



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

801 W Badger Road
PO Box 7931
Madison WI 53707-7931
1-877-533-5020 (toll free)
Fax (608) 267-4549
http://etf.wi.gov

CORRESPONDENCE MEMORANDUM

DATE: August 29, 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: Administrative Rules Status Update

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

This memorandum presents a status report on administrative rules or rule changes in process. When rules are in final draft form, they are brought to the Boards for approval. In some instances, rules must be approved by all three Boards. In other instances approval is needed from only one or two Boards.

We have added a new section to this memorandum - one that provides updates on the administrative rule process itself. 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 change involving the scope statement for an administrative rule.

As of this writing, there are nine rules to report on. They are 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] 9/4/12
Signature Date

Table with 3 columns: Board, Mtg Date, Item #. Row 1: JI, 9.20.12, 4F

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

Status: Published in the Wisconsin Administrative Register and Effective 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, to 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 employee and employer 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 Approved by the Governor and Published in the Wisconsin Administrative Register – ETF Staff Drafting Rule

- 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: ETF Continues to Work on the Rule

- Election rule relating to changes to streamline the administrative process for the election of persons to the TR and ETF Boards 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 –ETF Staff Continues to Work on the Rule

- 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 Wisconsin 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 benefits.

VI. Updates on Administrative Rule Process

Generally

2011 Wisconsin Act 21 and 2011 Wisconsin Act 32 made major changes to the administrative rule making process. Those 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.

Scope Statements

The new rule process requires that the scope statement for each proposed rule must be submitted to the Governor for approval. Agencies are advised to use a Department of Administration template for this process. Each scope statement must provide a detailed description of the proposed rule, a description of existing policies relevant to the rule, an explanation of statutory authority for the rule, an estimate of the amount of time that will be spent developing the rule, a list of entities that may be affected by the rule, a summary and comparison with any federal regulations, and the anticipated economic impact of implementing the rule.

On June 20, 2012, ETF sent a scope statement regarding the 2012 Technical Rule to the Governor for his approval. ETF received a letter of approval from the Governor on July 30, 2012. The scope statement was published in the Wisconsin Administrative Register on August 15, 2012.

Staff will be available at the September 20, 2012, Board meeting to answer any questions you may have.