May 8, 2012
Revised July 8,2013

Information for Military Service Members Regarding 2011 Wisconsin Acts 10 and 32

2011 Wisconsin Act 10 and 2011 Wisconsin Act 32 contained a number of provisions that affected the retirement system administered by the Department of Employee Trust Funds (ETF). Major changes to the Wisconsin Retirement System (WRS) include:

- Prohibiting employers from paying the employee share of WRS contributions under most circumstances, and;
- Making employee required contributions pre-tax.

General Information on Acts 10 and 32

Q. How did 2011 Wisconsin Acts 10 and 32 alter WRS contributions?

A. The Acts made changes to the actual employee and employer required contributions to the WRS, and the Acts also made changes to what an employer is allowed to pay (pick-up) toward WRS contributions for its employees.

First, the Acts made changes to WRS contribution rates. These changes applied to all WRS members, regardless of whether members were covered by a collective bargaining agreement. The WRS contribution rate changes brought about by the Acts are listed in the table below and were effective the first day of the first pay period on or after June 29, 2011.

Second, Act 10 prohibited WRS employers from paying the WRS employee required contribution with a few exceptions. This change applied to all WRS employers and all WRS employees who did not have a collective bargaining agreement in place prior to the effective date of Act 10, which was June 29, 2011, or who were not exempt from the prohibition against WRS employers paying the WRS employee required contribution. Act 10 requires employees covered by a collective bargaining agreement, but not exempt from the prohibition against the employer paying the employee required contributions, to contribute on the day on which the agreement expires or is terminated, extended, modified or renewed, whichever occurs first. If you have questions about the impact of these law changes on you, please contact your employer.

2011 WRS CONTRIBUTION RATES

Employment Category	Before June 29, 2011				June 29, 2011 and After		
	EERC	BAC	ERRC	Total	EERC	ERRC	Total
General/Teachers	5.0%	1.5%	5.1%	11.6%	5.8%	5.8%	11.6%
Protective w/SS	5.8%	0%	8.9%	14.7%	5.8%	8.9%	14.7%
Protective w/out SS	4.8%	0%	12.2%	17.0%	5.8%	11.2%	17.0%
Elected/Executive	3.9%	0%	9.4%	13.3%	6.65%	6.65%	13.3%

- WRS contribution rates are adjusted each calendar year depending on investment performance and actuarial factors.
- Notes about table above:
  EERC=employee required contribution
  ERRC=employer required contribution
  BAC=Benefit Adjustment Contribution

- Visit the site below for additional information about WRS contribution rates: http://www.etf.wi.gov/employers/wrs_contribution_rates.htm.

Q. What is the tax treatment of employee required contributions under Act 32?

A. Act 32 specified that the employee required contributions be made on a pre-tax basis. These pre-tax contributions are allowed under the Internal Revenue Code for a governmental plan, such as the WRS.

"Pre-tax" means that your employee required contributions are not included as taxable income at the time wages are paid. The taxation of this amount is deferred until you start receiving a retirement annuity from the WRS.

The effective date of the pre-tax mandate in Act 32 is July 1, 2011, which means it was effective the first pay period that began on or after July 1, 2011.

The Act 32 language states that the pre-tax treatment of WRS employee required contributions applies to all WRS employees unless there is a collective bargaining agreement in place that explicitly prohibits the pre-tax treatment of an employee contribution.

Information Specific to Military Service Members

Q: If I return from military duty and make a USERRA election, pursuant to Acts 10 and 32, would I be required to make the employee required contributions to the WRS?

A: Absent a collective bargaining agreement with provisions to the contrary, the Acts provide that you would be responsible for making WRS employee required contributions. Therefore, upon return to employment with your pre-service employer, you would have the choice to make all, some, or none of the employee required make-up contributions related to your military leave of absence.

USERRA allows for employee required make-up contributions to a contributory defined benefit plan, such as the WRS, to be made beginning with the date of reemployment, and ending on the earlier of: (1) three times the period of military service, or; (2) five years. USERRA specifies that make-up contributions are only allowed while you are employed with your pre-service employer.

Example: If you were on a military leave of absence for one year, and you chose to pay back 100% of your WRS employee required make-up contributions, you would have three years to pay back those contributions and receive the matching employer-required contributions.

Q: If I return from military duty and make a USERRA election, pursuant to Acts 10 and 32, when would the employee required WRS contributions have been effective?

A: The effective date would have been the same as for other state or local employees without a collective bargaining agreement with provisions to the contrary. For state employees, the first pay period that the state deducted money for the WRS employee required contributions was the pay period from July 31, 2011 to August 13, 2011. The Department of Administration suggested that local employers consider deducting the WRS employee required contributions from employees on or after the first pay period after July 31, 2011.

Q: If I return from military duty and make a USERRA election, what responsibility does my employer have related to WRS contributions?

A: When you return from a military leave of absence to employment with your pre-military service employer, ETF asks that your employer provide you with ETF's new USERRA Certification form (ET-4560) (http://etf.wi.gov/publications/et4560.pdf). That form is necessary for two reasons, no matter the length of your military leave:

1. You receive WRS service credit for the period of time when you are on a military leave of absence, with limited exceptions, and;

2. You have the choice whether to make up none, some, or all of the WRS employee required contributions dating to your military leave of absence, within a time period of three times the length of your service, up to a maximum of five years. These contributions must be paid back while employed at your pre-military service employer as pre-tax contributions.

Please note, the USERRA Certification form (ET-4560) was made necessary by changes to state law, not by any changes to the federal USERRA law.

Q. What responsibility do I have with respect to ETF's USERRA Certification Form?

A. The instructions to the form reflect that you should then provide the form to your employer with a copy of supporting military documentation. Supporting documentation is only required when your leave was longer than 30 days.

The employer completes the rest of the form, certifying that you meet the requirements under USERRA. The employer then submits the form and supporting military documentation, if applicable, to ETF.

It is important that you submit this form to your employer as soon as possible upon return from military duty in order to ensure that you receive your rights under USERRA.

<u>General Questions About the WRS</u>

Q. Can public employees who work for a WRS employer opt out of the WRS?

A. No, current law prohibits participating employees from opting out of the WRS. Allowing WRS members to opt out of the WRS would likely have a negative impact on the sustainability of the retirement system, and would likely increase contributions for employees and employers remaining in the WRS.