

**ADMINISTRATIVE RULES
FISCAL ESTIMATE
AND ECONOMIC IMPACT ANALYSIS**

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

ETF 20.02 Rehired annuitants and ETF 10.08 Separation from employment.

Subject

Rehired Annuitants

Fund Sources Affected

Chapter 20 , Stats. Appropriations Affected

GPR FED PRO PRS SEG SEG-S

Fiscal Effect of Implementing the Rule

No Fiscal Effect
 Indeterminate

Increase Existing Revenues
 Decrease Existing Revenues

Increase Costs
 Could Absorb Within Agency's Budget
 Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

Policy Problem Addressed by the Rule

This rule-making is needed to create a stronger and clearer relationship between ETF 20.02 and 10.08, to clarify rule language for general readability, and to make amendments needed to ensure compliance with the Internal Revenue Code (IRC).

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

There is no economic and fiscal impact on small business, business sectors, public utility rate payers, local governmental units and the state's economy as a whole.

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The rule language more brings ETF more clearly into compliance with the IRC, and clarifies the interrelationship between ETF 20.03 and 10.08. The agency does not see alternatives to achieving the policy goal of the rule amendments.

Long Range Implications of Implementing the Rule

There are no long range economic or fiscal impacts of the rule.

Compare With Approaches Being Used by Federal Government

IRC 401 (a), governing the qualified status of the pension plan, requires that there be a valid severance from employment before one can become a rehired annuitant. The changes and clarifications made to ETF 10.08 and 20.02 are intended in part to clarify language to strengthen understanding and to maintain compliance with this federal regulation. Under IRS guidelines, the IRS has made it clear that there must be a complete separation of the employee-employer relationship for a "bona fide" separation of service. The IRS has focused greatly on the intent of the employee to completely retire, with no prior arrangements to return to work for the employer. It was necessary to remove sections in the current regulation to clarify that such agreements are not permissible.

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois – The relevant code for the State Retirement System of Illinois (SRS) is 40 ILCS 5/14-111, Re-entry After Retirement. The Illinois statute indicates that, with some exceptions, an annuitant who reenters service after retirement shall receive no payments from the retirement annuity during the time of employment. Only if the annuitant accepts temporary employment for a period not exceeding 75 working days in any calendar year can the employee continue to receive annuity payments.

Unlike WRS, SRS statutes do not set forth conditions for a valid separation of service as a requirement for an annuitant's reemployment under the system. Therefore the proposed changes to ETF 10.08 and 20.02 do not bear relationship to regulations governing SRS due to an absence of analogous regulatory standards. As such the SRS administrative code also does not include language for full reporting of all rehired annuitants to the agency, as created under the proposed changes to ETF 20.02 (4).

Iowa –The relevant codes governing the Iowa Public Employees' Retirement System (IPERS) includes: Iowa Admin. Code 495-12.8, Reemployment of retired members; and Iowa Admin. Code 495-11.5, Bona fide retirement and bona fide refund. The relationship between these administrative codes does in fact bear a similar resemblance to the relationship being emphasized between ETF 10.08 and 20.02 in the current rule change.

One code is devoted to proper termination from employment (bona fide retirement in Iowa's case) and the other to rehired annuitants (reemployment of retired members). However, there is less direct reference in the Iowa language between the regulations, in part because Iowa's rehired annuitant code is devoted instead to a type of benefit payments that does not apply to WRS.

Some of the amendments currently proposed in the ETF rule changes are, however, reflected in the Iowa code. There is a section under Iowa Admin. Code 495-11.5, for example, indicating that a school employee will not be considered to have a bona fide termination in service unless all of the employee's compensated duties for their current employer cease. Similarly, in the ETF rule change, language was added to ETF 10.08 (2) (b) 5 regarding "emeritus" professors to clarify that contributions to 403 (b) accounts are included in impermissible compensation. The Iowa code also indicates that a member will fail to have a bona fide separation of service if a contract for reemployment (of any nature) is made prior to the expiration of that state's minimum separation of service. A note following ETF 10.08 (2) (b) 3 was removed to make certain the no-contract requirement is properly reflected in the ETF code.

The Iowa administrative code does not, however, include language for full reporting of all rehired annuitants to the agency, as created under the proposed changes to ETF 20.02 (4).

Michigan – Mich. Admin. Code R. 38.38 states that a "retirement allowance" shall be suspended during any time period that the "retirant" returns to work in a covered position, unless there was a bona fide termination of employment. The statutes and regulations, however, do not set forth a definition of a bona fide termination of employment, nor do they lay out conditions for proper termination. Therefore the proposed changes to ETF 10.08 and 20.02 do not bear relationship to regulations governing SRS due to an absence of analogous regulatory standards.

Minnesota – The relevant code for the Minnesota State Retirement System (MSRS) is M.S.A. § 352.115 Subd. 10, Reemployment of annuitant. The statute only indicates the maximum earnings allowable. Unlike WRS, MSRS does not have a regulation that sets forth conditions for a valid separation of service as requirement for rehired annuitants. Therefore the proposed changes to ETF 10.08 and 20.02 do not bear relationship to regulations governing SRS due to an absence of analogous regulatory standards.