

Clearinghouse Rule 16-033

**State of Wisconsin
Department of Employee Trust Funds
Employee Trust Fund Board
Wisconsin Retirement Board
Teachers Retirement Board**

The scope statement for this rule, SS 008-16, was approved by the Governor on January 27, 2016, published in Register No. 722A1, on February 1, 2016, and approved by ETF Secretary Robert Conlin on February 11, 2016.

The Wisconsin department of employee trust funds proposes an order to repeal ETF 10.63 (1) (e) 2. and 10.80; to consolidate, renumber, and amend ETF 10.63 (1) (e) (intro.) and 1.; to amend ETF 10.63 (1) (a) to (d), (f), (2), and 10.70 (4); and to create ETF 10.63 (1) (intro.), relating to technical and minor substantive changes in existing ETF administrative rules.

Analysis Prepared by the Department of Employee Trust Funds

1. Statutes interpreted:
Sections 40.07, 40.05 and 40.08 (9m), Stats.
2. Statutory authority:
Sections 40.03 (2) (i) and 227.11 (2) (a), Stats.
3. Explanation of agency authority:
By statute, the ETF Secretary is expressly authorized, with appropriate board approval, to promulgate rules required for the efficient administration of any benefit plan established in ch. 40 of the Wisconsin statutes.

In addition, each state agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.
4. Related statutes or rules:
There are no other related statutes or administrative rules directly related to this technical rule.
5. Plain language analysis:
The objective of this technical rule is to make technical updates to existing ETF rules and make other minor substantive changes.
6. Summary of, and comparison with, existing or proposed federal statutes and regulations:

The only federal regulations that may be affected by this proposed rule are provisions of the Internal Revenue Code regulating qualified pension plans. The Wisconsin Retirement System is required to be maintained as a qualified plan by s. 40.015, Stats.

7. Comparison with rules in adjacent states:
Periodically, retirement systems in adjacent states promulgate technical rules to update existing administrative rules.
8. Summary of factual data and analytical methodologies:
The department is proposing this rule to update existing rules and interpretations of existing statutes.
9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:
This rule does not have an effect on small businesses because private employers and their employees do not participate in, and are not covered by, the Wisconsin Retirement System. Please see attached economic impact analysis.
10. Effect on small business:
The rule has no effect on small businesses.
11. Regulatory Flexibility Analysis
The proposed rule has no effect on small businesses because only governmental employers and their employees may participate in the benefit programs under ch. 40 of the statutes administered by the Department of Employee Trust Funds.
12. Fiscal Estimate
Please see the attached fiscal estimate.
13. Agency contact person (including e-mail and telephone):
Please direct any questions about the proposed rule to David Nispel, General Counsel, Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707. The e-mail address: david.nispel@etf.wi.gov. The telephone number is: (608) 264-6936.
14. Place where comments are to be submitted and deadline for submissions:
Written comments on the proposed rule may be submitted to David Nispel, General Counsel, Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707. Written comments must be received at the Department of Employee Trust Funds no later than 4:30 p.m. on June 15, 2016.
15. Proposed Effective Date:
This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

16. Free Copies of Proposed Rule:

Copies of the proposed rule are available without cost by contacting the General Counsel, Department of Employee Trust Funds, P. O. Box 7931, Madison, WI 53707-7931. You can also obtain a copy by calling (608) 264-6936 or by emailing david.nispel@etf.wi.gov.

Text of Proposed Rule

SECTION 1. ETF 10.63 (1) (intro.) is created to read:

ETF 10.63 (1) (intro.) Various reports and remittances shall be submitted to the department as follows:

SECTION 2. ETF 10.63 (1) (a) to (d) are amended to read:

ETF 10.63 (1) (a) Contribution reports and remittances from state departments, excluding university and other state department reports which pertain to teachers only, required in the administration of subch. II of ch. 40, Stats., are due on ~~the 20th day of the month following the reporting month or on a day determined by the secretary and communicated to employers by the department through email updates, employer bulletins, or other means of communication.~~

(b) Contribution reports and remittances other than those specified in par. (a) required in the administration of subch. II of ch. 40, Stats., are due on ~~the last working day, excluding Saturdays, Sundays, and holidays when the state offices are closed, of the month following the end of the reporting month, or on a day determined by the secretary and communicated to employers by the department through email updates, employer bulletins, or other means of communication.~~

(c) Detailed annual earnings reports required in the administration of subch. II of ch. 40, Stats., are due on ~~the last working day, excluding Saturdays, Sundays, and holidays when the state offices are closed, of the calendar month following the end of the calendar year, or on a day determined by the secretary and communicated to employers by the department through email updates, employer bulletins, or other means of communication.~~

(d) Premium and coverage reports and remittances required in the administration of subchs. IV and VI of ch. 40, Stats., are due on ~~the 20th day of the calendar month preceding the coverage month or on a day determined by the secretary and communicated to employers by the department through email updates, employer bulletins, or other means of communication.~~

SECTION 3. ETF 10.63 (1) (e) (intro.) and 1. are consolidated, renumbered to (1) (e), and amended to read:

ETF 10.63 (1) (e) Premium and coverage reports and remittances required in the administration of subch. V of ch. 40, Stats., are due as follows: ~~1. For state agencies, on~~

~~the 20th day of the calendar month following the reporting period or on a day determined by the secretary and communicated to employers by the department through email updates, employer bulletins, or other means of communication.~~

SECTION 4. ETF 10.63 (1) (e) 2. is repealed.

SECTION 5. ETF 10.63 (1) (f) and (2) are amended to read:

ETF 10.63 (1) (f) Reduction reports and remittances required in the administration of subch. VIII of ch. 40, Stats., are due ~~within 2 working days after the date on which the regular employee payroll payments are issued, excluding Saturdays, Sundays, and holidays when the state offices are closed,~~ or on a day determined by the secretary and communicated to employers by the department through email updates, employer bulletins, or other means of communication.

(2) Whenever the ~~20th day of the calendar month or a day~~ due date determined by the secretary referred to in sub. (1) falls on a Saturday, Sunday, or holiday on which state offices are closed, a report or a remittance received on the first working day after the ~~20th day of the calendar month or a day~~ due date determined by the secretary referred to in sub. (1) shall be deemed to have been received on a timely basis.

SECTION 6. ETF 10.70 (4) is amended to read:

ETF 10.70 (4) In case of death, disabling injury, or disabling disease, disclosure of individual personal information shall be made only to the legal representative of the individual whose record is the subject of the inquiry, a beneficiary of the deceased under s. 40.02 (8), Stats., the named survivor of the deceased under s. 40.02 (41r), Stats., as identified by the department, the duly authorized representative of the beneficiary or the named survivor, or to the legal representative of the deceased individual's estate.

SECTION 7. ETF 10.80 is repealed.

SECTION 8. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.