

STATE OF WISCONSIN
Department of Employee Trust Funds
Robert J. Conlin
SECRETARY

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CORRESPONDENCE MEMORANDUM

DATE: June 4, 2012
TO: Employee Trust Funds Board
Teachers Retirement Board
Wisconsin Retirement Board
FROM: David H. Nispel, General Counsel
Steve Hurley, Office of Policy, Privacy and Compliance
SUBJECT: Status of Proposed Administrative Rules

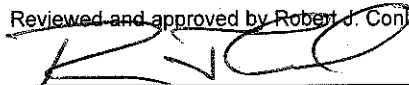
This memo is for informational purposes only. No Board action is required.

This memorandum provides information about administrative rules in development. When rules are in final draft form, they are brought to the Boards for approval. Some rules must be approved by all three Boards; others need only be approved by one or two.

New this year is a section on the administrative rule process. You may recall that in 2011 and 2012, legislation was enacted and executive orders were issued that significantly changed the process. This new section, which will appear as the final section of each edition of the memorandum, will feature one or more of the changes to the rule making process. This particular memorandum will provide an overview of those changes and highlight the most recent change involving small business.

As of June 4, 2012, there are nine rules which can be divided into the following categories:

- Employee Trust Funds (ETF), Wisconsin Retirement (WR),
and Teachers Retirement (TR) Boards6
- ETF and TR Boards1
- ETF Board Only1
- WR Board Only1

Reviewed and approved by Robert J. Conlin, Secretary

 Signature _____ Date 6/6/12

Board	Mtg Date	Item #
Jl	6.21.12	5G

I. Rules Approved by ETF, WR, and TR Boards

Status: To be Published in Wisconsin Administrative Register on July 31, 2012 (effective date will be August 1, 2012)

- CR 11-040, Technical rule relating to making technical updates and corrections to existing ETF rules.
- CR 11-041, Qualified Domestic Relations Orders (QDRO) rule relating to changes to domestic partnerships, correct minor drafting errors, and to clarify how QDROs will be implemented in various situations that are currently not addressed in the statutes or rules.
- CR 11-042, Internal Revenue Code (IRC) compliance rule relating to clarifying how ETF administers IRC conditions under § 401 (a) as codified in §§ ETF 10.08, 20.02, and as governed by § 40.23 (1) (a) 1, Wis. Stats. ETF also seeks to clarify language in the Code to ensure compliance by better informing both employees and employers of IRC requirements.
- CR 11-044, Appeal procedures rule relating to updating ETF 11 to improve and clarify the process for members, the administrative law judge, the Boards that decide appeals, ETF, and others involved in the appeals process.

II. Rules to be Approved by ETF, WR, and TR Boards

Status: Statement of Scope Published in Wisconsin Administrative Register – ETF Staff Drafting Rule

- Annual federal compensation limits rule relating to clarifying how ETF administers federal compensation limits under Section 401 (a) (17) of the IRC as provided in § 40.03 (2) (t), Wis. Stats.

Status: Statement of Scope Being Drafted by ETF Staff

- Technical rule relating to making technical updates to existing ETF rules and making other minor substantive changes.

III. Rules to be Approved only by ETF and TR Boards

Status: Scheduled for Board Approval on June 21, 2012

- Election rule relating to changes to streamline the administrative process for the election of persons to the TR Board and ETF Board and to allow for the use of modern voting technologies.

IV. Rules to be Approved only by ETF Board

Status: Proposed rule submitted to the Wisconsin Legislative Council Rules Clearinghouse – Public Hearing will be scheduled

- CR 11-045, IRC compliance rule relating to clarifying how ETF administers provisions of the IRC, including §§ 415 (b), 415 (c) and 401 (a) (17) as provided in § 40.03 (2) (t), Wis. Stats. This scope statement incorporates the scope statement on § 401 (a) (17) that was published in the Administrative Register.

V. Rules to be Approved only by WR Board

Status: Statement of Scope Published in Wisconsin Administrative Register – ETF Staff Drafting Rule

- Duty disability rule relating to clarifying the existing rule regarding the administration of the duty disability program and streamlining the process of applying for and making a departmental determination regarding duty disability benefit.

VI. Updates on Administrative Rule Process

Generally

2011 Wisconsin Acts 21 and 32 made significant changes to the administrative rule making process. The changes relate to agency rule making authority, approval by the Governor of scope statements and final draft rules, treatment of emergency rules, preparation of economic impact analyses, referral of rules to the Joint Committee for Review of Administrative Rules (JCRAR), and detailed rule promulgation instructions to agencies.

Executive Order #50 (Guidelines for Promulgation of Administrative Rules) sets forth additional requirements and provides rule promulgation instructions to agencies. The Order also establishes an Office of Regulatory Compliance in the Governor's office.

Small Business

2011 Wisconsin Act 46 made changes to the administrative rule making process regarding small business and involves the Small Business Regulatory Review Board (SBRRB) in that process. In addition, Executive Order #61 (Relating to Job Creation and Small Business Expansion) requires all agencies to review existing rules and all rules proposed in the future for any impact on small business.

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Because administrative rules proposed by ETF do not affect small business, David Nispel contacted the staff person for the SBRRB to discuss the most effective manner for ETF to comply with Act 46 and Executive Order #61. Those discussions led to an April 25, 2012, letter from ETF, which is attached for your review.

Staff will be available at the June 21, 2012, Board meeting to answer questions you may have.



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April 25, 2012

MS JESSIE AUGUSTYN
DEPUTY DIRECTOR
DEPARTMENT OF ADMINISTRATION
101 E WILSON ST
MADISON WI 53702

Dear Ms. Augustyn:

I am writing as a follow-up to our telephone conversation on April 18, 2012. We agreed that the Department of Employee Trust Funds (ETF) could write a letter to you in response to your request that all state agencies submit plans to identify administrative rules for review by the Small Business Regulatory Review Board (SBRRB).

ETF is governed by Chapter 40, Wis. Stats. (Public Employee Trust Fund). The administrative rules proposed by ETF affect employees (s. 40.02 (26)) and employers (s. 40.02 (28)) who participate in the Wisconsin Retirement System (WRS). For example, recently ETF has proposed rules to amend the existing appeals rule (CR 11-044), to amend the existing rehired annuitant rule (CR 11-042), and a technical rule to amend several existing ETF rules (CR 11-040).

The administrative rules proposed by ETF do not affect small businesses. Prior to calling you on April 18th, I reviewed ETF rules in the Wisconsin Administrative Code. That review confirmed the foregoing statements.

However, when drafting future administrative rules, ETF will review those rules for any impact on small businesses. Any ETF rules with an economic impact on small businesses will be submitted to the SBRRB for review.

Please contact me, if you have any questions or wish to discuss ETF's administrative rules further. Thank you very much.

Sincerely,

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