



STATE OF WISCONSIN
Department of Employee Trust Funds
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 SECRETARY

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Correspondence Memorandum

Date: August 30, 2023

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

From: Dan Hayes, Attorney
 Office of Legal Services

Subject: Proposed Administrative Rule Changes: CR 23-023

Staff recommends the Board approve the final version of this proposed rule.

The Department of Employee Trust Funds (ETF) proposes updating provisions in the Wisconsin Administrative Code that affect the Wisconsin Retirement System (WRS). The proposed rule makes technical changes to Chapters ETF 10, 20, 50, 52, and 60 that require approval by the retirement boards as the next step in the rule promulgation process.

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 rules are modified by:

- Updating the code to be consistent with required minimum distribution provisions of the federal Setting Every Community Up for Retirement Enhancement (SECURE) Act, SECURE 2.0 Act and 2021 Wisconsin Act 245.
- Updating the definition of “guardian” to be consistent with changes in the child guardianship law.
- Removing obsolete sections related to Social Security wage reporting requirements because the Social Security Administration no longer has authority to collect those reports.
- Adding a reference to the Chapter 244 definition of “incapacity” to power of attorney requirements.
- Clarifying that sick leave must be earned during participating employment to be used in the calculation of accumulated sick leave credits. Examples of situations where clarity is needed include when a rehired annuitant comes back to non-participating employment in which they earn sick leave, and certain employees who earn sick leave for non-participating employment but eventually move to participating employment. When such employees terminate, only the sick leave

Reviewed and approved by Diana Felsmann, General Counsel, Office of Legal Services
 Electronically Signed 08/31/2023

Board	Mtg Date	Item #
JM	09.21.23	4A

earned in participating employment should be certified for the sick leave programs in order to ensure those programs are adequately funded.

- Amending the code to round an annuity applicant's age to the nearest month, rather than the nearest quarter year, for annuity option conversion purposes.
- Requiring a domestic relations order to be submitted on ETF's form.
- Deleting a reference to the private employer health care coverage program and board because that program and board do not currently exist.
- Providing for the termination of a disability annuity for fraud, misrepresentation, error, or mistake; this language is consistent with the text in ETF 50.56 (2), which relates to Long-Term Disability Insurance (LTDI) benefits.
- Clarifying the effective date of the suspension of LTDI benefits when a recipient exceeds the earnings limit.
- Clarifying that an employee who did not meet any qualifying criteria prior to retirement, and who never returned to work after their date of injury, qualifies for duty disability benefits under the "reduction in position" eligibility provision.
- Deleting obsolete, minor provisions related to duty disability applications filed prior to May 3, 1988, and January 1, 1995; and
- Making the code consistent with statutory language regarding duty disability appeals being filed with the division of hearings and appeals in the department of administration.

If approved by all the boards, the rule will be submitted to the Governor's office and then to the State Legislature for consideration. Prior to this date, the following action has been taken:

- Scope statement approved by the Governor (December 15, 2022)
- Scope statement published in the Wisconsin Administrative Register (January 17, 2023)
- Scope statement approved by ETF Secretary John Voelker (January 30, 2023)
- Agency drafted proposed rule (February – April 2023)
- Submitted the proposed rule to the Legislative Council Administrative Rules Clearinghouse (May 1, 2023)
- Submitted the proposed rule to the Department of Administration and Legislative Reference Bureau along with a notice of public hearing (May 1, 2023)
- Published the proposed rule and notice of hearing in the Wisconsin Administrative Register (May 8, 2023)
- Public hearing held (June 1, 2023)

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