



STATE OF WISCONSIN
Department of Employee Trust Funds
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CORRESPONDENCE MEMORANDUM

DATE: February 19, 2008
TO: Deferred Compensation Board
FROM: David H. Nispel
SUBJECT: Approval of Scope Statement Regarding
Proposed Amendment to Wis. Admin. Code § ETF 11.11

The Board is asked to approve the attached scope statement.

The Department of Employee Trust Funds proposes to modify Wis. Admin. Code s. ETF 11.11, relating to appointment of legal counsel to advise the boards that are attached to the department while the boards consider a final decision pertaining to an appeal. The department requests approval of the attached scope statement. Approval of the scope statement is the first step in promulgating an administrative rule. The final version of the proposed rule will be submitted to the boards in the Spring of 2008.

The proposed amendment covered by the scope statement concerns appointment of legal counsel by the Employee Trust Funds Board, Wisconsin Retirement Board, Teachers Retirement Board, Group Insurance Board, and the Deferred Compensation Board. The amendment also relates to the nature of the legal representation provided to those boards during their consideration of a final decision pertaining to a pending appeal.

Currently, board staff arranges for legal counsel to advise the above boards from one of three sources: 1) the Department of Justice, if the department is a party to the appeal; 2) the department's chief counsel, if the department is not a party to the appeal; and 3) outside counsel, if neither the department's chief counsel nor the Department of Justice is able to provide legal counsel. The current rule also prescribes a number of specific duties of the legal counsel.

The proposed amendment was prompted by the need to provide the boards with additional flexibility in the use of legal counsel. Under the proposed amendment covered by the scope statement, board staff may arrange for legal counsel for the boards as deemed necessary and in accordance with the statutory responsibilities of the Department of Justice to provide legal counsel. In addition, the proposed amendment would eliminate the itemized duties of the legal counsel contained in the current rule and simply provide that the legal counsel shall provide legal representation to the board.

The retirement boards approved this scope statement in December 2007. The Group Insurance Board approved the scope statement at its February 12, 2008, meeting.

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

Signature Date

Board	Mtg Date	Item #
DC	03/04/2008	10