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Correspondence Memorandum

Date: March 1, 2021

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

From: Dan Hayes, Attorney
 Office of Legal Services

Subject: Administrative Rules Update

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

This memo provides an update on the status of the proposed administrative rules that the boards approved at their December 12, 2019 meetings. Employee Trust Funds (ETF) sent the rules to the Governor for approval on December 17, 2019. The Governor approved them on July 31, 2020, and ETF submitted the rules to the Chief Clerks of the Assembly and Senate for legislative review. Because the Legislature was not in session, the rule review was delayed until the next legislative session, which began on January 4, 2021. As of the date of this memo, the status of the Legislature’s review is as follows:

CR 19-097: Went through 30-day passive review without any action taken in the Senate Committee on Financial Institutions and Revenue and sent to the Joint Committee for Review of Administrative Rules for another 30-day passive review. In the Assembly, it is in the Committee on Public Benefit Reform. Although there was no comment during the first passive review period, the committee wanted some more time to review the rule. So, the committee triggered a second 30-day passive review by requesting a meeting with the department.

CR 19-126: Went through 30-day passive review without any action taken in the Senate Committee on Financial Institutions and Revenue and the Assembly Committee on Government Accountability and Oversight. It is now in the Joint Committee for Review of Administrative Rules for another 30-day passive review. If the Joint Committee takes no action, the department will submit it to the Legislative Reference Bureau for publication in the Administrative Register. It will take effect on the first of the month following publication.

Reviewed and approved by David Nispel, General Counsel,
 Office of Legal Services

David H. Nispel Electronically Signed 3/12/21

Board	Mtg Date	Item #
JM	3.25.21	4H

Below are summaries of the two rules:

Disability Benefit Programs Redesign and Technical Changes to Regulations Related to the Duty Disability Program (CR 19-097)

ETF is proposing technical updates to regulations for the Long-Term Disability Insurance (LTDI) Program. These updates will reflect the closure of the program to new claims, which took effect on January 1, 2018. The closure of the LTDI Program is part of ETF's effort to streamline the disability programs it offers and corresponds with the reopening of the disability annuity program under Wis. Stat. § 40.63. Currently, Chapter ETF 50 of the administrative code includes language that is no longer necessary now that the program is closed to new applications. In addition, the rule includes two minor technical modifications related to the Duty Disability Program established by Wis. Stat. § 40.65.

Technical Rule (CR 19-126)

ETF is proposing changes to Chapters ETF 10, 11, 20 and 60. The objective of this rule is to make technical updates to existing ETF rules, delete obsolete language in ETF rules, and make other minor substantive changes. The changes affecting the WRS include:

- Updating the administrative code to be consistent with the rehired annuitant, break-in-service provisions of 2015 Wisconsin Act 187.
- Removing obsolete references to domestic partnerships to be consistent with changes made in the 2017-2019 state budget.
- Updating ETF's receipt of electronic correspondence rule to make it consistent with the Wisconsin circuit court e-filing initiative.
- Eliminating language that applies to domestic relations orders filed on or after January 1, 1982, and before April 28, 1990, because, as of May 1, 2018, ETF can no longer accept domestic relations orders more than 20 years old pursuant to a Wisconsin Supreme Court decision.
- Reorganizing the section on qualified domestic relations orders because the current organization is no longer sensible now that ETF no longer accepts domestic relations orders more than 20 years old.
- Barring appeals seeking correction of an alleged error based on a claim of fraud unless commenced within three years, rather than six years, from the date of the discovery the fraud, due to a recent statutory change.
- Clarifying the role and responsibilities of the appeals coordinator and board staff in administrative appeals.
- Making other minor changes to clean-up the administrative code, such as correcting out-of-date cross references and references to obsolete ETF forms.

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