



State of Wisconsin
Department of Employee Trust Funds
Robert J. Conlin
SECRETARY

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Correspondence Memorandum

Date: September 2, 2016

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

From: David H. Nispel, General Counsel
Dan Hayes, Attorney

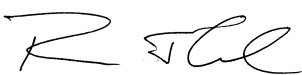
Subject: Clearinghouse Rule # 16-033
Proposed Administrative Rule Making Technical and Minor
Substantive Changes to Existing Administrative Rules

Staff requests that the Boards approve the final version of this proposed rule.

The Department of Employee Trust Funds (ETF) proposes to revise existing administrative rules to make technical updates, delete obsolete language and make other minor substantive changes. A copy of the Final Draft Report on Clearinghouse Rule #16-033 is attached.

The proposed rule makes the following changes:

- Removes references to specific dates in a month that reports and remittances are required to be submitted to the department by Wisconsin Retirement System employers, and makes these reports and remittances due on a day determined by the ETF Secretary and communicated to employers by the department through email updates, employer bulletins, or other means of communication.
- Adds a “named survivor” to the types of people to whom the department may release individual personal information when a WRS member dies or suffers a disabling injury or disease and reorganizes the affected subsection for clarity.
- Deletes obsolete language related to invalidating certain documents signed by a guardian but not accompanied by a certified copy of an order of a circuit court approving the specific terms of the document.

Reviewed and approved by Robert J. Conlin, Secretary

Electronically Signed 9/12/16

Board	Mtg Date	Item #
JM	9.29.16	3D
TR	9.29.16	3A
WR	9.29.16	3A
ETF	9.29.16	4A

Board approval of the final version of the proposed rule is the next step in the administrative rule promulgation process. If approved by the Board, the rule will be submitted to the Governor's Office and the State Legislature for consideration. Prior to this date, the following action has been taken:

- Scope Statement approved by the Governor (January 27, 2016)
- Scope statement published in the Wisconsin Administrative Register (February 1, 2016)
- Scope statement approved by the ETF Secretary (February 11, 2016)
- Pre-submission of proposed rule for editing submitted to the Legislative Reference Bureau (April 14, 2016)
- Pre-submission editorial suggestions received from the Legislative Reference Bureau (April 20, 2016)
- Proposed rule and report submitted to the Legislative Council Administrative Rules Clearinghouse (May 12, 2016)
- Proposed rule and economic impact analysis submitted to the Governor's Office, Department of Administration and Legislative Reference Bureau along with a notice of the scheduled public hearing (May 12, 2016)
- Proposed rule and economic impact analysis submitted to the Senate Chief Clerk and Assembly Chief Clerk (May 12, 2016)
- Proposed rule, fiscal estimate and economic impact analysis posted on ETF's website (May 23, 2016)
- Notice of hearing published in the Wisconsin Administrative Register (May 23, 2016)
- Legislative Council Clearinghouse Report received (June 8, 2016)
- Public hearing for proposed rule (June 15, 2016)

Changes to the rule were made in response to comments received in the Legislative Council Clearinghouse Report. The rule now conforms to recommended form and style.

Staff will be at the Board meeting to answer any questions.

Attachment: Final Draft Report on Clearinghouse Rule #16-033

**State of Wisconsin
Department of Employee Trust Funds
Employee Trust Fund Board
Wisconsin Retirement Board
Teachers Retirement Board**

FINAL DRAFT REPORT ON CLEARINGHOUSE RULE #16-033

An order to repeal ETF 10.63 (1) (e) 2. and 10.80; to renumber and amend ETF 10.70 (4); to consolidate, renumber, and amend ETF 10.63 (1) (e) (intro.) and 1.; to amend ETF 10.63 (1) (a) to (d), (f), (2); and to create ETF 10.63 (1) (intro.) and 10.70 (4) (c), relating to technical and minor substantive changes in existing ETF administrative rules.

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Department of Administration s. 227.137 Report	None
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The scope statement for this rule, SS 008-16, was approved by the Governor on January 27, 2016, published in Register No. 722A1, on February 1, 2016, and approved by ETF Secretary Robert Conlin on February 11, 2016.

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.wi.gov.

Statement Explaining Need for Rule

This rule-making is needed to make technical updates to existing ETF rules, delete obsolete language in ETF rules, and to make other minor substantive changes.

Analysis Prepared by the Department of Employee Trust Funds

1. Statutes interpreted:
Sections 40.07, 40.05 and 40.08 (9m), Stats.
2. Statutory authority:
Sections 40.03 (2) (i) and 227.11 (2) (a), Stats.
3. Explanation of agency authority:
By statute, the ETF 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.

In addition, 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 statutes or rules:
There are no other related statutes or administrative rules directly related to this technical rule.
5. Plain language analysis:
The objective of this technical rule is to make technical updates to existing ETF rules and make other minor substantive changes. Three specific changes are made in this rule:
 - Removing references to specific dates in a month that reports and remittances are required to be submitted to the department by Wisconsin Retirement System employers and makes these reports and remittances due on a day determined by the secretary and communicated to employers by the department through email updates, employer bulletins, or other means of communication.
 - Adding a “named survivor” to the types of people to whom the department may release individual personal information when a WRS member dies or suffers a disabling injury or disease and reorganizing the affected subsection for clarity.
 - Deletes obsolete language related to invalidating certain documents signed by a guardian but not accompanied by a certified copy of an order of a circuit court approving the specific terms of the document.
6. Summary of, and comparison with, existing or proposed federal statutes and 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 analysis:
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. Effect on small business:
The rule has no effect on small businesses.

Regulatory Flexibility Analysis:

The proposed rule has no 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 and Economic Impact Statement:

Please see the attached Fiscal Estimate and Economic Impact Statement.

Text of Proposed Rule

SECTION 1. ETF 10.63 (1) (intro.) is created to read:

ETF 10.63 (1) (intro.) Reports and remittances required under this chapter shall be submitted to the department as follows:

SECTION 2. ETF 10.63 (1) (a) to (d) are amended to read:

ETF 10.63 (1) (a) Contribution reports and remittances from state departments, excluding university and other state department reports which pertain to teachers only, required in the administration of subch. II of ch. 40, Stats., are due on ~~the 20th day of the month following the reporting month or on a day determined by the secretary and communicated to employers by the department through email updates, employer bulletins, or other means of communication.~~

(b) Contribution reports and remittances other than those specified in par. (a) required in the administration of subch. II of ch. 40, Stats., are due on ~~the last working day, excluding Saturdays, Sundays, and holidays when the state offices are closed, of the month following the end of the reporting month, or on a day determined by the secretary and communicated to employers by the department through email updates, employer bulletins, or other means of communication.~~

(c) Detailed annual earnings reports required in the administration of subch. II of ch. 40, Stats., are due on ~~the last working day, excluding Saturdays, Sundays, and holidays when the state offices are closed, of the calendar month following the end of the calendar year, or on a day determined by the secretary and communicated to employers by the department through email updates, employer bulletins, or other means of communication.~~

(d) Premium and coverage reports and remittances required in the administration of subchs. IV and VI of ch. 40, Stats., are due on ~~the 20th day of the calendar month preceding the coverage month or on a day determined by the secretary and communicated to employers by the department through email updates, employer bulletins, or other means of communication.~~

SECTION 3. ETF 10.63 (1) (e) (intro.) and 1. are consolidated, renumbered to (1) (e), and amended to read:

ETF 10.63 (1) (e) Premium and coverage reports and remittances required in the administration of subch. V of ch. 40, Stats., are due as follows: ~~1. For state agencies, on the 20th day of the calendar month following the reporting period or on a day~~ determined by the secretary and communicated to employers by the department through email updates, employer bulletins, or other means of communication.

SECTION 4. ETF 10.63 (1) (e) 2. is repealed.

SECTION 5. ETF 10.63 (1) (f) and (2) are amended to read:

ETF 10.63 (1) (f) Reduction reports and remittances required in the administration of subch. VIII of ch. 40, Stats., are due ~~within 2 working days after the date on which the regular employee payroll payments are issued, excluding Saturdays, Sundays, and holidays when the state offices are closed, or on a day~~ determined by the secretary and communicated to employers by the department through email updates, employer bulletins, or other means of communication.

(2) ~~Whenever the 20th day of the calendar month or a day~~ due date determined by the secretary referred to in sub. (1) falls on a Saturday, Sunday, or holiday on which state offices are closed, a report or a remittance received on the first working day after the ~~20th day of the calendar month or a day~~ due date determined by the secretary referred to in sub. (1) shall be deemed to have been received on a timely basis.

SECTION 6. ETF 10.70 (4) is renumbered ETF 10.70 (4) (intro.) and amended to read:

ETF 10.70 (4) (intro.) In case of death, disabling injury, or disabling disease, disclosure of the department may disclose individual personal information shall be made only to any of the following, as identified by the department:

- (a) The legal representative of the individual whose record is the subject of the inquiry, a
- (b) A beneficiary of the deceased under s. 40.02 (8), Stats., as identified by the department, the
- (d) The duly authorized representative of the beneficiary, the or the named survivor.
- (e) The legal representative of the deceased individual's estate.

SECTION 7. ETF 10.70 (4) (c) is created to read:

10.70 (4) (c) The named survivor of the deceased under s. 40.02 (41r), Stats.

SECTION 8. ETF 10.80 is repealed.

SECTION 9. 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) (intro.), Stats.



**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

Scott Grosz
Clearinghouse Director

Margit S. Kelley
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Jessica Karls-Ruplinger
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 16-033

AN ORDER to repeal ETF 10.63 (1) (e) 2. and 10.80; to consolidate, renumber, and amend ETF 10.63 (1) (e) (intro.) and 1.; to amend ETF 10.63 (1) (a) to (d) and (f) and (2) and 10.70 (4); and to create ETF 10.63 (1) (intro.), relating to technical and minor substantive changes in existing ETF administrative rules.

Submitted by **DEPARTMENT OF EMPLOYEE TRUST FUNDS**

05-12-2016 RECEIVED BY LEGISLATIVE COUNCIL.

06-08-2016 REPORT SENT TO AGENCY.

SG:DWS

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

Scott Grosz
Clearinghouse Director

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Legislative Council Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 16-033

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 December 2014.]

2. Form, Style and Placement in Administrative Code

a. The purpose of the plain language analysis is to provide an understandable and objective description of the effect of the rule. It is not adequate to simply call these technical changes. Please describe each change made to the rule in specific. [See s. 1.02 (2) (b), Manual.]

b. In s. ETF 10.63 (1) (a) to (f), is it necessary to maintain distinctions between various types of reports and remittances, given the department’s proposed revisions to defer all due dates to dates determined by the secretary and communicated by means other than the administrative code? If such distinctions are not necessary, the need for s. ETF 10.63 (1) (intro.) should also be reviewed.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In SECTION 1, s. ETF 10.63 (1) (intro.) refers to “various” reports in the subsection. This is vague. Consider using the following to improve clarity: “Reports and remittances required under this chapter shall be submitted to the department as follows:”.

b. In SECTION 6, the lengthy description of to whom disclosure may be made is somewhat awkward. Consider listing the alternatives as separate paragraphs in order to improve clarity for the reader.

Response to Legislative Council Staff Recommendations

ETF implemented all of the Legislative Council Staff recommendations contained in the Clearinghouse Report.

List of Persons Who Appeared or Registered at the Public Hearing.

No persons appeared or registered either for or against the rule at the public hearing on June 15, 2016.

Summary of Public Comments.

No person wished to testify concerning the rule. The record was held open for written comments until 4:30 p.m. on June 15, 2016, 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.

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) (intro.), Stats.

Respectfully submitted,

DEPARTMENT OF EMPLOYEE TRUST FUNDS

Robert J. Conlin
Secretary

Date: _____

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

ETF 10

3. Subject

Technical and minor substantive changes in existing ETF administrative rules

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

The objective of this technical rule is to make technical updates to existing ETF rules, delete obsolete language in ETF rules, and make other minor substantive changes.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

Information, including the proposed rule language, will be made available by posting on the ETF website and the Wisconsin administrative rules website and by submitting the information to the Governor's Office of Regulatory Compliance.

11. Identify the local governmental units that participated in the development of this EIA.

None

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

No substantive impact is anticipated.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Implementation of the Rule will enhance clarity and minimize confusion for the general public and public employers.

14. Long Range Implications of Implementing the Rule

Implementation will update affected ETF rules to reflect current administrative practices and delete obsolete language from ETF rules.

15. Compare With Approaches Being Used by Federal Government

Not applicable.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

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

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

17. Contact Name David Nispel	18. Contact Phone Number (608) 264-6936
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This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-