



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

Wisconsin Department
 of Employee Trust Funds
 PO Box 7931
 Madison WI 53707-7931
 1-877-533-5020 (toll free)
 Fax 608-267-4549
 etf.wi.gov

Correspondence Memorandum

Date: December 10, 2019

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

From: Tarna Hunter, Legislative Liaison

Subject: Legislative Update

2019-20 Legislative Session – Acts Signed into Law

2019 Act 9 (2019-21 Biennial Budget). The budget provides two positions for ETF’s disability program administration, funding for actuarial audits and required federal financial reporting and funding to continue current ETF operations.

2019 Act 12 sets requirements insurers must follow when they use a step therapy protocol, provides that a step therapy protocol must use clinical review criteria based on clinical practice guidelines, and requires the following exceptions to be granted for prescription drug coverage:

- The patient previously tried the drug or a similar drug and its use by the patient was discontinued under circumstances described in the act.
- The drug is expected to be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen.
- The required prescription drug is not in the best interest of the patient, based on medical necessity.
- The patient is stable on a prescription drug selected by their health care provider.
- The drug is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient.

Finally, the law outlines an appeal process and would give insurers three business days to deny the request or the exception is granted.

Reviewed and approved by Pam Henning, Assistant Deputy Secretary

Pamela L Henning

Electronically Signed 12/10/19

Board	Mtg Date	Item #
JM	12.12.19	4B

The act takes effect on the first day of the fourth month beginning after publication (November 1, 2019). Additionally, for policies and plans containing provisions inconsistent with this act, the act first applies to policy or plan years beginning on January 1, 2020.

Other Legislative Proposals

Retirement

[**2019 SB 5**](#) and [**2019 AB 5**](#) make the following changes to the county jailer classification under the Wisconsin Retirement System:

- Classifies county jailers as protective occupation participants under the Wisconsin Retirement System without a requirement that their principal duties involve active law enforcement.
- Provides that county jailers who are employed by a county that did not classify county jailers as protective occupation participants on July 1, 2018, and become protective occupation participants under this bill, are required to pay all employer costs resulting from their classification as a protective occupation participant, including the cost of the duty disability program.
- Provides that county jailers who were classified as protective occupation participants before the bill's effective date and county jailers hired on or after the bill's effective date in counties that classified county jailers as protective occupation participants on July 1, 2018, are not required to pay the additional employer costs.
- Permits a county jailer to elect (irrevocable) at the time of hire not to become a protective occupation participant.
- Amends the Municipal Employment Relations Act regarding county jailers.

2019 SB 5 was introduced by Sen. Marklein and referred to the Senate Committee on Judiciary and Public Safety. 2019 AB 5 was introduced by Rep. Born and referred to the Assembly Committee on Corrections.

On March 19, 2019, the Senate Committee on Judiciary and Public Safety held a public hearing on 2019 SB 5. Also, on March 19, 2019, the Assembly Committee on Corrections held a public hearing on 2019 AB 5.

At this time, neither committee has taken executive action on the bill.

[**2019 AB 164**](#) and [**2019 SB 154**](#) would allow Wisconsin Retirement System (WRS) participants, both active and inactive, who worked at the Department of Corrections (DOC) for at least five years and who terminates on or after the effective date of the bill to receive military service credits for any military service (current law requires that the service must have been performed prior to 1974). The bill eliminates the current law restriction on receiving military service credit for service that is also used to receive a

federal retirement benefit. Additionally, the bill would allow for a participant to receive military service credits if that participant leaves WRS covered employment to enter military service and returns to any WRS covered employment within 180 days of discharge (current law requires the participant to return to the same WRS employer). Finally, the bill requires that DOC make additional contributions as determined by the actuary and approved by the ETF Board to cover the costs of granting the military service credits.

2019 SB 154 was introduced by Sen. Feyen and referred to the Senate Committee on Government Transportation, Veterans and Military Affairs. 2019 AB 164 was introduced by Rep. Thiesfeldt and referred to the Assembly Committee on State Affairs.

At this time, neither bill has been scheduled for a public hearing.

[2019 SB 149](#) and [2019 AB 157](#) allows an annuitant who was a law enforcement officer or fire fighter to return to work with an employer who participates in the WRS, work two-thirds of full-time, and elect to not become a participating employee for purposes of the WRS, and instead continue to receive his or her annuity.

2019 SB 149 was introduced by Sen. Jacque and referred to the Senate Committee on Government Operations, Technology and Consumer Protection. 2019 AB 157 was introduced by Rep. Brandtjen and referred to the Assembly Committee on Labor and Integrated Employment.

At this time, neither bill has been scheduled for a public hearing.

[2019 AB 257](#) and [2019 SB 233](#) authorizes ETF to withhold money from a member's WRS annuity or lump sum payment if ETF is ordered to do so by a court in a restitution order. The bill provides that ETF distributes any money withheld from an annuity or lump sum payment under a restitution order as directed by the court in the order. The court may issue a restitution under this bill if the crime for which the restitution is ordered is both felony theft and misconduct in public office, the crime resulted in a loss to the defendant's employer and the defendant's employer participates in the WRS.

2019 SB 233 was introduced by Sen. Bernier and referred to the Senate Committee on Government Operations, Technology and Consumer Protection. 2019 AB 257 was introduced by Rep. Petryk and referred to the Assembly Committee on Judiciary.

On November 5, 2019, the Senate unanimously passed SB 233. On December 5, 2019, the Assembly Committee on Judiciary recommended passage (7-0). As of this writing, the Assembly has not scheduled the bill for a vote.

[2019 AB 568](#) and [2019 SB 551](#) make a number of changes to Wisconsin's regional structural collapse team contracted with the Division of Emergency Management in the Department of Military Affairs. The bill changes the team's designation from being a

structural collapse team to an urban search and rescue task force and expands the disaster incidents that the team responds to. Currently, the team is comprised of local government firefighters and other technical specialists.

The bill allows DMA to reimburse a local employer for any increase in contributions for duty disability premiums because an employee incurred an injury while performing duties as a member of an urban search and rescue task force.

2019 SB 551 was introduced by Sen. Roth and referred to the Senate Committee on Judiciary and Public Safety. 2019 AB 568 was introduced by Rep. Rohrkaste and referred to the Assembly Committee on Criminal Justice and Public Safety.

At this time, neither bill has been scheduled for a public hearing.

[2019 SB 612](#) makes the following changes to the WRS return to work laws and the WRS minimum retirement age:

- Increases the minimum retirement age for general and executive/elected category employees from 55 to 59.5 for members who are under the age 40 on the bill's effective date.
- Changes the return to work requirements that were passed by the Legislature in 2013 by:
 - Providing a three-year grace period from the annuity suspension requirement for those who work more than two-thirds of full time; and
 - Reducing the break-in-service requirement from 75 days to 45 days. Prior to WI Act 20, which passed in 2013, the break in service requirement was 30 days.
- Requires ETF to submit an annual report to the governor and the legislature that provides information about rehired annuitants who elect to not suspend their annuities.

2019 SB 612 was introduced by Sen. Stroebel and referred to the Senate Committee on Government Operations, Technology and Consumer Protection.

At this time, the bill has not been scheduled for a public hearing.

Health Insurance

[2019 AB 238](#) and [2019 SB 217](#) require the Department of Health Services (DHS) in consultation with ETF, to develop and implement a plan to reduce the incidence of diabetes in Wisconsin, improve diabetes care, and control complications associated with diabetes. DHS may also consult with the Department of Public Instruction and Department of Corrections in the development of the plan.

DHS must submit a biennial report to the Legislature (first report by January 1, 2021) that includes:

- An assessment of the financial implications of diabetes upon DHS, the state and localities.
- An assessment of the benefits of implementing programs and activities to control diabetes.
- A description of the level of coordination existing within DHS and between DHS and other entities and organizations on activities and communication relating to diabetes.
- The development or revision of a detailed action plan with a range of actionable items for the Legislature to consider.
- A proposed budget for the plan.

2019 SB 217 was introduced by Sen. Darling and referred to the Senate Committee on Health and Human Services. 2019 AB 238 was introduced by Rep. Vorpapel and referred to the Assembly Committee on Health.

The Assembly Committee on Health held a public hearing on July 10, 2019. On October 8, 2019, the Senate unanimously passed SB 217. As of this writing, the Assembly has not scheduled the bill for a vote.

[2019 SB 100](#) and [2019 AB 114](#) allows the commissioner of insurance to regulate a pharmacy benefit manager (PBM) by requiring them to register. The bill also establishes certain price transparency requirements and requirements on contracts the PBM enters into with pharmacies, pharmacists, or health benefit plan sponsors. The bill primarily focuses on the PBM's relationship with the pharmacies and the insurance commissioner. There are a number of provisions in the bill that may impact the group health insurance program, including changes to the regulation of prescription drug charges and choice of providers, restricting the PBM from collecting fees from pharmacies for the adjudication of claims and inclusion or participation in the PBM's pharmacy networks, restricting requiring the use of mail order pharmacies and limiting the PBM's ability to audit pharmacies that participate in their network.

2019 SB 100 was introduced by Sen. Erpenbach and referred to the Senate Committee on Health and Human Services. 2019 AB 114 was introduced by Rep. Schraa and referred to the Assembly Committee on Health.

At this time, neither bill has been scheduled for a public hearing.

Governor's Task Force on Reducing Prescription Drug Prices

On August 20, 2019, Gov. Evers signed Executive Order #39 creating a task force on reducing prescription drug prices in Wisconsin. The Task Force is charged with

gathering and analyzing data on development, pricing, distribution, and purchasing of prescription drugs, analyzing strategies in reducing prescription drug prices used in other states and identifying opportunities to work with other states and the federal government, and making recommendations for reducing prescription drug prices in Wisconsin. ETF's designee on the Task Force is the Office of Strategic Health Policy Deputy Director **Brian Stamm**.

The Task Force membership includes:

1. Commissioner of Insurance or a designee, Chair;
2. Secretary of the Department of Health Services or a designee, Vice-Chair
3. Attorney General or a designee;
4. Secretary of the Department of Agriculture, Trade and Consumer Protection or a designee;
5. Secretary of the Department of Employee Trust Funds or a designee;
6. Four members of the Wisconsin Legislature; and
7. Other individuals appointed by the Governor to serve at the pleasure of the Governor.

I will be at the December 12, 2019, Board meeting to answer any questions.

Attachment: Milwaukee Journal Sentinel Article – Milwaukee City Budget/Pensions

FOR SUBSCRIBERS

Milwaukee just settled the 2020 budget, but city officials are already wary of what's to come

Alison Dirr, Milwaukee Journal Sentinel Published 6:00 a.m. CT Dec. 5, 2019

Milwaukee officials wrapped up the 2020 budget last week, but they're already using words like "crisis" and "draconian" to describe what might be coming in future deliberations.

A huge anticipated jump in the city's annual pension contribution — potentially more than \$100 million — may dwarf the angst shared this year in cutting 60 police officer positions.

"For a city with the level of poverty we've had, we've had a really good credit rating and we manage our finances well," said Ald. Michael Murphy, who served for years on the pension board. "But this will probably be one of the most significant challenges the city is facing in its last 50 years."

The pension board, which doesn't answer to the Common Council or the mayor, oversees the city's \$5 billion retirement fund.

In 2023, the city's actuary estimates, Milwaukee's annual pension contribution could more than double, from about \$70 million to about \$190 million. The city budget office, using a different set of assumptions, still put the 2023 sum at about \$160 million.

For scale, the entire 2020 tax levy is about \$291 million.

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The projected spike in the annual contribution is driven by a drop in the anticipated future earnings on the city's pension fund, from 8.24% to 7.5%; a -3% return in 2018, when the expected rate of return was 8%; and accruing interest on the unfunded liability.

Both estimates assume that the markets hold, said Jerry Allen, executive director of the Employees' Retirement System. And although there's been a [decade-long bull market](https://www.jsonline.com/story/money/2019/03/08/stocks-record-bull-market-turns-10-years-old-end/3087021002/) ([/story/money/2019/03/08/stocks-record-bull-market-turns-10-years-old-end/3087021002/](https://www.jsonline.com/story/money/2019/03/08/stocks-record-bull-market-turns-10-years-old-end/3087021002/)), those don't last forever, he said.

"Just like winter follows summer, bear markets follow bull markets, it's just the way of it," Allen said. "And we don't know when they are coming, but we are certain they will occur at some point in the future."

Although the exact amount of the annual contribution has yet to be determined, the jump is expected to be significant, and if nothing changes, city officials predict there will be service cuts.

"What those actual service cuts are we're not sure at this point," Budget Director Dennis Yaccarino said. "But given the magnitude, they would likely hit almost all areas of the budget."

Mayor Tom Barrett said in September that the anticipated jump in the pension contribution was one of the [drivers of the 2020 budget](#) ([/story/news/local/milwaukee/2019/09/24/milwaukee-police-department-would-lose-60-positions-2020-budget/2425275001/](#)), along with state-imposed limits on methods for raising revenue, rising costs of providing services and flat shared revenue payments from the state.

The 2020 budget put \$8 million into the pension reserve fund, an effort to begin saving for the jump between 2022 and 2023.

The budget also included a cut of 60 police officer positions through attrition. Police Chief Alfonso Morales said during budget deliberations that such a decrease would take the department to the [lowest sworn level in two decades](#) ([/story/news/local/milwaukee/2019/10/10/milwaukee-police-chief-warns-loss-60-cops-could-mean-ending-sift/3928293002/](#)).

The annual sum city officials seek to put into the pension reserve could grow in the next few budgets. A plan by the city's budget office calls for setting aside more than \$20 million in 2021 and more than \$30 million in 2022, based on the office's current projections.

In its [analysis of the city's 2020 budget](#) (<https://wispolicyforum.org/research/budget-brief-2020-proposed-city-of-milwaukee-budget/>), the nonpartisan Wisconsin Policy Forum said the city was prudent to set aside funds in advance.

However, "it is clear that the need for such a vastly increased employer contribution ultimately could cripple the city's use of the property tax levy for general services unless steps are taken to somehow avoid such a steep increase," the report states.

Despite the significant headwinds, Barrett said he remains optimistic about the city's prospects .

Among his hopes: That the state Legislature will allow the county to [hold a binding referendum](#) ([/story/news/politics/2019/09/09/milwaukee-leaders-seek-authority-binding-1-sales-tax-referendum/2262418001/](#)) asking voters to approve a 1% sales tax, and that voters will approve it in April.

"We need to really get this coming to a head by January, so the clock is ticking. ... If that doesn't happen, what happens to the 2021 budget? And I'm going to do everything I can, clearly, to maintain the current positions in the Police Department, but what gives then? Do we not put the additional dollars in for the pension? I would prefer not to do that because I think that just makes that cliff in 2023 a more severe cliff," he said.

Common Council President Ashanti Hamilton said the city won't be able to meet the pension obligation without the state giving the city the ability to diversify its revenue streams and raise resources.

"We are having that debate right now of literally keeping the lights on, the streetlights," Hamilton said of a debate in this year's budget deliberations over the amount of time streetlights are lit. "That should be a sobering reality for residents here and especially for those that represent the city of Milwaukee at the state level. We have to do something different."

He said the city has been very responsible with its use of resources but that the obligations facing the city can't be sustained through the traditional funding structure.

Hamilton said the sales tax proposal is one of the most realistic and most well thought out opportunities available right now. He said if legislators in Madison care about public safety, infrastructure and the city being the "economic engine" of the state, they need to consider that and other options.

Officials estimate the [tax could bring in as much as \\$160 million](#) ([/story/news/politics/2019/09/09/milwaukee-leaders-seek-authority-binding-1-sales-tax-referendum/2262418001/](#)) to the county in the first full year. How those funds would be divided between the county and municipalities is in flux.

The proposal is widely regarded as facing an uphill battle in the Republican-controlled Legislature.

State Rep. Joe Sanfelippo, one of seven Republican state legislators who in October [sent Barrett and Common Council members a letter](#) ([/story/news/local/milwaukee/2019/10/15/milwaukee-police-face-more-cuts-without-sales-tax-tom-barrett-warns/3979366002/](#)) decrying the proposed cut in police positions, said Milwaukee needs to reevaluate how it is spending its resources.

Sanfelippo, of New Berlin, represents a district that includes a portion of western Milwaukee County.

He charged that other municipalities' leaders are making difficult budget choices but Milwaukee leaders prefer to tax residents instead.

"Is it great to have that trolley? They think so," he said, referring to the city's streetcar. "That's wonderful, but you can't keep doing things you can't afford and keep going back to taxpayers and raise their taxes more and more."

The streetcar, known as The Hop, is financed through tax financing districts that draw their revenue from newer downtown-area developments. The Hop is not financed with revenue from Milwaukee's citywide property tax base.

Barrett also said he sees the Wisconsin Retirement System as a "model of success."

"I want to really dig deeply to see what it is that makes it so good and how we can make changes that bring us more in line with what the state is doing," he said.

The city's fire and police sworn personnel — past and current — make up a significant portion of the total anticipated pension costs.

Mike Bongiorno, president of Local 215 of the Milwaukee Professional Fire Fighters, said the city has an "outstanding" pension system, pointing to [findings of The Pew Charitable Trusts \(https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2019/05/municipalities-grapple-with-retirement-system-shortfalls\)](https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2019/05/municipalities-grapple-with-retirement-system-shortfalls).

The union considers itself a partner with the city and takes the city's financial challenges seriously, he said. And Local 215 is willing to work with the city to diversify its revenue streams, including the sales tax effort.

But, he said, the city's budget can't be balanced on the backs of police and firefighters.

He said the Fire Department has already been cut too deeply.

Milwaukee Police Association President Shawn Lauda declined to comment for this story, citing ongoing contract negotiations with the city.

Contact Alison Dirr at 414-224-2383 or adirr@jm.com (<mailto:adirr@gannett.com>). Follow her on Twitter [@AlisonDirr \(https://twitter.com/alisondirr\)](https://twitter.com/alisondirr).

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[Top deputy in Milwaukee Health Department pushed out, marking further turmoil in department \(https://www.jsonline.com/story/news/local/milwaukee/2019/12/03/top-milwaukee-health-department-deputy-resigns/4276435002/\)](https://www.jsonline.com/story/news/local/milwaukee/2019/12/03/top-milwaukee-health-department-deputy-resigns/4276435002/)

[Silverstein: Packers' defense has two more weeks to fix long-pass problem \(https://www.jsonline.com/story/sports/nfl/packers/2019/12/04/green-bay-packers-defense-has-two-more-weeks-fix-long-pass-problem/2597942001/\)](https://www.jsonline.com/story/sports/nfl/packers/2019/12/04/green-bay-packers-defense-has-two-more-weeks-fix-long-pass-problem/2597942001/)

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12/5/2019

Milwaukee's pension obligation could jump to \$190 million in 2023

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