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The Department of Employee Trust Funds (ETF) has received numerous inquiries about 2011 Wisconsin Act 10 (the 2009-2011 Budget Repair Bill and 2011 Special Session Senate Bill 11) and the affect of the Act on the public employee benefit programs administered by ETF. We are currently experiencing high service demands. As a result, the wait times for our services have increased. Your time is valuable; therefore, please review the following answers to frequently asked questions about the Act before contacting ETF.

Important Note: The questions that have been revised or added since the March 24, 2011 version of this document have been marked.

Questions about the Wisconsin Retirement System (WRS)

New

4/15/2011

1) What is the difference between 2011 Wisconsin Act 10 and 2011 Wisconsin Act 13?

- Act 10 makes several changes to the Wisconsin Retirement System and the group health insurance programs administered by the Department of Employee Trust Funds (ETF). Act 13 only contains one provision that affects ETF. See question #17 below to learn more about the one provision in Act 13 that affects the State Group Health Insurance Program administered by ETF.
- For Act 10 language, visit:
<http://legis.wisconsin.gov/11Act010.pdf>
- For Act 13 language, visit:
<http://legis.wisconsin.gov/2011/data/acts/11Act13.pdf>

2) What is the effective date of the Act 10?

- Generally, an Act becomes effective on the day after it is published by the Secretary of State. On March 18, 2011 a temporary restraining order (TRO) was issued by the Dane County Circuit Court prohibiting the Secretary of State from publishing Act 10 as law pending further legal proceedings. As of this writing, the effective date of Act 10 is unknown pending the outcome of the legal proceedings.

3) Does Act 10 change the retirement benefits of retired members of the WRS?

- No.

4) Under Act 10, will my contribution to the WRS change?

- Yes, **most** public employees will be required to pay an increased percentage of earnings; usually one-half of the WRS required contributions.
- Note that this employee-required percentage may change each year when the required WRS contribution rate is adjusted. WRS contribution rates can change each calendar year depending on WRS investment returns and actuarial adjustments.
- For more information about how contribution rates are determined, visit:
http://www.etf.wi.gov/news/2011_Contribution_Rate_FAQ.pdf

5) How will the various WRS employee categories be affected by the changes to WRS contributions in Act 10?

- There are four employee categories in the WRS. The employee categories each have a different contribution rate because the benefit levels (as defined in state law) vary from group to group. Here is the Act language related to each employee category and contributions to WRS accounts:
 - General Employees (including teachers): $\frac{1}{2}$ of total WRS contribution. The 2011 total WRS contribution for general employees is 11.6% of salary. Therefore, under the Act, general employees will contribute 5.8% of his/her salary to his/her WRS account in 2011.
 - Elected and Executive Employees: $\frac{1}{2}$ of total WRS contribution. Therefore, under the Act, each elected and executive employees will contribute 6.65% of his/her salary to his/her WRS account in 2011.
 - Protectives with Social Security (typically police officers): same percentage as general employees.
 - Protectives without Social Security (typically firefighters): same percentage as general employees.

6) Under Act 10, when will the new contributions go into effect?

- Unless you currently have a collective bargaining agreement in place with your employer, this change will be effective the first day of the first pay period after the effective date of the Act. See question 1 for more information about the effective date of the Act.

7) Will the increase in the employee required WRS contributions have any effect on the cost of buying forfeited service?

- Yes, in most cases the cost will increase. A key factor in the cost of buying forfeited service is the employee required contribution rate **for the category of the forfeited service being purchased**. The employment category in which you are currently working is not relevant; the cost is calculated based on the employment category in which the forfeited service was originally performed.

Since most employee required contribution rates increase once the Act is effective, the cost of buying forfeited service will increase on that date. This means that if ETF receives your service purchase application/payment after the effective date, the cost will be higher if the estimated cost was calculated based on the employee contribution rates in effect before the effective date of the Act. The contribution rate used to calculate your cost to buy forfeited service is shown in the bottom line of the cost calculation in Section 1 of your *Forfeited Service Purchase Estimate/Application* form (ET-4315).

The percentage by which the cost of buying forfeited service will increase depends on the increase in the employee required contribution rate for the employment category of the forfeited service you are buying:

Employment Category of Service Being Purchased	Employee Contribution Rate (Through the day before the effective date of the Act)	Employee Contribution Rate (Once Act becomes effective)	Percentage that Cost of Forfeited Service Will Increase (Once Act becomes effective)
General/Teacher/ Educational Support	5.0%	5.8%	16.0%
Executive/Elected Official/Judges	3.9%	6.65%	70.5%
Protective with Social Security	5.8%	5.8%	No Change
Protective without Social Security	4.8%	5.8%	21.0%

Note: The cost of buying forfeited service will generally fluctuate each year, based on annual adjustments to the contribution rates that are actuarially required.

8) Are employee contributions to the Wisconsin Retirement System considered “pre-tax” or “post-tax” contributions?

General Definition of “Pre-tax” and “Post-tax”:

- "Pre-tax" means that an employee's contributions are not included as taxable income at the time wages are paid (the taxation of this amount is deferred until the participant starts receiving a retirement annuity from the WRS).
- "Post-tax" means that an employee's contributions are includible as taxable income at the time his or her wages are paid. If an employer reports to ETF that the employee contributions are post-tax, the contributions will not be taxed again when the employee collects his or her retirement annuity because taxes have already been paid on those wages.

Does Act 10 specify if WRS employee contributions are taken out before taxes or after taxes?

- Act 10 does not explicitly state whether an employee's WRS contribution is pre-tax or post-tax. Based on ETF's analysis of the Act alone, most contributions would be considered post-tax. However, ETF does not determine whether an employee contribution is pre-tax or post-tax. That determination is made by employers (state and local governments), subject to state and federal law.
- Under certain circumstances, a state or local employer may be able to make the contributions pre-tax by developing a compensation agreement (as an example) between the employer and employees that complies with IRS criteria.
- In addition, a state law change may also be a means to make the contributions pre-tax rather than post-tax.
- Note for state employees: A change to the state compensation plan/labor agreements or a law change would be required to have the contributions taken out on a pre-tax basis. The state agency you work for does not have the authority to do this on its own.

9) Will the WRS contribution that I pay be credited to my account?

- Yes, the entire 5.8% will be “employee required contributions.” This means that the entire 5.8% will be credited to the employee's account, and the employee will have vested rights to those contributions. For most public employees, this will have the effect of increasing the amount payable as a separation benefit, the amount used to calculate “money purchase” retirement benefits, and the death benefits payable when a public employee dies before taking a retirement benefit.

10) General category state employees currently contribute 0.2% of earnings to their WRS account, which is applied to the “benefit adjustment contribution” portion of the WRS contribution rate. What happens to the 0.2% of earnings currently being paid as “benefit adjustment contributions?”

- Currently **state** general category employees are paying 0.2% of their earnings to the WRS as “benefit adjustment contributions.” These benefit adjustment

contributions are **not** credited to the employees' accounts; therefore, they do not increase the WRS benefits payable from their accounts. Act 10 eliminates the benefit adjustment contributions, so all employee contributions would actually be credited to the employees' accounts.

11) Will the retirement formula used by ETF to calculate retirement benefits change for some employee categories?

- Yes, for some. The only category of employees changing under Act 10 is the "executive/elected" category. This category generally includes members of the legislature, unclassified executives and other elected officials. This group currently has a formula factor of 2%. Under the Act, the factor will be reduced to 1.6%, consistent with general category employees.

12) Can public employees who work for a WRS employer opt out of the WRS?

- No. Current law prohibits participating employees from opting out of the WRS. Allowing WRS members to opt out of the WRS would be difficult to administer, would have a detrimental impact on the sustainability of the WRS, would increase contribution rates for employees and employers in the WRS, and employees who opt out would not be taking advantage of investment returns that fund more than 66% of the retirement benefit.

13) I have an individual compensation and fringe benefit agreement/contract with my employer and it isn't a collective bargaining agreement. Do the collective bargaining provisions in Act 10 affect my agreement/contract with my employer?

- ETF does not play a role in the enforcement and interpretation of collective bargaining agreements and the collective bargaining changes in Act 10. ETF recommends you consult with your employer to determine if Act 10 affects the individual agreement you have with your employer.

14) There has been a lot of media coverage about the funding of pension systems across the nation. Is the WRS fully funded and able to pay benefits?

- Yes. The WRS is fully funded and able to pay benefits to current and future WRS members.

15) There has also been a lot of media coverage about the benefit levels of the WRS and how those benefits compare to the benefits in the private sector and the retirement systems in other states. How do the benefit levels of the WRS compare?

- ETF does not track information about how public sector pension benefits compare to private sector benefits. For information about how WRS benefits compare to the benefits of other public sector retirement systems, please find below a link to the *2008 Comparative Study of Major Public Employee Retirement Systems* that was prepared by the Wisconsin Legislative Council. Pages 25-30 provide information about benefit calculations.

http://legis.wisconsin.gov/lc/publications/crs/2008_retirement.pdf

Health Insurance Questions

16) Act 10 requires the Group Insurance Board to design health care coverage plans for the 2012 calendar year that, after adjusting for any inflationary increase in health benefit costs, reduces the average premium cost of plans offered in Tier 1 by at least 5 percent compared to 2011. How does the Board intend to reduce the premiums by 5 percent?

- As of this writing, the Board has not met to discuss this provision of the Act.
- To follow the Board meetings and the materials for the Board meetings, go to: http://www.etf.wi.gov/boards/board_gib.htm
- For information about the process that has been used in the past by ETF and the Board to implement legislative changes to the health program and to make modifications to health insurance coverage, go to: http://etf.wi.gov/boards/agenda_items_2011/gib20110208_items/Item_4B.pdf.
- The link above also provides information about the changes to 2012 coverage that were discussed by the Board prior to the introduction of the bill.

17) What is the status of the provision that required the Secretary of the Department of Employee Trust Funds (ETF) to allocate from reserve accounts established for group health and pharmacy benefits an amount equal to \$28 million to reduce employer costs for providing group health insurance for state employees for the period from July 1, 2011, to December 31, 2011?

- This provision was not included in 2011 Wisconsin Act 10. However, it was included in 2011 Wisconsin Act 13.

18) Can I cancel my health insurance coverage through the State of Wisconsin Group Health Insurance program if my premium share increases?

- State and UW Employees: Yes. If you have your employee premium share taken pre-tax, treasury regulations governing Internal Revenue Code Section 125 restrict mid-year changes to your coverage. However, a significant cost change is a circumstance that permits a coverage change. The employee premium cost increase for health insurance coverage in 2011 Wisconsin Act 10 is deemed to be a significant increase. You may submit a Health Application/Change Form (ET-2301)* to change your coverage anytime after the effective date of Act 10 and up to 30 days after the date of the first paycheck from which the increased employee premium is to be deducted. The cancellation will be effective the later of the end of the month on or following your employer's receipt of your cancellation form or the end of the month after the date of the premium increase.

If you have your employee contribution share taken post-tax, you can cancel your health insurance at any time by submitting a cancellation notice* to your employer. Your health insurance coverage will be cancelled the first of the month on or following your employer's receipt of your cancellation notice, or a later date if specified.

Revised

4/15/2011

- Local Employees & Local Annuitants Receiving Employer Contribution: Check with your employer. If your contribution is deducted on a pre-tax basis, you may be limited to cancelling coverage at the end of the benefit year unless you have a change in status event.
- State Annuitants, Local Annuitants Not Receiving Employer Contribution & Continuants: Yes, you can cancel your health insurance at any time by submitting a cancellation notice* to ETF. Your health insurance policy will be cancelled the first of the month on or following ETF's receipt of your cancellation notice, or a later date if specified.
- NOTE the following important considerations if you cancel your health insurance:
 - You may only re-enroll in the State of Wisconsin Group Health Insurance Program without any restrictions within 30 days of losing eligibility or employer contribution for other group health insurance coverage.
 - You may enroll at any time under the Standard Plan but you and any insured family members older than age 19 will be subject to a 180-day waiting period for pre-existing conditions.
 - If you plan to become covered under your spouse's or partner's health insurance plan, confirm with the plan that you can enroll if you cancel your health insurance coverage. The plan may not allow you an enrollment opportunity if you voluntarily cancel your coverage, but may allow your spouse or partner and dependents to enroll without restriction.
 - Dependents who lose coverage when you voluntarily cancel family coverage are eligible to continue under this program through COBRA provisions.
 - You must have coverage in force through the State of Wisconsin Group Health Insurance Program at the time of retirement or layoff to be able to use sick leave credits to pay for health insurance.
 - You must have family coverage in force through the State of Wisconsin Group Health Insurance Program for your insured dependents to be able to continue coverage as a survivor and to be able to use your sick leave credits to pay for health insurance, should you die.

*You may submit cancellations electronically through the new myETF Benefits Online Health Insurance Enrollment System or on a paper *Health Insurance Application/Change Form* (ET-2301). Cancellations can be requested through the myETF Benefit system for a future coverage end date of up to two months in advance.

19) I have family coverage through the State of Wisconsin Group Health Insurance Program. Can I change to single coverage if my premium share increases?

- State and UW Employees: Yes. If you have your employee contribution share taken pre-tax, treasury regulations governing Internal Revenue Code Section 125 restrict mid-year changes to your coverage. However, a significant cost change is a circumstance that permits a coverage change. The employee premium cost increase for health insurance coverage in 2011 Wisconsin Act 10 is deemed to be

a significant increase. You may submit a Health Application/Change Form (ET-2301)* to change your coverage anytime after the effective date of Act 10 and up to 30 days after the date of the first paycheck from which the increased employee premium is to be deducted. The change in coverage will be effective the later of the first of the month on or following your employer's receipt of your application form or the first of the month after the date of the premium increase.

- If you have your employee contribution share taken post-tax, you can change from family to single coverage at any time. The single coverage will be effective on the first of the month on or following your employer's receipt of your election* to change to single coverage.
- Local Employees & Local Retirees Receiving Employer Contribution: Check with your employer. If your contribution is deducted on a pre-tax basis, you may be limited to changing coverage at the end of the benefit year unless you have a change in status event.
- State Annuityants, Local Annuityants Not Receiving Employer Contribution & Continuants: Yes, you can change from family to single coverage at any time by submitting an application* to ETF. The single coverage will be effective the first of the month on or following ETF's receipt of your application.

Dependents who lose coverage if you voluntarily cancel family coverage are eligible to continue under this program through COBRA provisions and may have an opportunity to enroll in other group health insurance coverage, if eligible, without restriction.

- NOTE that you can only change back to family coverage at the following times:
 - During the annual It's Your Choice enrollment period for coverage effective January 1.
 - By submitting an application* within 30 days of a marriage, domestic partnership, or a dependent's loss of eligibility or employer contribution for other health insurance coverage.
 - By submitting an application* within 60 days of a birth, adoption or when legal guardianship is granted.

*You may submit enrollment changes electronically through the new myETF Benefits Online Health Insurance Enrollment System or on a paper *Health Insurance Application/Change Form* (ET-2301). Submitting a request through the myETF Benefits system can be completed within 30 days of the event. The myETF Benefits system does not allow a coverage change request to be entered using a future event date.

20) I have family coverage through the State of Wisconsin Group Health Insurance Program and only one of my insured dependents is a non-tax dependent. I need to keep my family coverage, but can I drop my non-tax dependent so that I no longer have to pay imputed taxes?

- You may only drop your non-tax dependent at the following times:
 - a. Within 30 days of your dependent enrolling in other health insurance coverage.
 - b. Your dependent loses eligibility, for example, turns 27 years old.
 - c. During the annual It's Your Choice enrollment period and your dependent's coverage will terminate the following January 1.

21) I have family coverage through the State of Wisconsin Group Health Insurance Program and my only dependent covered under the family policy is a non-tax dependent. Can I drop my non-tax dependent and switch to single coverage.

- Yes. Because the value of the health insurance coverage attributable to the non-tax dependent is taxed as imputed income, Section 125 rules governing pre-tax elections do not apply. The single coverage will be effective on the first of the month on or following your employer's receipt of your election* to change to single coverage.

*You may submit enrollment changes electronically through the new myETF Benefits Online Health Insurance Enrollment System or on a paper *Health Insurance Application/Change Form* (ET-2301). Submitting a request through the myETF Benefits system can be completed within 30 days of the event. The myETF Benefits system does not allow a coverage change request to be entered using a future event date.

22) I have family coverage and just cover my spouse/domestic partner, who also works for the state of Wisconsin. Can we switch from one family to two single policies, or transfer my family coverage to my spouse/domestic partner, if my premium share increases?

- Spouse Coverage: If you have family coverage and cover only you and your spouse, you may switch to two single policies or do a spouse-to-spouse transfer. However, if you have your employee contribution share taken pre-tax, you must submit your election* to switch from family to single coverage, or transfer coverage to your spouse, within 30 days after the change in the employee premium share becomes effective. That is because treasury regulations governing Internal Revenue Code Section 125 restrict mid-year changes to your coverage. However, a significant cost change is a circumstance that permits a coverage change. The employee premium cost increase for health insurance coverage in 2011 Wisconsin Act 10 is deemed to be a significant increase. You may submit a Health Application/Change Form (ET-2301)* to change your coverage anytime after the effective date of Act 10 and up to 30 days after the date of the first paycheck from which the increased employee premium is to be deducted. The change in coverage will be effective the later of the first of the month on or following your employer's receipt of your application form or the first of the month after the date of the premium increase. Your spouse must file

a Health Application/Change form (ET-2301)* to enroll for coverage to be effective on the date his or her coverage would end under your policy.

- If you have your employee contribution share taken post-tax, you and your spouse can switch to two single policies or transfer family coverage to your spouse at any time.
- Domestic Partner Coverage: If you have family coverage and cover only you and your domestic partner who is a non-tax dependent, you may switch to two single policies, or switch family coverage to your domestic partner at any time. This is because the value of the health insurance coverage attributable to the non-tax dependent is taxed as imputed income; therefore, Internal Revenue Code Section 125 rules governing pre-tax elections do not apply.

*You may submit enrollment changes electronically through the new myETF Benefits Online Health Insurance Enrollment System or on a paper *Health Insurance Application/Change Form* (ET-2301). Submitting a request through the myETF Benefits system can be completed within 30 days of the event. The myETF Benefits system does not allow a coverage change request to be entered using a future event date.

23) Can I switch from one health plan to another if my employee contribution increases?

- No, an increase in your contribution for health insurance does not create an opportunity for you to switch health plans in the middle of a year. (See the “CHANGING HEALTH PLANS” section of the Frequently Asked Questions in the It’s Your Choice: Reference Guide for situations that allow you to switch health plans in the middle of the year.)

24) For local employers that participate in ETF’s Public Employer Group Health Insurance Program, Act 10 states the employer cannot pay more than 88 percent of the average premium cost of plans offered in the lowest cost tier of ETF’s program. What does that mean?

- Under the Act, this change will not be effective until January 1, 2012, except as otherwise provided in a collective bargaining agreement. ETF will provide local employers with more guidance regarding the “average premium cost” language in the Act prior to the It’s Your Choice enrollment period later this year. Currently, ETF provides premium rate tables by county so that local employers can implement the 105% cap on employer contributions. Our intent is to follow this model in implementing the 88% cap.

Questions about the Wisconsin Deferred Compensation Program

New

4/5/2011

25) Could the State of Wisconsin or the federal government take my Wisconsin Deferred Compensation Program (WDC) account, for example in a bankruptcy situation?

- No. The Department believes WDC participant accounts belong to the account holders and cannot be taken by a court or by the State or federal government in any bankruptcy or other proceeding. IRC §457(g), and §40.80 (2) (g), WI Stats., both require that assets and income of §457 plans such as the WDC be held for the exclusive benefit of participants and their beneficiaries. Section 9.06 of the WDC Plan and Trust document also outlines the WDC's intent to comply with this requirement. The WDC must comply or risk losing eligibility under Treasury Regulations §1.457-8.

New

4/5/2011

26) May I roll my accrued sabbatical time to the Wisconsin Deferred Compensation (WDC) Program?

- Yes, provided you have experienced a qualifying event such as separation from service or retirement. Here's how you can roll sabbatical time into your WDC account:
 1. You must have a WDC account. If you are not yet enrolled, download the enrollment form from the WDC's website at www.wdc457.org under Enroll Now. Complete the form and fax it to the WDC office in Madison at 608-241-6045.
 2. You will need to know the exact dollar amount of your sabbatical time and the date of the check that will include your sabbatical payout. Your payroll staff may be able to help you determine the amount of your sabbatical time. When determining the amount you wish to defer to the WDC, keep in mind that FICA and any normal deductions you have coming out of your paycheck will also be withheld from the sabbatical check, and therefore you want to be sure that the amount you choose to defer leaves enough money in the check for FICA and the other deductions. If you estimate a WDC deferral amount that is too large, you may end up having \$0 deferred to the WDC from your sabbatical check.
 3. You may defer up to the federal limits in the WDC Program. For 2011, the federal deferral limits are:
 - \$16,500 for everyone;
 - \$22,000 for participants age 50 and older; and
 - \$33,000 for participants who qualify and have had an application processed for the Catch-up Provision (additional information on the Catch-up Provision can be found on the WDC's website under *Forms and Brochures*, or by calling the WDC's office in Madison at 877-457-9327, Option 2 or local Madison (608) 241-6604).
 4. Once you know the amount you wish to defer and the date of your sabbatical check, contact the WDC's call center toll-free at 877-457-9327, Option 0 or log on to the WDC's website (www.wdc457.org) with your username and password to request a one-time deferral change. NOTE: The WDC can process this request for you as long as you give the WDC approximately 30 days notice. If you are beyond the date on which the WDC can make the change, you will have to ask your payroll person if they

are willing and able to manually process your sabbatical contribution to the WDC.

- If you have any questions about WDC contribution limits and/or setting up the one-time deferral change, please call the WDC at 877-457-9327, Option 2.

Questions about Employee Reimbursement Accounts (state employees only)

27) Can I make changes to my employee reimbursement account (ERA) elections?

- No. An increase in employee insurance premiums is not an event for which federal regulations allow you to make a mid-year change. For information about valid change in status events that allow you to make a mid-year change to your election, see Pages 24-27 of the ERA benefits booklet. Here is the link to the booklet: http://etf.wi.gov/publications/era_2011_booklet.pdf

Questions about Sick Leave Credits (state employees only)

New

6/13/2011

28) What is the status of the Accumulated Sick Leave Conversion Credit Program (ASLCC) and the Supplemental Health Insurance Conversion Credit Program (SHICC)?

- If you are a **state** employee who has questions about the Accumulated Sick Leave Conversion Credit Program (ASLCC) and the Supplemental Health Insurance Conversion Credit Program (SHICC), please read the information below before contacting ETF.
 - Although ETF administers the ASLCC and SHICC programs, ETF does not play a role in determining the amount of sick leave that employees receive, or whether and how much of it may be accrued. Those matters are defined in state law, the compensation plan for non-represented state employees and the labor agreements for represented state employees.
 - Section 9143 of the Act states that “upon termination of any collective bargaining agreement between the state and a labor organization representing employees in a collective bargaining unit under section 111.825 (1) or (2) of the statutes, as affected by this act, the director of the Office of State Employment Relations (OSER) may continue to administer those provisions of the collective bargaining agreements that the director determines necessary for the orderly administration of the state civil services system until the compensation plan under section 230.12 of the statutes is established for the 2011–13 fiscal biennium.
- **DOA issued the following statement on June 10, 2011 to state agencies:**
 - “There are no provisions in Act 10 that would impact SHICC benefits and at this point there are no provisions in the 2011-13 biennial budget currently before the Legislature that would impact SHICC benefits.
 - “Act 10 had included a study to evaluate a number of benefit issues, including, but not limited to, the SHICC program. The study was to be conducted by OSER, ETF and DOA and was to have been due by June 30, 2012. This provision was removed from the bill prior to passage of Act 10.
 - “There are no plans by the Administration either in pending legislation or in development of the 2011-13 compensation plan that will be submitted to JCOER to eliminate the SHICC program.”

Additional Information

29) Where can I get additional information about Act 10?

- For the Act language, visit:
<http://legis.wisconsin.gov/11Act010.pdf>
- If you are a state employee and have questions related to collective bargaining, compensation and the payment of fringe benefits, visit:
<http://oser.state.wi.us/docview.asp?docid=7209>.