

Clearinghouse Rule 97-072

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

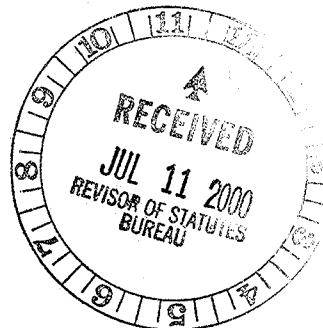
I, Eric O. Stanchfield, Secretary of the Department of Employee Trust Funds and custodian of the official records, certify that the annexed rule, relating to rehired annuitants was duly approved and adopted by the State of Wisconsin Employee Trust Funds Board on June 20, 1997 and the Teachers and Wisconsin Retirement Boards on June 19, 1997, respectively.

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 801 West Badger Road in the city of Madison, this 10th day of July 2000.

Eric O. Stanchfield
Eric O. Stanchfield



9/1/02

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

Clearinghouse Rule #CR 97-072

AN ORDER amending ss. ETF 20.02 (1) and (3) (a) 3; repealing ss. ETF 20.02 (3) (a) 2., (3) (b), (4) and (5); repealing and recreating s. ETF 20.02 (2), Wisconsin Administrative Code, relating to rehired annuitants.

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

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;

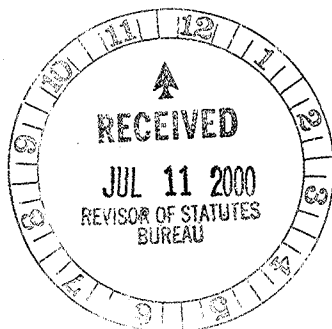
Part 3 - Recommendations of the Legislative Council Staff;

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 Hensen
Division of Employer Services
Wisconsin Department of Employee Trust Funds
801 West Badger Road
P.O. Box 7931
Madison, Wisconsin 53707-7931
Telephone: (608) 266-8411



Part 1

Analysis Prepared by the Wisconsin Department of Employee Trust Funds

General Summary of Rule. The rule amends the definition of rehired annuitants to include reference to the requirements for retirement annuity entitlement enacted by 1995 Wisconsin Act 302, which took effect on July 1, 1996. As a result of 1995 Wisconsin Act 302, a rehired annuitant is no longer required to exceed the earnings limit in order to qualify to participate in the Wisconsin Retirement System (WRS). The rehired annuitant can elect to participate in the WRS at any time after being rehired in a WRS eligible position.

Authority for Rule. Section 40.03 (1) (m) and (2) (i).

Statutes Interpreted. Section 40.23 (1) (a).

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 53707-7931, telephone (608) 266-1071.

Contact Persons. Persons with questions about this rule may write to the above address or call Mary Hensen, Program & Policy Analyst, Division of Employer Services, (608) 266-8411. Legal questions about this rule may be addressed to Robert Weber, Wisconsin Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707-7931, telephone (608) 266-5804.

Part 2

TEXT OF RULE

SECTION 1. ETF 20.02 (1) is amended to read:

ETF 20.02 REHIRED ANNUITANTS. (1) In this section, "rehired annuitant" means a participant to whom a retirement annuity is payable under s. 40.23, Stats., who was separated from all employment meeting the qualifications for inclusion under the Wisconsin retirement system specified in s. 40.22, Stats., on the date he or she became an annuitant, and who is employed by a participating employer after becoming an annuitant on or after July 1, 1996, who has applied for and is eligible to receive a monthly annuity under s. 40.23, Stats., including satisfying the requirement to remain separated from participating employment for the period specified under s. 40.23 (1) (a), 1., Stats., and who subsequently is employed by a participating employer in employment which would meet the eligibility criteria for inclusion under the provisions of the Wisconsin retirement system specified in s. 40.22, Stats., but for the exclusion of s. 40.22 (2)(L), Stats.

SECTION 2. ETF 20.02 (2) is repealed and recreated to read:

ETF 20.02 (2) The minimum break in service period required under s. 40.23 (1) (a), Stats., is satisfied when the rehired annuitant returns to work no earlier than the latest of the following dates:

- (a) The day after the annuity effective date.
- (b) The thirty-first day after the date participating employment terminated.
- (c) The thirty-first day after the date the benefit application was received by the department.

SECTION 3. ETF 20.02 (3) (a) 2. is repealed.

SECTION 4. ETF 20.02 (3) (a) 3. is amended to read:

ETF 20.02 (3) (a) 3. The rehired annuitant files with the department a written election to be included under the provisions of the Wisconsin retirement system as a participating employee. The election shall be on a form provided by the department ~~and shall include employer certification of the date on which the earnings limit was exceeded.~~

NOTE: A "Rehired Annuitant Election" form, ET-2319, is available from the department of employe trust funds.

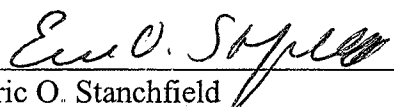
SECTION 5. ETF 20.02 (3) (b) is repealed.

SECTION 6. ETF 20.02 (4) and (5) are repealed.

(END OF RULE TEXT)

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
10th day of July, 2000.

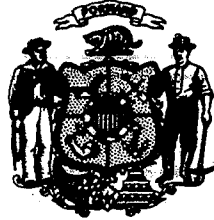

Eric O. Stanchfield
Secretary
Department of Employee Trust Funds

WISCONSIN LEGISLATIVE COUNCIL STAFF



RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

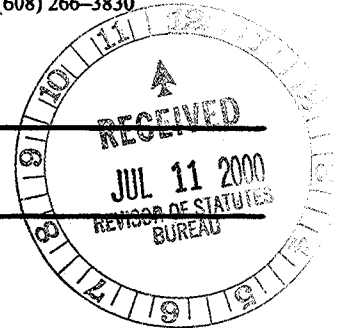


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CLEARINGHOUSE REPORT TO AGENCY



[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 97-072

AN ORDER to amend ETF 20.02 (1) and (3) (a) 3.; to repeal ETF 20.02 (3) (a) 2., (3) (b), (4) and (5); to repeal and recreate ETF 20.02 (2), relating to rehired annuitants.

Submitted by **DEPARTMENT OF EMPLOYE TRUST FUNDS**

05-01-97 RECEIVED BY LEGISLATIVE COUNCIL.

05-29-97 REPORT SENT TO AGENCY.

RNS:JLK:kjf;kja

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

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CLEARINGHOUSE RULE 97-072

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.]

1. Statutory Authority

1995 Wisconsin Act 302 provided that the provisions relating to rehired annuitants took effect on July 1, 1996. However, the rule contains a proposed effective date of the first day of the month following publication in the Wisconsin Administrative Register. This discrepancy should be corrected, for example, by including an initial applicability provision in the rule. It is suggested that such an initial applicability provision be placed in the body of s. ETF 20.02 for the benefit of a future reader of the rule.

2. Form, Style and Placement in Administrative Code

a. The title of s. ETF 20.02 should not be shown. [See s. 1.05 (3) (d), Manual.]

b. In s. ETF 20.02 (1), the first three references to provisions in the Wisconsin statutes should be followed by "Stats.". The last reference should be followed by "Stats.".

Similarly, in s. ETF 20.02 (2) (intro.), the reference to "s. 40.23 (1) (a)" should be followed by "Stats.".

c. There are two SECTIONS identified as SECTION 4. The second of these, and the succeeding SECTION, should be renumbered as SECTIONS 5 and 6, respectively.

d. The Note in the first SECTION 4, which amends s. ETF 20.02 (3) (a) 3., should be underlined as it is new text. [See s. 1.06 (1), Manual.]

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

a. In s. ETF 20.02 (1), the reference to “s. 40.02 (2) (L)” should be changed to “s. 40.22 (2) (L)”.

b. The Note following s. ETF 20.02 (2) (c) refers to “s. ETF 10.08.” No such section currently exists. The correct cross-reference should be included.

5. Clarity, Grammar, Punctuation and Use of Plain Language

The rule is inconsistent with respect to hyphenation of the word “rehired.” The word is hyphenated in s. ETF 20.02 (1), which defines “re-hired annuitant,” but it is not hyphenated in the Note following s. ETF 20.02 (3) (a) 3. The rule should be made consistent.

Part 4

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

(a) Need for the Rule.

Until the rule is promulgated, the existing rule conflicts with 1995 Wisconsin Act 302, which took effect on July 1, 1996.

(b) Modifications to the Rule.

The rule was revised after review by the Legislative Clearinghouse as follows:

1. The hyphens were removed in the word re-hired to be consistent throughout the rule. The title in s. ETF 20.02 Re-hired Annuitants and re-hired annuitant in ETF 20.02 (2) were both changed to rehired annuitants.
2. "Stats.," was added to all references made to the Wisconsin statutes.
3. The last two Sections of the rule were renumbered as SECTIONS 5 and 6.
4. The note in SECTION 4 was underlined as new text.
5. The reference to "s. 40.02 (2) (L)" was changed to "s. 40.22 (2) (L)" in s. ETF 20.02 (1).
6. The Note following s. ETF 20.02 (2) (c) was deleted because it referred to s. ETF 10.08, a proposed rule which has not been promulgated.

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

A public hearing was held on June 2, 1997 and no persons appeared or registered for or against the proposed rule.

(d) Response to Legislative Council Staff Recommendations.

All recommendations of the Legislative Council Staff have been implemented.

(e) Final Regulatory Flexibility Analysis.

The provisions of the proposed rule will have no direct adverse effect on small businesses.



STATE OF WISCONSIN

Department of Employee Trust Funds

Eric O. Stanchfield
Secretary
801 West Badger Road
P.O. Box 7931
Madison, WI 53707-7931

July 10, 2000

GARY POULSON, DEPUTY REVISOR
REVISOR OF STATUTES BUREAU
131 WEST WILSON STREET, SUITE 800
MADISON WI 53702

Re: Clearinghouse Rule No. 97-072 relating to rehired annuitants.

Dear Mr. Poulson:

As provided under Wis. Stats. § 227.20 (1) and § 227.21 (1), I am enclosing with this letter a copy of a Certificate and Order creating and adopting rules. A certified copy of this Order has been forwarded to the Secretary of State.

Please publish this rule in the August 30 issue of the *Wisconsin Administrative Register* for an effective date of September 1, 2000. A copy of this Certificate and Order will be sent to you as an e-mail attachment.

Please contact Pam Henning, Director of Legislation and Planning, at 267-2929 if you have any questions regarding the rule.

Sincerely,

Eric O. Stanchfield
Secretary

Enclosure

