



STATE OF WISCONSIN

**Department of Employee Trust Funds**

**Eric Stanchfield**  
Secretary  
201 East Washington Avenue  
P. O. Box 7931  
Madison, Wisconsin 53707

In Reply Refer To:

STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF EMPLOYEE TRUST FUNDS )

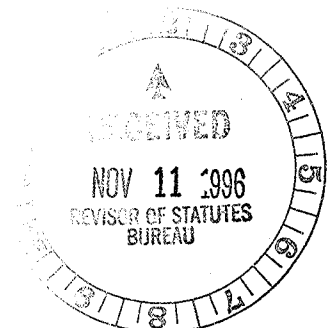
I, David C. Mills, Deputy Secretary of the Department of Employee Trust Funds and custodian of the official records, certify that the annexed rule, relating to optional forms of annuity and to automatic distributions of Wisconsin Retirement System benefits to participants and alternate payees who have attained age 69.5 and to beneficiaries of deceased annuitants, was duly approved and adopted by the State of Wisconsin Teachers Retirement Board and Wisconsin Retirement Board on September 12, 1996 and by the State of Wisconsin Employee Trust Funds Board on September 13, 1996.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

(no seal)

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Employee Trust Funds at 201 East Washington Avenue in the city of Madison, this 11th day of November 1996

David C. Mills



**State of Wisconsin**  
**DEPARTMENT OF EMPLOYE TRUST FUNDS -- OFFICE OF THE SECRETARY**  
**and**  
**EMPLOYE TRUST FUNDS BOARD**  
**TEACHER RETIREMENT BOARD**  
**WISCONSIN RETIREMENT BOARD**

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Clearinghouse Rule #CR-96-126.

AN ORDER creating ss. ETF 20.04 (4), 20.07 and 60.53, Wisconsin Administrative Code, relating to optional forms of annuity and to automatic distributions of Wisconsin Retirement System benefits to participants and alternate payees who have attained age 69.5 and to beneficiaries of deceased annuitants.

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REPORT OF THE WISCONSIN DEPARTMENT OF EMPLOYE TRUST FUNDS  
ON THE FINAL DRAFT RULE

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This report, prepared in compliance with ch. 227, Wis. Stats., includes the following:

Part 1 - Analysis prepared by the Department of Employee Trust Funds;

Part 2 - Rule text in Final Draft Form;

Part 3 - Recommendations of the Legislative Council Staff;

Part 4 - Report prepared pursuant to the provisions of s. 227.19 (3),  
Wis. Stats., including:

- (a) Statement of the Need for the Rule;
- (b) Explanation of Modifications to the Rule after Public Hearings;
- (c) List of Persons Appearing or Registering an Opinion;
- (d) Response to Legislative Council Staff Recommendations;
- (e) Final Regulatory Flexibility Analysis.

Submitted by:

Mary Anglim, Assistant Director  
Retirement and Survivor Benefits  
Wisconsin Department of Employee Trust Funds  
201 East Washington Avenue, Room 171  
P.O. Box 7931  
Madison, Wisconsin 53707-7931  
Telephone: (608) 266-6611

## Analysis Prepared by the Wisconsin Department of Employee Trust Funds

The federal Internal Revenue Code requires participants in qualified retirement plans to begin receiving distributions from their accounts by their "required beginning date," i.e., April 1 of the calendar year following the year in which they attain age 70.5. Employees covered by government plans may further defer distributions until the year following the year in which they retire. The period of the distribution cannot be greater than the participant's life expectancy or the combined life expectancies of the participant and a named joint survivor. Life expectancies must be determined using tables provided by the Internal Revenue Service (IRS). Alternate payees (former spouses who were awarded a portion of a participant's Wisconsin Retirement System account pursuant to a Qualified Domestic Relations Order) must begin distribution from the account by the participant's required beginning date, regardless of the alternate payee's age.

Prior to 1995 Wisconsin Act 302, state statutes did not permit the Department to distribute an account unless the participant applied for the benefit. Act 302 authorized the Department to begin distribution automatically, without an application, effective January 1 of the year in which the participant turns age 70.5. Automatic distribution to an alternate payee who has not applied will begin on January 1 of the year in which the participant attains, or would have attained, age 70.5. A later date may apply if the participant continues to work past age 69.5.

During the year before the automatic distribution is scheduled to begin, the Department will contact the participant or alternate payee and will provide an application form and estimated benefit amounts. The participant or alternate payee may apply for the benefit during that year or may defer the beginning date of the distribution to as late as March 1 of the year the participant will turn age 71.5 (or to March 1 of the year after retirement, if later), by filing an application for a deferred benefit. Automatic distributions will be made only to those who do not file any application.

Many accounts affected by the automatic distribution requirement are small and will be paid in a lump sum. Balances consisting of employee additional contributions only will also be paid as lump sums. For larger accounts which include required contributions, the default payment form provided under s. 40.23 (4) (c), Stats., is a life annuity with 180 payments guaranteed. This paragraph also provides that when an automatic distribution begins, the recipient's beneficiary designation is replaced by standard sequence. Since the Department is unlikely to have enough information about the participant's spouse to initiate a joint-and-survivor annuity, the default option, combined with the standard sequence beneficiary designation, offers the greatest possible protection to the spouse, if any.

For individuals whose benefit begins when they are age 72 or older, the 180-payments-guaranteed option will not meet federal distribution requirements because the guaranteed duration of payments exceeds the recipient's life expectancy. The proposed rule defines two alternative forms of payment: a life annuity with a number of guaranteed payments equal to the annuitant's months of life expectancy as determined by IRS tables; and, for persons whose life expectancy is

less than 60 months, a lump sum payment. The latter would apply only to a very few individuals who are over age 90 when the distribution begins and who, without a lump sum option, would run a significant risk of forfeiting a portion of the value of the account through death.

The default payment options prescribed in this rule and in s. 40.23 (4) (c), Stats., are not binding on the recipient. Section 40.24 (4), Stats., permits an annuitant to change the form of payment to any other available form (e.g., a joint survivor annuity) which meets the federal minimum distribution requirement by notifying the Department within 60 days after the date of the first payment.

Federal law also requires that a distribution from a qualified retirement plan to the beneficiary of a deceased annuitant continue to be made at least as rapidly as the manner of distribution selected by the annuitant. Act 302 authorizes the Department to pay the benefit as a lump sum if the beneficiary fails to apply for the continuation of the monthly annuity in a timely fashion. The proposed administrative rule sets the deadline for this application at the end of three full calendar months after the date the Department provides the application. This deadline applies only to beneficiaries who are entitled to the guaranteed monthly payments remaining after the death of an annuitant.

The Department expects to propose further rules in the future regarding automatic distributions to beneficiaries of deceased non-annuitants and specifying the methods it will use to attempt to locate participants and beneficiaries who are required by federal law to take a distribution.

#### General Summary of Rule.

Section 1 describes a new annuity option available to persons who turn age 72 or older in the year the annuity begins. This option is a life annuity with a number of guaranteed payments equal to the number of months of the person's life expectancy as determined under federal mortality tables.

Section 2 specifies the forms of payment to be used in various situations when a participant or alternate payee fails to apply voluntarily for WRS benefits by the end of the year in which the participant turns age 69.5 or retires, if later. It provides the deadlines within which a participant who is otherwise required to begin a distribution may apply for a benefit with a deferred effective date.

Section 3 provides that a beneficiary of a deceased annuitant who is eligible to receive the death benefit in the form of a monthly annuity must apply to do so by the end of three full calendar months after the Department provides the application form. Otherwise, the Department will pay the death benefit as a lump sum.

#### Authority for Rule.

Ss. 40.03 (2) (i) and (t), and 40.23 (1) (b) and (4) (c) and (d), as affected by 1995 Wisconsin Act 302.

Statutes Interpreted.

Ss. 40.02 (48r), 40.08 (3), 40.23 (1) (b) and (4) (a) to (d) as affected by 1995 Wisconsin Act 302, and 40.74 (2), Stats.

Related federal statutes and regulations

IRC Sec. 401(a)(9)(A) and (C); 26 CFR Prop. Reg. s.1.401(a)(9)-1, B-1; Table V of 26 CFR s. 1.72-9.

Final fiscal estimate. The Department anticipates no fiscal effect of this proposed rule on the fiscal liabilities or revenues of the state or any county, city, village, town, school district, vocational, technical and adult education district or sewer district.

Copies of Rule. Copies of this rule are available without cost upon request to the Office of the Secretary, Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707, telephone (608) 266-1071.

Contact Persons. Persons with questions about this rule may write to the above address or call Mary Anglim, Assistant Director, Retirement and Survivor Benefits, (608) 266-6611. Legal questions about this rule may be addressed to Robert Weber, Wisconsin Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707, telephone (608) 266-5804.

Part 2

TEXT OF RULE

SECTION 1. ETF 20.04 (4) is created to read:

ETF 20.04 (4) If the participant's or alternate payee's age on the birthday which occurs during the year that the annuity begins is 72 or more, a life annuity with a number of guaranteed payments equal to the number of full calendar months in the life expectancy for that age as determined under Table V of 26 CFR s. 1.72-9 as in effect on . . . [Revisor insert effective date of this section].

SECTION 2. ETF 20.07 is created to read:

ETF 20.07 ANNUITY OPTIONS - AUTOMATIC DISTRIBUTIONS (1) When the department begins to distribute an account under the provisions of s. 40.23 (4) (c), Stats., the benefit shall include the amount, if any, which can be provided by accumulated employer and employee required and additional contributions credited to the account. The department may not distribute a participating employee's account under this section.

(2) The benefit shall be paid in the first of the following forms that applies:

(a) For benefits determined under s. 40.25 (2m), Stats., or benefits payable solely from the participant's additional contribution accumulations under s. 40.05 (1) (a) 5., Stats., or if the amount of the annuity in the normal form based on all undistributed balances in the account is less than the amount determined under s. 40.25 (1) (a), Stats., a lump sum payment.

(b) If the participant's or alternate payee's age on the birthday which occurs during the year that the distribution begins is less than 72, the option specified in s. 40.24 (1) (c), Stats.

(c) If the participant's or alternate payee's age on the birthday which occurs during the year that the distribution begins is 72 or more, except as provided in par. (d), the option specified in s. ETF 20.04 (4).

(d) If the number of guaranteed payments determined under s. ETF 20.04 (4) is less than 60, a lump sum payment equal to the present value of the annuity.

(3) The effective date of the automatic distribution paid under sub. (2) shall be January 1 of the year in which the participant attains or would have attained age 70.5 years, or January 1 of the year following the year in which the participant retires, if later. Standard sequence under s.

40.02 (8) (a) 2., Stats., shall become effective with regard to beneficiaries of death benefits under ss. 40.71 and 40.73, Stats., on the effective date of the automatic distribution.

(4) The participant or alternate payee may not cancel distributions under this section, except as provided in sub. (5). Subject to the requirements of the internal revenue code, the participant or alternate payee may change the optional form of payment as provided under s. 40.24 (4), Stats.

(5) The department shall distribute the account as specified in this section unless the department receives the participant's or alternate payee's application for the benefit on a form provided by the department. The application may specify a deferred effective date which may not be later than March 1 of the calendar year in which the participant will attain the age of 71.5 years, or March 1 of the calendar year following the year in which the participant retires, if later. For alternate payees of deceased participants, the deferred effective date may not be later than March 1 of the calendar year in which the participant would have attained the age of 71.5 years. The department must receive the application specifying a deferred benefit effective date on or after January 1 of the year in which the participant attains (or, for alternate payees of deceased participants, would have attained) the age of 69.5, but no later than the deadline to request cancellation provided under s. ETF 20.20 (3) or (4) with respect to the benefit which is being automatically distributed.

NOTE: Federal regulations require that a distribution from a qualified retirement plan begin no later than April 1 of the year following the year in which the participant turns age 70.5 or retires, whichever is later. Under s. 40.23 (1) (c), Stats., an inactive participant who wishes to receive an annuity payment on April 1 must elect a benefit effective date which is no later than March 1. A

form specifying a requested annuity effective date, form ET-4934, is available from the Department of Employee Trust Funds at no charge.

(6) If participant or alternate payee submits a waiver of a lump sum benefit under s. 40.08 (3), Stats., and the department receives it on or before the deadline specified in s. ETF 20.20 (3) or (4), the department shall defer the automatic distribution during the waiting period before the waiver effective date. The waiver effective date may not be later than the first day of the second month which begins after the deadline to request cancellation of lump sum benefits specified in s. ETF 20.20 (3) or (4). The department shall not defer automatic distribution of monthly annuity benefits if a waiver is filed, but shall continue to make monthly payments until the waiver takes effect.

SECTION 3. ETF 60.53 is created to read:

ETF 60.53 DEATH BENEFITS - AUTOMATIC DISTRIBUTIONS. (1) (a) A beneficiary of a deceased annuitant who is entitled to a continuation of the annuitant's monthly annuity under s. 40.73 (2), Stats., may receive the benefit as a monthly annuity by filing a timely application. The application for a monthly annuity must be received by the department no later than the last day of the third full calendar month which begins after the date the department mails or otherwise provides the application to the beneficiary.

(b) If the department does not receive an application for a continuation of the monthly annuity within the deadline specified in par. (a) the department shall pay the then present value of the death benefit to the beneficiary as a lump sum. The department may not accept a request to cancel the lump sum payment which is received after the deadline specified in par. (a) or the deadline specified in s. ETF 60.51 (2), whichever is earlier.



(c) If the beneficiary submits a waiver of a lump sum benefit under s. 40.74 (2), Stats., and the department receives it on or before the deadline specified in s. ETF 60.51 (2), the department shall defer automatic distribution of the benefit during the waiting period before the waiver effective date. The waiver effective date may not be later than the first day of the second month which begins after the deadline specified in s. ETF 60.51 (2). Any new beneficiary who becomes eligible for a continuation of the monthly payments as a result of a waiver shall be granted the period specified in par. (a) to apply for continuation of the monthly payments.

(END OF RULE TEXT)

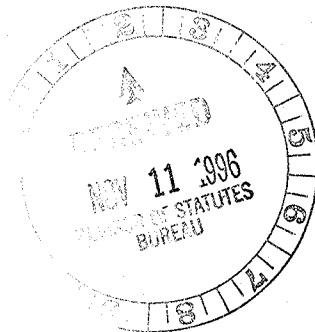
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Effective Date: This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Wis. Stats.

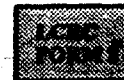
Signed at Madison, Wisconsin this 24<sup>th</sup>  
day of September, 1996.



Eric O. Stanchfield  
Secretary  
Wisconsin Department of Employee Trust  
Funds



**WISCONSIN LEGISLATIVE COUNCIL STAFF**



**RULES CLEARINGHOUSE**

**Ronald Sklansky**  
Director  
(608) 266-1946



**David J. Stute, Director**  
Legislative Council Staff  
(608) 266-1304

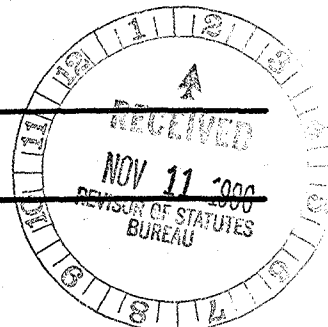
**Richard Sweet**  
Assistant Director  
(608) 266-2982

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 96-126**

AN ORDER to create ETF 20.07 and 60.53, relating to automatic distributions of Wisconsin retirement system benefits to participants and alternate payees who have attained age 69.5 and to beneficiaries of deceased annuitants.

Submitted by **DEPARTMENT OF EMPLOYE TRUST FUNDS**

08-01-96 RECEIVED BY LEGISLATIVE COUNCIL.  
08-29-96 REPORT SENT TO AGENCY.

RNS:GAA:kjf:jt

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 96-126

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

#### **2. Form, Style and Placement in Administrative Code**

- a. Section ETF 20.07 (2) (a) should begin on a new line rather than being shown on the same line as sub. (2) (intro.).
- b. In s. ETF 20.07 (2) (b) ", Stats." should be inserted in the second line of that paragraph. [See s. 1.07 (2), Manual.]
- c. In s. ETF 20.07 (2) (d), "para." should be "par." [See s. 1.03 (intro.), Manual.]

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

In s. ETF 20.07 (2) (c), the reference to "Table V of Treas. Reg. s. 1.72-9" is not correct. When citing a federal regulation currently in force, the department should use the Code of Federal Regulations reference. [See s. 1.07 (3) (b), Manual.]

## Part 4

### Report Required by s. 227.19 (3), Wis. Stats.

#### (a) Need for the Rule.

The rule has two objectives: to provide a specific form of payment for an automatic distribution when the ordinary default option does not conform to federal minimum distribution requirements; and to ensure that the guaranteed payments remaining after the death of an annuitant are paid out at least as rapidly as under the payment option selected by the annuitant. These objectives are specifically authorized by 1995 Wisconsin Act 302 and are necessary to ensure compliance with federal tax laws. If no rule is promulgated, the qualified status of the Wisconsin Retirement System could be jeopardized.

#### (b) Modifications to the Rule.

The rule has been partially redrafted for clarity. In addition, the following modifications were made:

1. Section ETF 20.04 (4) was newly added. This section permits applicants over age 71 to elect a life annuity with a number of guaranteed monthly payments as determined under federal mortality tables. As previously drafted, the rule provided this option only for automatic distributions.
1. Section ETF 20.07 (2) (a) was rewritten to specify that account balances consisting solely of employe additional contributions will be distributed in a lump sum.
2. Section ETF 20.07 (3) was deleted and redrafted to specify effective dates of benefits and related beneficiary changes.
3. Section 20.07 (5) was amended to clarify that the deferred effective date may be as late as March 1 of the year following the year of retirement, for persons who work past age 71.5
4. Sections ETF 20.07 (6) and 60.53 (3) were added to specify procedures in the event that a prospective recipient of an automatic distribution files a benefit waiver.
5. Section ETF 60.53 (1) to (3) was renumbered in anticipation of future rules.

#### (c) List of Persons Who Appeared or Registered For or Against the Proposed Rule at a Public Hearing.

One member of the public and one Department of Employee Trust Funds employe attended the public hearing. Neither wished to register for or against the proposed rule.

(d) Response to Legislative Council Staff Recommendations.

All Legislative Council Staff Recommendations have been implemented.

(e) Final regulatory flexibility analysis. The proposed rule itself does not directly affect small businesses.

(END OF FINAL DRAFT REPORT)



STATE OF WISCONSIN

**Department of Employee Trust Funds**

**Eric Stanchfield**  
*Secretary*  
201 East Washington Avenue  
P. O. Box 7931  
Madison, Wisconsin 53707

November 11, 1996

In Reply Refer To:

GARY L. POULSON, DEPUTY REVISOR  
REVISOR OF STATUTES BUREAU  
8TH FLOOR  
131 W WILSON ST  
MADISON, WISCONSIN 53707

Dear Mr. Poulson:

RE: Clearinghouse Rule No. 96-126

Enclosed is a Certificate and two copies of an Order creating and adopting rules. A certified copy of this Order has been forwarded to the Secretary of State.

I request that the rule be published in the December 31 issue of the administrative register.

I also enclose a copy of the rule on disk, in Wordperfect 5.1 format.

Please contact me if you have any questions.

Sincerely,

David Stella, Administrator  
Division of Retirement Services  
(608) 267-9038  
FAX # (608) 267-0633  
TDD # (608) 267-0676

