), 40.63 (1) (d), 40.63 (5), 40.63 (9) (d), 40.65 (2) (b), 40.80 (2g), 54.01 (20), 54.10 (3), 230.35 (4) (f), Stats.

2. Statutory authority:

Sections 40.03 (2) (i), (ig), (ir) and 227.11 (2) (a), Stats.

3. Explanation of agency authority:

By statute, the DETF Secretary is expressly authorized, with appropriate board approval, to promulgate rules required for the efficient administration of any benefit plan established in ch. 40 of the Wisconsin statutes. Also, each state 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.

4. Related statute or rule:

There are no other related statutes or administrative rules directly related to this technical rule.

5. Plain language analysis:

The purpose of this rule is to revise existing administrative rules of the Department of Employee Trust Funds, to indicate that many forms required by the department can be obtained from the department's website, to recognize the use of e-mail in communications made and received by the department, to make the notes in the rules consistent, to reflect current practices of the department, and to make other technical and minor substantive changes.

6. Summary of, and comparison with, existing or proposed federal regulations:

The only federal regulations that may be affected by this proposed rule are provisions of the Internal Revenue Code regulating qualified pension plans. The Wisconsin Retirement System is required to be maintained as a qualified plan by s. 40.015, Stats.

7. Comparison with rules in adjacent states:

Periodically, retirement systems in adjacent states promulgate technical rules to update existing administrative rules.

8. Summary of factual data and analytical methodologies:

The department is proposing this rule to update existing rules and interpretations of existing statutes.

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

This rule does not have an effect on small businesses because private employers and their employees do not participate in, and are not covered by, the Wisconsin Retirement System. Please see attached economic impact analysis.

10. Anticipated costs incurred by private sector

None.

11. Statement of effect on small business:

The rule has no effect on small businesses.

Regulatory Flexibility Analysis:

The proposed rule has no significant effect on small businesses because only governmental employers and their employees may participate in the benefit programs under ch. 40 of the statutes administered by the Department of Employee Trust Funds.

Fiscal Estimate:

The proposed rule has no direct fiscal impact. The proposed rule generates no revenues for any employer. The proposed rule itself has no effect on the fiscal liabilities of any county, city, village, town, school district, technical college district or sewerage. The rule has no state fiscal effect during the current biennium and no fiscal impact on state funds.

Text of Rule

SECTION 1. ETF 10.01 (2) (b) 2. and 3. are amended to read:

ETF 10.01 (2) (b) 2. Age 19 or older but less than age ~~27~~ 26 as provided in s. 632.885, Stats.

3. Age ~~27~~ 26 or older and incapable of self-support because of a physical or mental disability which is expected to be of indefinite duration or for at least one year or a full-time student as provided in s. 632.885, Stats.

SECTION 2. ETF 10.03 Note is amended to read:

Note: This rule requires a ~~new~~ form which ~~will replace several existing forms. These forms are routinely provided by the department~~ is available at no charge to reporting officials required to use them. The form can be obtained by writing to: department of employee trust funds, P. O. Box 7931, Madison, WI 53707-7931, or by calling: (608) 266-3285 or toll free at (877) 533-5020.

SECTION 3. ETF 10.07 Note is amended to read:

Note: This rule requires a ~~new~~ form which ~~will replace several existing forms. These forms are routinely provided by the department~~ is available at no charge to reporting officials required to use them. The form can be obtained by writing to: department of employee trust funds, P. O. Box 7931, Madison, WI 53707-7931, or by calling: (608) 266-3285 or toll free at (877) 533-5020.

SECTION 4. ETF 10.12 (6) Note is amended to read:

Note: ~~Section ETF 10.12~~ This rule requires a form which is available at no charge ~~by contacting the department of employee trust funds~~. The form can be obtained by writing to: department of employee trust funds, P. O. Box 7931, Madison, WI 53707-7931, or by calling: (608) 266-3285 or toll free at (877) 533-5020.

SECTION 5. ETF 10.30 (2) Note is amended to read:

Note: ~~Forms~~ The form for electing to participate in the variable division, "Election to Participate in the Variable Trust Fund," ET-2356, can be obtained ~~from the following address: Department of Employee Trust Funds,~~ at no charge by writing to: department of employee trust funds, P.O. Box 7931, Madison, WI 53707-7931 ~~or from~~, or by calling: (608) 266-3285 or toll free at (877) 533-5020. The form is also available on the department's ~~internet site~~ website: etf.wi.gov.

SECTION 6. ETF 10.30 (5) (a) Note is amended to read:

Note: ~~Forms~~The form for electing to terminate participation in the variable division, "Election to Cancel Variable Participation," ET-2313, can be obtained ~~from the following address: Department of Employee Trust Funds,~~ at no charge by writing to: department of employee trust funds, P.O. Box 7931, Madison, WI 53707-7931 ~~or from~~, or by calling: (608) 266-3285 or toll free at (877) 533-5020. The form also is available on the department's ~~internet site~~ website: etf.wi.gov.

SECTION 7. ETF 10.30 (5) (b) Note is amended to read:

Note: No specific form exists for rescinding an election to terminate participation in the variable division. The ~~letter should~~ written request must be dated and must make clear your intent ~~and include~~ by including words to the effect of "I want to rescind my election to terminate participation in the variable division." Participants may send a letter or fax with this request to the following address: ~~Department of Employee Trust Funds~~ department of employee trust funds, P.O. Box 7931, Madison, WI 53707–7931 or fax (608) 267–4549.

SECTION 8. ETF 10.71 (1) (a) is amended to read:

ETF 10.71 (1) (a) For an existing written transcript, a ~~$3.00~~ 5.00 flat charge plus ~~25¢~~ $1.00 for each page of the transcript for single copies.

SECTION 9. ETF 10.71 (1) (b), (c), and (d) are repealed.

SECTION 10. Section 10.71 (1) (e) is renumbered ETF 10.71 (1) (b).

SECTION 11. ETF 10.78 (1) is amended to read:

ETF 10.78 (1) Guardianship requirements. (1) When the amount of a single sum benefit payment to a minor, as defined under s. 54.01 (20), Stats., or incompetent, as ~~defined under s. 880.01 (4),~~ described in s. 54.10 (3), Stats., exceeds $5,000, or when an annuity or disability annuity is payable, payment shall be made by the department to the court appointed guardian, for the benefit of the minor or incompetent, upon receipt of a certified copy of the letters of appointment. Letters of appointment shall be certified within the past 6 months. If the minor is married and has not been adjudged to be incompetent, the department shall make the payment to the minor.

SECTION 12. ETF 10.78 (1) Note is repealed.

SECTION 13. Section 10.78 (3) and (4) are renumbered ETF 10.78 (2) and (3).

SECTION 14. ETF 10.82 (2) (b) 2. f. Note is amended to read:

Note: Records in the department pertaining to participants, alternate payees and insured persons are filed by Social Security Number, member identification number and name. Records pertaining to beneficiaries of deceased participants are filed with the deceased participant's records, identified by the decedent's name ~~and~~, Social Security Number and member identification number, as well as the name and Social Security Number of the beneficiary. ~~To help assure prompt and accurate processing, this identifying information should be included with any fax or e-mail or, indeed, any other form of correspondence.~~

SECTION 15. ETF 10.84 (2) is amended to read:

ETF 10.84 (2) When the department responds to a request for information, forms, estimates or similar documents, if the requestor is not actually available in the department's offices for delivery by hand, the ~~standard~~ method of transmission of requested documents to the requestor shall be through the U.S. ~~mails~~ mail, by e-mail, by facsimile, or through the requestor's participating employer, if any, at the discretion of the department.

SECTION 16. ETF 10.84 (3) is repealed.

SECTION 17. ETF 11.02 (9), (10), (11), (12), and (13) are renumbered to ETF 11.02 (11), (12), (13), (14), and (15).

SECTION 18. ETF 11.02 (9) is created to read:

ETF 11.02 (9) "E-mail" means to send via electronic mail over a computer network.

SECTION 19. ETF 11.02 (10) is created to read:

ETF 11.02 (10) "Hearing examiner" means the person who presides over each appeal of a determination made by the department of employee trust funds including an administrative law judge employed by the division of hearings and appeals.

SECTION 20. ETF 11.03 (4) (a) is amended to read:

ETF 11.03 (4) (a) The request is in writing. No appeal may be commenced ~~on~~ based upon an oral request. The requestor may, but is not required to, file the request for an appeal by using form ET-4938, "Appeal Form."

SECTION 21. ETF 11.03 (4) (a) Note is created to read:

Note: The Appeal Form can be obtained at no charge by writing to: department of employee trust funds, P. O. Box 7931, Madison, WI 53707-7931, or by calling: (608) 266-3285 or toll free at (877) 533-5020. The form also is available on the department's website: etf.wi.gov.

SECTION 22. ETF 11.03 (4) (b) is amended to read:

ETF 11.03 (4) (b) The request identifies the particular ~~departmental~~ department determination being challenged and the factual and legal basis for the appeal, including specifically identifying the particular material facts and legal interpretations underlying the ~~departmental~~ department determination which the appellant believes are erroneous. Any question about the sufficiency of the pleading under this paragraph shall be resolved by the hearing examiner.

SECTION 23. ETF 11.03 (4) (c) is amended to read:

ETF 11.03 (4) (c) The request for an appeal is mailed, sent by e-mail, sent by facsimile, or delivered to the appropriate board in care of the appeals coordinator at the department of employee trust funds by the person requesting the appeal. Appeal requests received which erroneously name a board with respect to a subject matter reviewed by another board shall be redirected to the appropriate board by ~~board staff~~ the appeals coordinator.

SECTION 24. ETF 11.04 (6) (b) is amended to read:

ETF 11.04 (6) (b) A party ~~mailing~~ sending any communication or document to the hearing examiner by mail, e-mail, or facsimile shall also ~~mail~~ provide a copy to each party, including the department. This requirement does not pertain to the appeals coordinator or other board staff when submitting documents for the hearing examiner's signature for subsequent mailing to all parties.

SECTION 25. ETF 11.05 (2) is amended to read:

ETF 11.05 (2) In an appeal of the denial of an application for a disability annuity or duty disability benefits under s. 40.63 (5) or (9) (d) or 40.65 (2) (b) 3., Stats., the department may provide the hearing examiner, employer, ~~and~~ participant and any other party to the appeal with copies of any physician certifications under s. 40.63 (1) (d) or 40.65 (2) (b) 2., Stats., received in connection with the application.

SECTION 26. ETF 11.05 (5) (a) is amended to read:

ETF 11.05 (5) Testimony may be taken and preserved of a witness:

(a) Who is beyond the reach of the subpoena of the agency, any other party, or the hearing examiner;

SECTION 27. ETF 11.06 (4) (c) is amended to read:

ETF 11.06 (4) (c) For the purpose of determining timeliness of an appeal request, notice of the department determination is conclusively presumed to have been given to the addressee and all listed recipients of copies on the date ~~of mailing of~~ the determination was sent by mail or e-mail. Absent clear and convincing proof to the contrary, ~~the date of mailing is presumed to be~~ the day the determination is dated~~.~~ is presumed to be the date the determination was sent by mail or e-mail. Absent clear and convincing proof to the contrary, a request for an appeal is presumed received on the day stated by the date stamp affixed to incoming department correspondence. If the request for an appeal is made by e-mail, the request is presumed to be received by the department on the date the e-mail enters the information processing system designated or used by the department for the purpose of receiving electronic mail provided the following are true:

1. The e-mail transmission is in a form capable of being processed by the department's information processing system.

2. The department is able to retrieve the e-mail from the information processing system.

SECTION 28. ETF 11.08 (2) (b) 1. is amended to read:

ETF 11.08 (2) (b) 1. The appeal was not filed within 90 days after the ~~departmental~~ department determination appealed from was mailed to the person aggrieved by the determination. The entire appeal shall be dismissed.

SECTION 29. ETF 11.09 (3) (introductory) is amended to read:

ETF 11.09 (3) OBJECTIONS. Any party ~~aggrieved by the proposed decision~~ may file a written objection to the proposed decision within 20 days of the date of the notice of the proposed decision. The ~~aggrieved~~ party shall specify, in detail, the following:

SECTION 30. ETF 11.09 (3) Note is created to read:

Note: The written objection shall be filed with the division of hearings and appeals at the following address: 5005 University Avenue Suite 201, P.O. Box 7875, Madison, WI 53707-7875.

SECTION 31. ETF 11.12 (5) (a) is amended to read:

ETF 11.12 (5) (a) Parties to the appeal and their attorneys of record may not be present during the closed session, except that board staff and advisory staff of the

department who were not involved in the proceedings or in making the underlying ~~departmental~~ department determination may be present at the discretion of the board.

SECTION 32. ETF 20.017 is created to read:

ETF 20.017 Employer resolutions to participate. If the official notice of election to be included has been received by the department on or before November 15 the effective date of participation of the employer shall be the ensuing January 1. If the department receives the notice of election after November 15 the effective date shall be the January 1 after the ensuing January 1. The employer may withdraw a notice of election to be included if the employer's written notice to withdraw is received by the department before the November 15 deadline of the year before the January effective date.

SECTION 33. ETF 20.02 (3) (a) 3. Note is repealed.

SECTION 34. ETF 20.02 (3) (c) Note is amended to read:

Note: A rehired annuitant or employer may ~~secure~~ obtain a copy of the ~~election~~ "Rehired Annuitant Election" form, ET-2319, required by s. ETF 20.02 at no charge by ~~contacting the~~ writing to: department of employee trust funds ~~and asking for form ET-2319.~~, P. O. Box 7931, Madison, WI 53707-7931, or by calling: (608) 266-3285 or toll free at (877) 533-5020. The form also is available on the department's website: etf.wi.gov.

SECTION 35. ETF 20.045 (4) is created to read:

ETF 20.045 (4) Subject to the restrictions in s. 40.24 (7) (a), Stats., a participant's request to change the designation of a named survivor to a different named survivor shall be subject to the deadline specified in s. 40.24 (4), Stats., for changing the optional form of payment selected.

SECTION 36. ETF 20.055 (2) Note is amended to read:

Note: Section ETF 20.055 (2) requires forms which ~~are available~~ can be obtained at no ~~cost~~ charge by ~~contacting the Department of Employee Trust Funds,~~ writing to: department of employee trust funds, P.O. Box ~~7930~~ 7931, Madison, WI 53707-7931, or by calling: (608) 266-3285 or toll free at (877) 533-5020.

SECTION 37. ETF 20.10 Note is amended to read:

Note: The Affidavit of Domestic Partnership form, ~~(~~ET-2371~~)~~, and the Affidavit of Termination of Domestic Partnership form, ~~(~~ET-2372~~)~~, can be ~~found on ETF's Web site http://~~ obtained at no charge by writing to: department of employee trust funds, P.O. Box 7931, Madison, WI 53707-7931, or by calling: (608) 266-3285 or toll free at (877) 533-

5020. The forms also are available on the department's website: etf.wi.gov ~~or by contacting the department at 1-877-533-5020~~.

SECTION 38. ETF 20.17 (2) (c) Note is amended to read:

ETF 20.17 (2) (c) Note: The forms approved by the department for the purchase of service credits are "Application to Purchase Other Governmental Service," form ET−2205, "Qualifying Service Purchase Estimate/Application," form ET−4314, "Forfeited Service Purchase Estimate/Application" form ET−4315, "Uncredited Teaching Service Purchase Estimate/Application," form ET−4323. These are individually customized forms that reflect the department's estimate of the amount required from the participant for that particular purchase. In addition, where no standard form exists for the type of service purchase, customized estimates will be prepared by the department upon request. All forms and estimates ~~are available free upon request~~ can be obtained at no charge by writing to: the department of employee trust funds ~~at 801 W. Badger Road~~, P.O. Box 7931, Madison, WI 53707−7931, or by calling ~~the ETF Call Center at~~ (608) 266−3285 or toll free at (877) 533−5020. Forms should be requested at least four (4) weeks before the date the participating employee intends to apply, and well in advance of any anticipated termination of employment, to allow sufficient time for the department to calculate the personalized estimates of the cost.

SECTION 39. ETF 20.17 (6) (b) Note is amended to read:

ETF 20.17 (6) Note: The form "Uncredited Teaching Service Purchase Estimate/Application," form ET−4323~~.~~ can be obtained at no charge by writing to: department of employee trust funds, P. O. Box 7931, Madison, WI 53707-7931, or by calling (608) 266-3285 or toll free at (877) 533-5020.

SECTION 40. ETF 20.19 (3) (a) is amended to read:

ETF 20.19 (3) CREDITABLE MILITARY SERVICE. (a) For purposes of ~~s. 40.23 (2m) (e), Stats., except as provided in par. (b), creditable military service based on creditable service performed before January 1, 2000 means the years of creditable military service based on creditable service performed before January 1, 2000 as specified in~~ s. 40.23 (2m) (em) 1. c., Stats., ~~means the years of creditable military service for which the participant would be eligible that are based on the years of service that are considered to be performed before January 1, 2000. Creditable service that is considered to be performed after December 31, 1999 does not increase the amount of creditable military service that is considered to be performed before January 1, 2000.~~ the amount of creditable military service that is considered to be performed before January 1, 2000, is granted in proportion to the final amount of the participant's total creditable service, other than creditable military service, credited to the participant's account.

SECTION 41. ETF 20.19 (3) (b) is repealed.

SECTION 42. ETF 20.35 (2) (b) is amended to read:

ETF 20.35 (2) (b) With respect to marriages terminated ~~before~~ on or after April 28, 1990, the division shall be as provided in subs. (3) and (5).

SECTION 43. ETF 20.35 (2) (b) Note is amended to read:

Note: ~~It was the department's intent for par. (b) to read as follows: "With respect to marriages terminated on or after April 28, 1990, the division shall be as provided in subs. (3) and (5)."~~ This language is consistent with the heading of s. ETF 20.35 (5), which reads: "Marriages terminated on or after April 28, 1990."

SECTION 44. ETF 40.01 (2) Note is amended to read:

Note: A copy of the applicable group health insurance contract may be obtained ~~upon request~~ at no charge by writing to: ~~the Department of Employee Trust Funds, Division of Insurance Services, 801 W. Badger Road,~~ department of employee trust funds, division of insurance services, P.O. Box 7931, Madison, WI 53707-7931~~.~~, or by calling (608) 266-3285 or toll free at (877) 533-5020.

SECTION 45. ETF 40.10 (2) (intro) is amended to read:

ETF 40.10 (2) ~~The~~ As provided in a collective bargaining agreement under subch. IV of ch. 111, the employer shall pay an employer contribution toward the gross health insurance premium based on the lowest cost qualified plan in the service area of the employer, as follows:

SECTION 46. ETF 40.10 (2) (e) is repealed.

SECTION 47. ETF 40.10 (3) (intro), (a), (b), (c), (d), and (e) are created to read:

ETF 40.10 (3) Except as provided under par. (2), the employer shall pay an employer contribution toward the gross health insurance premium based on the average premium of qualified plans in the service area of the employer, as follows:

(a) For insured part-time employees who are appointed to work less than 1,044 hours per year, an amount not less than 25% of the lowest cost qualified plan.

(b) For eligible employees not specified in par. (a) or (c), an amount between 50% and 88% of the average premium cost of qualified plans.

(c) For a retiree, surviving dependent or an eligible employee on leave of absence or layoff, an employer contribution is optional.

(d) The employer can establish an arrangement for contributing towards the premiums for employee health insurance under s.40.51 (7), Stats., pursuant to par. (2) (d) (1) through (4).

(e) The group insurance board, with the advice of the actuary, may classify a health plan offered to local government employees in a tier that is different than that of the health plan of the same name as offered to state employees.

SECTION 48. ETF 50.46 Note is amended to read:

Note: Form ET-5321, "LTDI Election," ~~is available from the department, Benefit Information Section~~ may be obtained at no charge by writing to: department of employee trust funds, P.O. Box ~~7930~~ 7931, Madison, Wisconsin 53707~~;~~-7931, ~~telephone~~ or by calling (608) 266-3285 or toll free at (877) 533-5020.

SECTION 49. ETF 50.48 (1) Note is amended to read:

Note: Form ET-5313, "Long-Term Disability Benefit Claim Form," ~~is available upon request from the department~~ may be obtained at no charge by writing to: department of employee trust funds, P.O. Box 7931, Madison, Wisconsin 53707-7931~~.~~, or by calling (608) 266-3285 or toll free at (877) 533-5020.

SECTION 50. ETF 50.52 (2) (a) is amended to read:

ETF 50.52 (2) (a) LTDI RETIREMENT SUPPLEMENTAL BENEFIT. (a) In addition to the basic LTDI benefit payable to a recipient, the LTDI program shall pay a retirement supplemental benefit in the form of an employer additional contribution to the Wisconsin retirement system for recipients qualifying under this subsection.

SECTION 51. ETF 50.58 (1) (b) is amended to read:

ETF 50.58 (1) (b) Integration with benefits under s. 66.191, 1981 Stats. Any person entitled to payments of LTDI benefits who may otherwise be entitled to payments under s. 66.191, 1981 Stats., may file with this department and the department of ~~industry, labor and human relations~~ workforce development a written election to waive payments due under this subchapter and accept in lieu of the payments under this subchapter payments as may be payable under s. 66.191, 1981 Stats., but no person may receive payments under both s. 66.191, 1981 Stats., and this subchapter. However, any person otherwise entitled to payments under this subchapter may receive the payments, without waiver of any rights under s. 66.191, 1981 Stats., during any period as may be required for a determination of the person's rights under s. 66.191, 1981 Stats. Upon the final adjudication of the person's rights under s. 66.191, 1981 Stats., if waiver is filed under this paragraph, the person shall immediately cease to be entitled to payments under this subchapter and the LTDI account shall be reimbursed from the award made under s. 66.191, 1981 Stats., for all payments made under this subchapter.

SECTION 52. ETF 52.06 (5) Note is amended to read:

Note: The "Duty Disability Application," form ET−5311, and an initial "Duty Disability Medical Report," form ET−5312, ~~are available free upon request from the Department of Employee Trust Fund, Division of Insurance Services, Disability Programs Bureau~~ may be obtained at no charge by writing to: department of employee trust funds, P.O. Box 7931, Madison, WI 53707-7931~~.~~ or by calling (608) 266-3285 or toll free at (877) 533-5020. ~~Outdated versions should not be used and may be rejected.~~

SECTION 53. ETF 52.06 (9) is amended to read:

ETF 52.06 (9) FALSE INFORMATION. The department may deny the application of any person who submits false information ~~material to~~ regarding an application for duty disability benefits.

SECTION 54. ETF 60.60 (3) Note is amended to read:

Note: Form ET−2324, "Election to Convert Life Insurance to Pay Health or Long−Term Care Insurance Premiums," is available at no charge from the ~~Department of Employee Trust Funds~~ department of employee trust funds. The form can be obtained at no charge by writing to: department of employee trust funds, P. O. Box 7931, Madison, WI 53707-7931, or by calling: (608) 266-3285 or toll free at (877) 533-5020.

SECTION 55. ETF 70.02 (1) is amended to read:

ETF 70.02 Definitions. ~~(1)~~ In this chapter, words and phrases shall have the following meanings:

SECTION 56. ETF 70.02 (2), (3), (4), and (4m) are renumbered ETF 70.02 (1), (2), (3), and (4).

SECTION 57. ETF 70.03 (1) is amended to read:

ETF 70.03 Board responsibilities. ~~(1)~~ The board shall have the following responsibilities in regard to the program:

SECTION 58. ETF 70.03 (2), (3), (4), (5), (6), (7), (8), (9), (10), and (11) are renumbered ETF 70.03 (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10).

SECTION 59. ETF 70.04 (1) is amended to read:

ETF 70.04 Department responsibilities. ~~(1)~~ The department shall be responsible for the following:

SECTION 60. ETF 70.04 (2), (3), (4), (5), (6), (7), (8), and (9) are renumbered ETF 70.04 (1), (2), (3), (4), (5), (6), (7), and (8).

SECTION 61. ETF 70.15 Note is amended to read:

Note: Chapter ETF 70 requires several forms which are available at no charge by contacting either the department of employee trust funds or the current administrative plan provider. The forms may be obtained at no charge by writing to: department of employee trust funds, P. O. Box 7931, Madison, WI 53707-7931, or by calling: (608) 266-3285 or toll free at (877) 533-5020. The forms also are available on the department's website: etf.wi.gov or on the Wisconsin deferred compensation program's website: www.wdc457.org.

(end of rule text)

Economic Impact Analysis for ETF rule relating to technical and minor substantive changes in existing ETF administrative rules

This rule does not have an economic effect on specific businesses, business sectors, public utility ratepayers, local governmental units, and the state's economy as a whole. Because this technical rule does not have an economic impact, ETF has not solicited information and advice from businesses, associations representing businesses, local governmental units, and individuals that may be affected by the proposed rule. For the same reason, ETF has not contacted local governmental units.

The policy problem that the proposed rule is intended to address is to indicate that many forms required by the department can be obtained from the department's website, to recognize the use of e-mail in communications made and received by the department, to make notes in the rules consistent, to reflect current practices of the department, and to make other technical changes. The federal government and the states of Illinois, Iowa, Michigan, and Minnesota periodically make technical changes in their administrative rules.

There is no economic impact of this proposed rule and therefore no implementation and compliance costs reasonably expected to be incurred by or passed along to businesses, local governmental units, and individuals that may be affected by the proposed rule.

The actual and quantifiable benefits of the proposed rule include making it easier for members of the Wisconsin Retirement System to obtain forms required by the department and to communicate with the department by a variety of means. In addition, the notes following existing rules will be consistent in content and appearance. We expect that the proposed rule will be effective in addressing the policy problem noted above.

The alternative of not promulgating the proposed rule would result in the policy problem being ineffectively addressed with a lower level of customer service.

Since the proposed rule does not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of the state, the department did not consult with businesses, local governmental units, and individuals that may be affected by the proposed rule when preparing this economic impact analysis.

LCRC FORM 2

WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Richard Sweet
Clearinghouse Director

Pam Shannon
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **11-040**

AN ORDER to repeal ETF 10.71 (1) (b), (c), and (d), 10.84 (3), 20.02 (3) (a) 3. and Note, and 20.19 (3) (b); to renumber ETF 10.71 (1) (e), 10.78 (1) Note, (3), and (4), 11.02 (9), (10), (11), (12), and (13), 70.02 (2), (3), (4), and (4m), 70.03 (2), (3), (4), (5), (6), (7), (8), (9), (10), and (11), and 70.04 (2), (3), (4), (5), (6), (7), (8), and (9); to amend ETF 10.03 Note, 10.07 Note, 10.12 (6) Note, 10.30 (2) Note, and (5) (a) Note and (b) Note, 10.71 (1) (a), 10.78 (1), 10.82 (2) (b) 2. f. Note, 10.84 (2), 11.03 (4) (a), (b), and (c), 11.04 (6) (b), 11.05 (2), and (5) (a), 11.06 (4) (c), 11.08 (2) (b) 1., 11.09 (3) (intro.), 11.12 (5) (a), 20.02 (3) (c) Note, 20.055 (2) Note, 20.10 Note, 20.17 (2) (c) Note, and (6) (b) Note, 20.19 (3) (a), 20.35 (2) (b) and Note, 40.01 (2) Note, 50.46 Note, 50.48 (1) Note, 50.52 (2) (a), 50.58 (1) (b), 52.06 (5) Note and (9), 60.60 (3) Note, 70.02 (1) 70.03 (1), 70.04 (1), and 70.15 Note; and to create ETF 11.02 (9) and (10), 11.03 (4) (a) Note, 11.09 (3) Note, 20.017 and 20.045 (4), relating to technical and minor substantive changes in existing ETF administrative rules.

Submitted by **DEPARTMENT OF EMPLOYEE TRUST FUNDS**

06-20-2011 RECEIVED BY LEGISLATIVE COUNCIL.

07-05-2011 REPORT SENT TO AGENCY.

RNS:DWS

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LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

   Comment Attached YES ☐ NO ☑

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

   Comment Attached YES ☑ NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

   Comment Attached YES ☐ NO ☑

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

   Comment Attached YES ☐ NO ☑

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

   Comment Attached YES ☐ NO ☑

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

   Comment Attached YES ☐ NO ☑

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

   Comment Attached YES ☐ NO ☑

WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Richard Sweet
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Legislative Council Deputy Director

CLEARINGHOUSE RULE 11-040

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

a. Stricken material should precede adjacent underscored material. For example, in SECTION 5, "~~or from~~" should precede ", or by calling". [See s. 1.06 (1), Manual.]

b. The full citation of the rule should appear at the beginning of the text shown in a particular SECTION. For example, in the text of SECTION 7, "ETF 10.71 (1)" should precede "(a)". This was done correctly in SECTION 10 and other SECTIONS. The entire rule should be reviewed for instances where this was not done correctly.

c. Although not an error as drafted, the renumbering in SECTION 16 could be avoided by creating s. ETF 11.02 (8g) in SECTION 17 and s. ETF 11.02 (8r) in SECTION 18. [See s. 1.03 (2) (g), Manual.]

d. In SECTION 44, "Box ~~7930~~ 7931" should replace "Box 7930~~1~~".

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Response to Legislative Council Staff Recommendations

The DETF implemented all of the Legislative Council Staff recommendations contained in the Clearinghouse Report with one minor exception. Changes were made in form, style and placement in the administrative code. However, no change was made in comment "c" in the section regarding form, style and placement in the administrative code.

List of Persons Appearing or Registering For or Against the Rules.

No persons registered either for or against the rule at the public hearing on July 29, 2011.

Summary of Comments Received at Public Hearing.

No person wished to testify concerning the rule. The record was held open for written comments until 4:30 p.m. on July 29, 2011, but no comments were received.

Modifications to Rule as Originally Proposed as a Result of Public Comments

None.

Modifications to the Analysis Accompanying the Proposed Rule.

None.

Modifications to the Initial Fiscal Estimate

None.

Board Authorization for Promulgation

This final draft report on Clearinghouse Rule #11-040 has been duly approved for submission to the Legislature, and for promulgation, by the Department of Employee Trust Funds, by the Group Insurance Board at its meeting on August 23, 2011, by the Employee Trust Funds Board, Wisconsin Retirement Board and Teachers Retirement Board at their meetings on September 15, 2011, and by the Deferred Compensation Board at its meeting on November 15, 2011.

Effective Date

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2), Stats.

Respectfully submitted,

DEPARTMENT OF EMPLOYEE TRUST FUNDS

_____ Date: _____

David A. Stella
Secretary