

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

*Joint Survey Committee
on Retirement Systems
(JSC-RS)*

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR_RCP_pt01a
- 97hrAC-EdR_RCP_pt01b
- 97hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤

➤ Clearinghouse Rules ... CRule

➤

➤ Committee Hearings ... CH

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➤ Committee Reports ... CR

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➤ Executive Sessions ... ES

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➤ Miscellaneous ... Misc

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➤

Sub Committees

STATE OF WISCONSIN
DEPARTMENT OF EMPLOYE TRUST FUNDS
201 East Washington Avenue
Madison, WI 53702

CORRESPONDENCE MEMORANDUM

DATE: January 5, 1996

TO: Blair Testin, Director
Retirement Research Committee

FROM: David Stella, Administrator *David Stella*
Division of Retirement Services

SUBJECT: Transaction Amortization Account (TAA)

You asked that I develop an issue paper for the RRC on the Transaction Amortization Account (TAA). This paper provides the perspective of the Department of Employee Trust Funds on the issues surrounding the TAA as it affects reporting of the investment experience of the Fixed Trust Fund of the WRS, benefits provided to participants, and whether the TAA achieves its stated objectives. The ETF Board consulting actuary will provide the RRC with additional information and alternatives concerning the TAA.

Background

The TAA was created in 1973 Wisconsin Act 137 as part of a bill that pooled the assets of the Wisconsin Retirement Fund (WRF), the State Teachers Retirement System (STRS), and the Milwaukee Teachers Retirement System (MTRS). The pooled funds became the Fixed Retirement Investment Trust Fund and the Variable Retirement Investment Trust Funds. Each separate retirement system owned an interest in the fixed fund. Under Act 137 investment gains and losses in the Fixed Retirement Trust were credited (or debited) to the newly created TAA. Prior to Act 137 investment gains and losses were reflected fully in the year the gain or loss was realized.

Under Act 137 the balance of the TAA was paid out at 7% per year (3.5% semiannually). It was expected that capital gains and losses would be spread out over a period of about 14 years rather than falling in total in one year.

The underlying purpose was to smooth investment gains and losses so that the annuity reserves were not adversely affected by short term changes in bond values. Until 1985, stocks were carried at book value. The creation of the TAA was supported by the State of Wisconsin Investment Board (SWIB) because the TAA gave SWIB considerable flexibility in handling bond transactions and saved personnel time (see attached JSCRS minutes 4/19/73).

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Over the years several legislative changes affected the TAA. In 1987 \$230 million of the TAA was recognized to fund a special investment performance dividend for certain annuitants who retired prior to September 1974. This legislation precipitated the Special Investment Performance Dividend lawsuit against the Secretary of the Department of Administration, the State Treasurer and the ETF Board that has continued to the present day.

In 1989 Wisconsin Act 13 \$500 million in investment gain in the TAA was realized to fund some of the benefit improvement costs associated with that legislation. In addition, the annual recognition of investment gains and losses was increased to 20% from 7%. In 1990 the law was amended to provide that the TAA reflect the difference between the book and market value of securities in the Fixed Retirement Investment Trust.

In October, 1995 AB627, a bill which made benefit and other changes to the WRS, proposed recognition of \$2 billion from the TAA. This bill received a public hearing in the Joint Survey Committee on Retirement Systems.

How the TAA Functions

The TAA reflects the difference between the book and market value of assets in the Fixed Retirement Investment Trust Fund and includes both realized and unrealized gains or losses in the value of securities. Its function is to smooth the impact of investment gains and losses on the various reserves of the Fixed Fund. These reserves include the employer reserve, the employee reserve and the annuity reserve. In smoothing the investment experience the TAA stabilizes contributions rates paid by employers and employees. If actual market experience was reflected in these reserves contribution rates could fluctuate considerably year to year making it difficult for employers to budget for large changes in contribution rates.

In addition, the smoothing of gains and losses in the annuity reserve protects annuitants from severe fluctuations in the financial markets. Annuitants are eligible to receive dividends on their monthly annuities based on surpluses in the annuity reserve. These dividends are not guaranteed and can be reduced or eliminated in future years if declines in the financial markets cause asset value declines in the annuity reserve. Smoothing investment returns has the effect of holding back some investment gains, but providing greater dividend stability. Consequently, the annuity reserve of the Fixed Fund has had a positive dividend distribution each year since 1978.

Issues Raised By the TAA

The operation of the TAA is very difficult to understand. It causes confusion for WRS participants, employers and taxpayers because it results in ETF reporting different investment

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performance results for the Fixed Fund than that reported by SWIB. Because investment gains are held back annuitants often believe the investment gain is being taken from them. In years when investment losses occur annuitants are shielded from the full effect of these losses. However, they often don't realize that the reason for this is that they are offset by investment gains that are carried over from previous years.

The complex investment accounting structure associated with the TAA also creates difficulties in implementing proposals that on the surface appear simple to administer. For example, legislation to allow WRS participants to roll-in contributions from other qualified retirement plans passed in 1992. In order to implement this legislation the Department of Employee Trust Funds had to draft administrative rules that would change the accounting structure for crediting investment returns on funds that were rolled-in. The administrative appropriation necessary to implement this legislation was removed from the bill prior to its passage. Consequently, a large part of the legislation has not yet been implemented. The main reason for the delay is caused by the significant accounting problems related to the TAA.

Each year 20% of the December 31 balance of the TAA is recognized and included in the investment income credited to the Fixed Fund. There is no precise method to determine whether this flat percentage distribution formula is always appropriate. Some have asserted that 20% is too low, while others argue it is too high. Despite the arbitrary appearance of a flat percentage distribution formula it may be quite reasonable and functional over the long term despite occasional precision problems on a short-term basis.

Finally, the most serious issue raised by the TAA is the public misperception that this account represents a "surplus" in the assets of the WRS. When the TAA contains a large positive balance the tendency of many fund participants, employers and others is to look for ways to use this "surplus" for benefit improvements or contribution reductions. In fact, the TAA is not a surplus account but merely an accounting mechanism. Inappropriate use of the TAA can cause serious damage to the long term financial stability of the WRS, however, the damage may not be apparent for several years in the future. Investment gains recognized today, that would have been recognized in the assets of the Fixed Fund in the future, simply change the timing of investment income flows. Unfortunately, the temptation to address short term needs at the expense of long term considerations can often be overpowering.

Alternatives to the TAA

The ETF Board actuary will provide information about possible alternatives to the TAA and the advantages and disadvantages of each alternative. However, it is important to keep in mind that

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most defined benefit retirement plans use some sort of investment performance smoothing mechanism because it is an important tool to control the volatility of financial markets.

If changes to the current TAA structure were proposed the legal implications of such changes to the contractual rights of participants would need to be carefully considered. Since many current participants and all annuitants have an benefit interest in the investment return of the Fixed Fund changes to the TAA may affect those benefit interests. Consequently, care should be taken not to create a contractual rights issue in proposing changes to the TAA.

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STATE OF WISCONSINMINUTES OF MEETINGJOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS

Room 318
122 W. Washington Ave.

April 19, 1973

1:00 p.m.

CALL TO ORDER AND ROLL CALL
(AGENDA ITEM 1)

The meeting was called to order by Senator La Fave, Chairman, at 1:30 p.m., in Room 318, 122 W. Washington Ave., Madison, Wis.

Present: (6) Rep. Baldus, Sen. La Fave, Rep. Looby;
Messrs. Olson, Schmidt and Van Cleave.

Absent: (1) Sen. Devitt, unable to attend the meeting, requested that he go on record as favoring adoption of the reports as presented, pertaining to Senate Bills 449 and 50.

Others Present: C. M. Sullivan, Secretary of the Employee Trust Funds Dept.; John Pike, Director of the State Investment Board; Howard Smart, Investment Director of the State Investment Board; Linda Lawlor, Research Analyst; Debbie Vogel and Ivy Haggott, Secretaries.

CONSIDERATION OF MINUTES OF MEETING OF 4/2/73.

Mr. Van Cleave moved, seconded by Rep. Looby, that the minutes of April 2, 1973 be approved as presented. Motion carried by voice vote.

CONSIDERATION OF JOINT SURVEY COMMITTEE REPORTS ON THE
FOLLOWING BILLS:

(AGENDA ITEM 3)

Chapter 137 Laws of 1973

- 1- Senate Bill 449, relating to investment by the investment board of employe trust funds.

Mr. Sullivan expressed his apologies for the brevity of the report. He explained that the bill has two major purposes; the first is the investment procedure and the second is the accounting procedure.

- 1- For investment purposes only, the assets of the Wisconsin Retirement Fund, the State Teachers Retirement System, the Milwaukee Teachers Retirement Fund and the Conservation Wardens Pension Fund would be pooled into one fixed annuity investment trust and one variable annuity investment trust. Each of the above named retirement funds or systems would own an interest in each trust, in proportion to the assets of each fund or system held in each trust.
- 2- A significant change in the manner of accounting, for capital gains and losses for the pooled fixed annuity retirement investment trust is also proposed. Under present law and procedures, each realized capital gain or loss of a fixed annuity retirement fund is reflected fully in the investment experience for the year in which the gain or loss is realized. Under this bill every capital gain or loss realized under the fixed annuity investment trust would be credited (or debited) to a special holding account, the proceeds of which would be paid out to the several retirement funds or systems at a rate of 7% each year. Thus each capital gain or loss would be spread over a period of about 14 years, rather than falling in total in one year.

John Pike, Executive Director of the State Investment Board, appeared before the Committee, stating that this bill would result in some administrative cost savings later. He added that the accounting department is asking for flexibility in handling of bonds also.

Howard Smart, Investment Director of the State Investment Board, also appeared before the Committee. He stressed that the flexibility would increase the frequency of transactions, which would result in increased yield. The change in accounting would benefit the funds in that there would be considerable saving in personnel time in amortizing each individual item. He added that Connecticut and California have already set up a plan similar to this.

Mr. Sullivan pointed out that the State Auditor, Mr. Ringwood, has approved in principle the proposed accounting changes, as well as the Investment Board staff and the Employee Trust Funds Board. The investment pool concept has been endorsed by the State Treasurer, the Investment Board and Employee Trust Funds Board.

Discussion by members followed.

Mr. Sullivan remarked that he contemplates distributions twice a year, as before. The increase will be identical for the various systems, but the determination of return is at the disgression of the boards. Since there is a different fiscal closing date (June 30 for STRS and Dec. 30 for WRF) this could easily result in a variation.

Sen. La Fave suggested the addition of the following sentence to the recommendation on the report: "This Committee believes that passage of this bill would be good public policy."

Mr. Olson moved, seconded by Rep. Looby, that the report be adopted as presented with the above addition. Motion carried by voice vote.

2. Senate Bill 50, relating to retirement age for certain state and local officials and employees.

Detailed discussion ensued by members.

Mr. Sullivan remarked that he finds it difficult to find any justification for a basic compulsory retirement age. There seems to be no agreement between departments or the Bureau of Personnel. He feels that this is not a retirement problem, but a basic policy question and perhaps should be in the personnel-management area.

Motion by Rep. Looby, seconded by Mr. Olson, that the report be adopted as presented. Motion carried unanimously by voice vote.

3. Senate Bill 64, relating to retirement benefit changes in counties having a population of 500,000 or more.

Mr. Olson inquired just what this bill seeks to accomplish. Mr. Sullivan replied that it is a means of circumventing home rule authority.

Rep. Baldus added that he feels that certain bills are presented to the legislature by Milwaukee City and County, especially when a certain request or program has been refused by home rule.

Sen. La Fave commented that it is his understanding that Milwaukee is desirous of obtaining a court ruling regarding this bill.

Mr. Schmidt suggested that the phrase "previously delegated to it by the legislature" be added to the recommendation. This met with the agreement of members.

Mr. Schmidt moved that the report be adopted, in the amended form; seconded by Mr. Van Cleave and carried by voice vote.

Meeting adjourned at 3:00 p.m. The next meeting will be at the call of the chairman.

STATE OF WISCONSIN
DEPARTMENT OF EMPLOYEE TRUST FUNDS
201 East Washington Avenue
Madison, WI 53702

CORRESPONDENCE MEMORANDUM

DATE: January 5, 1996

TO: Blair Testin, Director
Retirement Research Committee

FROM: David Stella, Administrator *David Stella*
Division of Retirement Services

SUBJECT: WRS Unfunded Accrued Actuarial Liability (UAAL)

You asked that I provide the Committee with a report on the issues related to the creation and payment of the unfunded liability by public employers participating in the WRS. This memo will discuss some of the practical implications of the current method of amortizing unfunded accrued liabilities of the WRS. Norm Jones, consulting actuary to the Employee Trust Funds Board, will provide a more detailed description and possible alternative approaches for the Committee.

Background

For purposes of this discussion I will refer to the UAAL as "prior service liability" which represents all of the current unfunded liability in the WRS. Prior service liability has been a controversial issue for some employers especially since enactment of benefit improvements in 1989 Wisconsin Act 13. Prior service liability is created in two ways: when an employer first joins the WRS and chooses to recognize part or all of the service rendered for that employer prior to the date the employer was included in the WRS and when benefit improvements are granted in legislation and apply to service already rendered by covered employees.

As part of the funding mechanism to pay for benefit improvements 1989 Wis Act 13 increased the WRS existing prior service liability by \$512 million and established a new 40 year amortization period. A previous benefit improvement bill, 1983 Wisconsin Act 141, had increased the prior service liability on January 1, 1986 by \$530 million and had also reset the amortization period to 40 years. On December 31, 1983 the prior service liability of the WRS was \$650 million. The prior service liability balance as of December 31, 1994 was \$2.007 billion. Approximately 70% of the total is the liability of local government employers and 30% is the liability of state agencies.

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Discussion of Issues

The existence of a prior service liability is not the sign of funding difficulties for a retirement system. The important consideration is whether the retirement system has a plan to pay off the liability over a realistic period of time and that employers are meeting their annual obligation to pay down the liability. In the WRS employers on average pay a contribution rate of 1.3% of payroll toward their prior service liability. That rate is frozen for the entire amortization period of 40 years, but the employer may, at its discretion, pay down the balance in larger installments or lump sum payments. Some WRS employers have chosen to pay off their unfunded liability balance completely in one lump sum payment.

As the consulting actuary will describe in his presentation, the amortization schedule for payment of the prior service liability includes a level percent of payroll method so that inter-generational equity is achieved. The amortization schedule assumes an ever increasing employer payroll using a salary growth assumption (currently 5.3%) and an interest rate charge on the unpaid balance based upon the WRS assumed interest rate (currently 8.0%). These assumptions are set by the Employee Trust Funds Board and may change if the Board, on the recommendation of the actuary, determines that a change is necessary to reflect the long term experience of the WRS.

Under the design of the amortization schedule an employer's prior service liability balance will grow (in nominal dollars) for about the first twenty years and then decline in the next twenty years of the schedule as payroll growth causes an ever increasing payment against the principal balance. For most employers the actual experience of salary growth will not be the same as the amortization schedule assumes. However, if on average wage increases grow at the assumed salary inflation rate, the liability will be fully paid within the forty year amortization period.

Issues of Concern to Employers

Since 1989 a series of events have caused concern among some local government employers who were alarmed by their increasing prior service liability balance. In particular, those employers who have experienced substantial downsizing of their employe payroll have expressed concern that their liability balance will continue to grow because their payments will never reach a level sufficient to pay the full interest and principle. This is particularly true for employers who experienced large payroll declines through the sale or closing of a nursing home, hospital or psychiatric facility. In one extreme case, using the current

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amortization method, the employer's liability was projected to grow from \$3 million to more than \$25 million by the end of 40 years.

In order to resolve this problem employers must make larger payments toward their unfunded liability than anticipated. This is particularly unpopular during a period that local governments are under expenditure caps.

A second issue is that many employers object to being charged interest on this debt. However, liabilities are interest bearing obligations of the WRS. The WRS must receive interest on its obligations in an amount it expects to earn over the long term on invested assets. If interest is not charged the result is a financial loss to the WRS which will cause an increase in WRS liabilities and would result in higher current service contribution rates for all employers (i.e. not just those who have an unfunded liability). Employers can avoid interest costs by paying their liability in full or reduce interest costs by paying down the principal balance faster than scheduled.

A third issue raised by employers concerns the fact that once established, the prior service liability remains the employer's obligation regardless of the status of the employees on which the liability is based. Under the current method of assessing prior service liability the allocation of the liability is based on each employer's payroll of participating employees on a specified date. The liability remains regardless of the status of each employee after that date. In some cases, employees move to other public employers, die, retire, separate from service and withdraw their contributions, or leave their contributions on account and become employed in private sector jobs.

Some employers believe that their prior service liability should be recalculated each year solely using the employees employed on the first day of the calendar year. Prior service liability recalculation each year is done in some retirement systems such as the Illinois. However, the logistics of tracking employees as they move in and out of employment with over 1200 employers makes this method extremely complex and expensive. These are experience rating issues that will be addressed in more detail by the actuary.

Alternative Method of Funding UAAL

In addition to the current method used by the WRS and the annual recalculation method by employer, the WRS consulting actuary has suggested that we explore the possibility of aggregating all employer prior service liabilities into one liability for the system and have all employers pay the average contribution rate necessary to pay-off the liability over the

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amortization period. Under this method there would be no individual employer prior service liability. All employers' prior service would be "pooled" and employers would pay the same percentage toward the system's unfunded liability. While this method may create the magical impression that all the individual prior service liabilities would disappear it is not without its drawbacks and possible legal implications. Employers who have already paid off their prior service liabilities would face higher total contribution rates. Employers with high prior service rates would be advantaged by having their rates lowered to the average rate, but those paying less than the average would face an increase in their total contribution rate. New employers might eventually be required to recognize the prior service of their employees when joining the WRS and would pay the same average contribution rate for prior service.

Many of these drawbacks can be accommodated through a phase-in of the prior service rate changes, however, there would be some loss in flexibility now available in the "non-pooled" arrangement. Despite these drawbacks the "pooled" prior service arrangement does offer some advantages that should be studied by the RRC if changes to the current UAAL method are contemplated.

Summary

A number of employers have expressed concern about the current amount of their unfunded prior service liability and the method by which the liability is determined and repaid. It is a matter the RRC should review and determine if a change to the current method of calculating and paying unfunded prior service liabilities is warranted and feasible.

If changes are proposed a careful review of the legal implications should also be completed to assure that these changes would withstand a legal challenge.



State of Wisconsin

JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS
AND THE RETIREMENT RESEARCH COMMITTEE

BLAIR L. TESTIN
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January 12, 1996

TO: Members of the Retirement Research Committee
FROM: Blair Testin, Consultant for the RRC *B.T.*
RE: **Benefit Adjustment Contributions (BAC)**

Contributory System. As is true for most public employee retirement systems, the WRS and its predecessor pension plans have, by tradition, been contributory plans requiring employee sharing of benefit costs. The statutory employee contributions under the WRS are found under s. 40.05 (1), Stats., and are 5% of payroll for general employees and teachers, 5 1/2% for elected officials and state executives, 6% for protectives with social security (police) and 8% for those protectives without Soc. Sec. (firefighters).

The employers are responsible by statute for the remaining share of the normal cost of pension benefits, and this amount is not established by statute but rather is subject to annual determination by the ETF Board and consulting actuary. In addition, the employers are required by statute to amortize any unfunded accrued actuarial liability (UAAL) over a 40-year period. Lastly, the employer may "pick-up" part or all of the required employee contributions.

Employee statutory contributions are credited to employee individual accounts, and the accounts are subject to withdrawal upon separation or they are used to help fund pension benefits upon retirement. Employer required contributions are credited to an aggregate employer account which is debited only with the costs of pension benefits that exceed the value of an employee's accumulation account.

1983 Wis. Act 141. Major retirement legislation was enacted in the 1983 session providing improvements in formula pensions and other benefits and rights. The benefit changes were funded by a combination of actuarial changes, some benefit reductions, and increases in employee and employer contribution rates for some participants. Contribution rates were increased for general employees, teachers and police in 1986 as a result of this legislation, but contribution rates actually declined for firefighters and elected officials in 1986 because of the internal funding devices.

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An unusual provision of the 1983 Act was a requirement that any additional employee contributions required by passage of this legislation would be credited to the employer aggregate account instead of to the individual employees' account. Accordingly, any such amounts would not be subject to withdrawal upon separation, or be included in death benefits or money purchase calculations. Because of this requirement, any added employee contributions provide a greater offset against the costs of the 1983 benefit improvements than would be true if they were credited to the employee accumulation accounts.

This unusual contribution and crediting provision is defined as the benefit adjustment contribution (BAC), and is found in WRS Stats. under s. 40.05 (2m) as follows:

(2m) BENEFIT ADJUSTMENT CONTRIBUTION. Except as provided in sub. (2n), in addition to the amounts under subs. (1) and (2), a benefit adjustment contribution equal to 1% of earnings shall be paid by or for participating employees whose formula rate is determined under s. 40.23 (2m) (e) 1 and 3. This contribution shall be deducted from each payment of earnings to participating employees unless the employer provides through its compensation provisions or agreements that all or part of the contribution will be paid by the employer. For benefit purposes, this contribution shall be treated as if it were an employer required contribution regardless of whether the employer or the employee pays the contribution.

1989 Wis. Act 13. Another major retirement bill was enacted during the 1989 session providing for a temporary retirement incentive window and also permanent changes in the normal retirement provisions of the WRS. This legislation also contained an unusual funding provision requiring that any contribution rate increases resulting from this legislation would be entirely an employee obligation reflected as additions to the BAC. In addition, this 1989 Act required that any future contribution rate adjustments (either up or down) that were not related to the early retirement bill will be shared equally between the employee and employer participants. This provision is now coded under WRS law as s. 40.05 (2n) as follows:

(2n) CONTRIBUTION RATE ADJUSTMENT. (a) If the board, on the advice of the actuary, determines that an increase or decrease in contribution rates is necessary for any annual period after 1989, the board, on the advice of the actuary, shall adjust contribution rates in the following manner:

1. One-half of the increase or decrease in contribution rates shall be provided for by an increase or decrease in employer contributions under sub. (2) (a) and (am), except as provided in subd. 3.

2. One-half of the increase or decrease in contribution rates shall be provided for by an increase or decrease in benefit adjustment contributions under sub. (2m), except as provided in subd. 3 or par. (b).

Benefit Adjustment Contributions
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3. Any increase in contribution rates required after 1989 that results from benefit improvements under 1989 Wisconsin Act 13, which would otherwise increase employer contribution rates over the 1989 rate shall be provided for by an increase in benefit adjustment contributions under sub. (2m). Notwithstanding sub. (2m), an employer may not pay for all or part of any increase in benefit adjustment contributions that is required under this subdivision.

(b) If under par. (a) 2 a decrease in benefit adjustment contributions under sub. (2m) would reduce the amount under sub. (2m) to less than zero, the employee contribution rates under sub. (1) shall be decreased.

Contribution Rate Experience. The following ETF chart notes employee and employer contribution rates for 1995 and 1996. The chart on the next page reflect the rates for the previous 10 years.

Contributions for	General Participants		Executives & Elected Officials		Protective Occupation			
					With Soc. Sec.		Without Soc. Sec.	
	1996	1995	1996	1995	1996	1995	1996	1995
Employer Normal Cost	5.1%	4.8%	10.1%	11.1%	9.2%	9.6%	14.2%	14.6%
Benefit Adjustment Contribution	1.5	1.2	0.0	0.1	0.1	0.5	0.0	0.0
Participant Normal Cost	<u>5.0</u>	<u>5.0</u>	<u>4.6</u>	<u>5.5</u>	<u>6.0</u>	<u>6.0</u>	<u>6.8</u>	<u>7.2</u>
Total Normal Cost	11.6%	11.0%	14.7%	16.7%	15.3%	16.1%	21.0%	21.8%
Unfunded Actuarial [★] Accrued Liability (UAAL)	1.3	1.3	1.0	0.9	1.0	1.0	1.5	1.4
WRS Average Total	12.9%	12.3%	15.7%	17.6%	16.3%	17.1%	22.5%	23.2%

*Rates shown for UAAL are weighted average of rates that vary by employer units. In addition to the WRS rate shown above are contributions to support the Section 40.65 Duty Disability Program and the Accumulated Sick Leave Conversion Credit Program.

Wisconsin Retirement System
Contribution Rates

	General (Incl. Teachers)				Executive & Elected			
	Current Cost	Prior Cost	Total Employer	BAC Total	Current Cost	Prior Cost	Total Employer	BAC Total
1984	5.8%	0.7%	6.5%	5.0%	0.0%	11.5%	11.5%	17.4%
1985	5.8%	0.7%	6.5%	5.0%	0.0%	11.5%	11.5%	17.4%
1986	5.4%	1.1%	6.5%	5.0%	1.0%	12.5%	12.5%	17.1%
1987	5.0%	1.1%	6.1%	5.0%	1.0%	12.1%	12.1%	16.8%
1988	4.9%	1.1%	6.0%	5.0%	1.0%	12.0%	12.0%	17.4%
1989	4.9%	1.1%	6.0%	5.0%	1.0%	12.0%	12.0%	17.4%
1990	4.6%	1.4%	6.0%	5.0%	1.0%	12.0%	12.0%	17.4%
1991	4.7%	1.4%	6.1%	5.0%	1.1%	12.2%	12.2%	17.6%
1992	4.8%	1.4%	6.2%	5.0%	1.2%	12.4%	12.4%	17.6%
1993	4.8%	1.4%	6.2%	5.0%	1.2%	12.4%	12.4%	17.6%
1994	4.8%	1.3%	6.1%	5.0%	1.2%	12.3%	12.3%	17.6%
1995	4.8%	1.3%	6.1%	5.0%	1.2%	12.3%	12.3%	17.6%
1996	5.1%	1.3%	6.4%	5.0%	1.5%	12.9%	12.9%	15.7%

	Protective with Social Security				Protective without Social Security			
	Current Cost	Prior Cost	Duty Dis	Total Employer	Current Cost	Prior Cost	Duty Dis	Total Employer
1984	10.8%	1.3%	0.2%	12.3%	18.2%	1.6%	0.2%	20.0%
1985	10.8%	1.3%	0.2%	12.3%	18.2%	1.6%	0.2%	20.0%
1986	11.0%	1.3%	0.4%	12.7%	17.6%	1.5%	0.4%	19.5%
1987	11.2%	1.2%	0.5%	12.9%	17.0%	1.5%	0.5%	19.0%
1988	10.8%	1.2%	1.1%	13.1%	16.5%	1.5%	1.1%	19.1%
1989	10.1%	1.2%	1.4%	12.7%	15.4%	1.5%	1.4%	18.3%
1990	10.0%	1.2%	2.1%	13.3%	15.4%	1.5%	2.1%	19.0%
1991	9.8%	1.1%	2.3%	13.2%	14.9%	1.5%	2.3%	18.7%
1992	9.8%	1.1%	2.5%	13.4%	14.9%	1.5%	2.5%	18.9%
1993	9.7%	1.0%	2.8%	13.5%	14.9%	1.5%	2.8%	19.2%
1994	9.7%	1.0%	3.0%	13.7%	14.9%	1.4%	3.0%	19.3%
1995	9.6%	1.0%	3.2%	13.8%	14.6%	1.4%	3.2%	19.2%
1996	9.2%	1.0%	3.2%	13.4%	14.2%	1.5%	3.2%	18.9%

Points of Interest. These charts illustrate the following:

1. The BAC for general employees has increased from the original 1% to 1.5% of payroll in 1996. However, the BAC for police has decreased from 1% to 0.1% over time, and is zero for firefighters and elected officials.
2. The first chart reflects that total employee contribution rates for general employees (required plus BAC) now equals 6.5% of payroll, and this level exceeds the total employee contribution rates for elected officials, state executives, and protectives with social security even though these other classifications have much higher benefit levels. In fact, the total contribution rates for general employees are approaching the employee contribution requirements (6.8%) for firefighters who have more than 50% higher benefits than general employees.
3. The statutory employee contribution rates provided by s. 40.05 (1) are no longer in effect for elected officials and firefighters (5.5% and 8%) because these rates have been reduced to 4.6% and 6.8% by the rate change sharing provided by s. 40.05 (2n).
4. The first chart indicates that general employee total contributions (normal plus BAC) represent 56% of the normal cost of benefits, while the other employee classifications are obligated to pay only 31% - elected officials, 39% - police and 32% - fire of the normal cost of benefits.
5. The second chart indicates that there is significant cost shifting for both police and firefighters from pension costs to insurance costs of the s. 40.65 duty disability plan. Hence, protectives benefit by the shared reductions in pension costs, while employers pay the full increasing costs of the disability program.
6. The whole issue of "who pays what" is further clouded by the employer "pick-up" authority. ETF records indicate that about 98% of all employee normal costs and BAC contributions are, in fact, being paid by employers.

Possible Conclusion. The employee and employer contribution provisions are now unnecessarily complex and confusing. It may be time to review this complexity and perhaps return to the original concept of sharing the normal cost of benefits by some specific percentage for the various classifications of WRS participants.

Benefit Adjustment Contributions
Page 6

This could be achieved by repealing the statutory percentage rates found under s. 40.05 (1), and also the BAC and adjustment rate provisions found under s. 40.05 (2m) and (2n), and replacing these provisions with a new statutory requirement that the normal costs for the various classifications would be shared by a specific ratio. As an example, the share of costs for general employees and teachers could be set at 50% of the total normal cost. Employers presumably would continue to be responsible for any amortization payments, and employers would continue to have the authority to "pick-up" any required employee contributions.

State of Wisconsin

Tommy G. Thompson
Governor

Jon E. Litscher
Secretary



137 East Wilson Street
P.O. Box 7855
Madison, WI 53707-7855

DEPARTMENT OF EMPLOYMENT RELATIONS

CORRESPONDENCE/MEMORANDUM

DATE: April 11, 1996

TO: Blair Testin
Retirement Research Committee

FROM: Jessica O'Donnell *Jessica O'Donnell*
Department of Employment Relations

SUBJECT: Protective Occupation Participants

The following information is being provided in response to the questions you posed to me on April 2, 1996. You should have already received a copy of the draft of Chapter 728 of the Wisconsin Personnel Manual, Protective Occupation Status for State Employees, to which I refer in some of the responses. That draft is currently being reviewed by staff of the Department of Employee Trust Funds.

1. **When reviewing positions for inclusion in the protective category, does the Department of Employment Relations (DER) use any criteria other than that found in Chapter 40 of the statutes?** The determinations by DER are based on the criteria found in Chapter 40. The draft manual chapter also includes information on the definitions of public safety employees found in the federal Fair Labor Standards Act and recommendations developed by a subcommittee of the State Human Resources Management Council as "guidelines" to be used by agencies when making protective occupation status determinations. Please refer to pages 3 and 4 of the draft manual chapter.
2. **Does DER review all positions designated by state agencies as protective or only those positions that are not defined as protective under Chapter 40?** DER reviews only those determinations by agency heads which are made under s. 40.02 (48) (a), Wis. Stats. DER does not review determinations made under s. 40.02 (48) (am), the statutorily identified protective occupation classifications.

3. **Does DER have any written memos or procedures that outline the DER review process?** In addition to the draft manual chapter, please refer to the attached copy of DER bulletin CC-204, dated October 9, 1989 which explains the role of DER in the review process.
4. **Does DER maintain any record of the number of positions that have been reviewed for protective status, approved and denied?** DER does not maintain any formal record of the number of positions that have been reviewed. We would estimate that no more than a dozen agency head determinations have been reviewed since DER was assigned this responsibility in 1989; however, some of those determinations covered multiple positions.
5. **Can DER provide an updated listing of positions that are designated as protective?** Please refer to the list on pages 6 and 7 of the draft manual chapter.
6. **Does DER bargain with the unions on protective status for any represented employees?** DER will not bargain on the status of represented employees as protective occupation participants.
7. **Are protective occupation employees all in the same bargaining unit? Are general employees also included in the same bargaining unit(s) with protective employees?** All represented protective occupation employees are not in the same bargaining unit. General employees and protective occupation employees are in the same bargaining units. Some protective occupation employees are nonrepresented. For example, Special Agents are represented by the Wisconsin Professional Employees Council (WPEC), Fire Fighters are represented by the Wisconsin State Employees Union (WSEU), and Natural Resource Managers are nonrepresented employees covered by the Compensation Plan.
8. **If a collective bargaining agreement designated a new classification of employees as protective and that agreement was approved by the Legislature, would the Legislative approval supersede DER review of these positions or would DER still review the positions using the criteria found in chapter 40?** This situation will not occur since DER will not designate a new classification of employees as protective through the collective bargaining process.
9. **Federal legislation is under consideration that would re-authorize mandatory retirement for protective occupation participants. If this passes, would DER attempt to re-institute it for state employees?** Before addressing this issue, DER would first have to review the actual federal legislation and consider it in relation to other applicable laws (e.g. the State Fair Employment Act, federal Age Discrimination in Employment Act, etc.)

JLO/pop

DEPARTMENT OF EMPLOYMENT RELATIONS BULLETIN

Date October 9, 1989

Subject Protective Occupation Status

Number CC-204

As a result of changes made in the 1989-91 biennial budget bill, the Department of Employment Relations must now approve determinations by agency heads that a state employe should be considered under protective occupation status.

Effective August 9, 1989, s. 40.06 (1) (dm) Wis. Stats. requires that "Each determination by a department head regarding the classification of a state employe as a protective occupation participant shall be reviewed by the department of employment relations. A state employe's name may not be certified to the fund as a protective occupation participant under par. (d) until the department of employment relations approves the determination."

Definition

Wis. Stats. 40.02 (48) (intro.) defines "protective occupation participant" as "any participant whose principal duties are determined by the participating employer, or by the department head in the case of a state employe, to involve active law enforcement or active fire suppression or prevention, provided the duties require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning."

Wis. Stats. 40.02 (48) (a) (b) and (c) further define "protective occupation participant" as any participant whose name is certified to the fund as provided in s. 40.06 (1) (d) and who is a conservation warden, conservation patrol boat captain, conservation patrol boat engineer, conservation pilot, conservation patrol officer, forest fire control assistant, member of the state patrol, state motor vehicle inspector (if hired prior to January 1, 1968) police officer, fire fighter, sheriff, undersheriff, deputy sheriff, county traffic police officer, state forest ranger, fire watcher employed by the Wisconsin veterans home, state correctional-psychiatric officer, excise tax investigator employed by the department of revenue, special criminal investigation agent in the department of justice, assistant or deputy fire marshal, or person employed under s. 61.66 (1)."

Approval Process

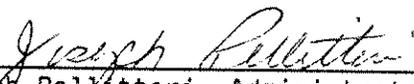
Prior to August 9, 1989, the Department of Employee Trust Funds (ETF) reviewed state and local employer determinations of "protective occupation status." ETF will continue to review local employer determinations.

Effective immediately, "protective occupation status" determinations for state employes should be sent directly to Leean White in the Division of Classification and Compensation. Leean will function as DER's coordinator of

the review process and will work closely with the division's classification analysts in reviewing and determining "protective occupation status."

Agency status determinations should be accompanied by a position description, organizational chart, and justification statement. DER determinations will be based on a review of these materials against the statutory requirements. Decisions made by the Secretary of the Department of Employment Relations regarding "protective occupation status" may be appealed pursuant to Chapter 227 Wis. Stats.

If you need assistance in determining "protective occupation status" or have any other questions regarding the information contained in this bulletin, feel free to contact Leean at (267-0344). We would also appreciate it if you would provide Leean with the name and telephone number of your agency's contact person and coordinator for this issue.



Joseph Pellitteri, Administrator
Division of Classification & Compensation

JPP:ILW

ORGANIZATIONS SUPPORTING THE PUBLIC SAFETY EXEMPTION TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT

AFL-CIO

American Federation of State, County and Municipal Employees

Fire Department Safety Officers Association

Fraternal Order of Police

Government Finance Officers Association

Human Relations Committee, IAFF

International Association of Chiefs of Police

International Association of Fire Fighters

International Brotherhood of Police Officers

International Personnel Management Association

International Union of Police Associations

International Society of Fire Service Instructors

National Association of Counties

National Association of Police Organizations ✓

National Conference of State Legislatures

National League of Cities

National Public Employer Labor Relations Association

National Sheriffs Association

National Troopers Coalition

U.S. Conference of Mayors

April 15, 1996

TO: MEMBERS OF THE RRC SUBCOMMITTEE ON PROTECTIVES
FROM: TIM PELZEK
SUBCOMMITTEE MEMBER
RE: DEFINITION OF PROTECTIVE OCCUPATION PARTICIPANT

First of all, I must apologize for my absence at today's meeting. As a result of volunteering for a special assignment on the Milwaukee Fire Department to be completed on April 20, 1996, I am unfortunately unable to attend.

However, as a member of a class of "protectives" and the Chairman of the City of Milwaukee Annuity and Pension Board, I am quite interested in the issues to be discussed at today's meeting. You should be aware of the fact that as a member of the City of Milwaukee Employee's Retirement System I am not a member of the WRS and therefore not myself a "POP." That fact, I am convinced, gives me a rather unique perspective on the subject at hand.

I am writing this note to provide you with my comments and suggestions regarding the items on today's agenda.

After reading the material provided for the meeting, there appear to be two main issues to discuss:

1. Since the definition of a "POP" is open to debate and is a very sought after classification, the present qualification standards may need to be redefined.
2. Whether an absolute mandatory retirement age should be enacted which would enforce the correlation between the higher benefit formulas and the earlier normal retirement now provided for POP classification.

Regarding item #1:

One can make an assumption that since the POP classification is prevalent in the majority of public pension systems in the U.S. this issue may have already been addressed by other governing bodies. Therefore, I submit for your consideration whether or not the RRC should survey other public pension systems and request input on how other systems have dealt with this issue. I think additional information would be useful before making a recommendation to the full RRC Committee.

Regarding item #2:

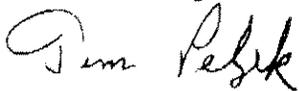
The question of enactment of an absolute mandatory retirement age in my opinion needs serious discussion. The rationale for a higher multiplier for protectives is that the jobs require a higher level

of physical fitness and therefore protective employees should retire at a younger age. I think the safety of the public and the protectives should be the primary consideration in the debate on this issue. I suggest that written input be requested from representatives of current protective occupations to obtain their perspective on the subject of an absolute mandatory retirement age before making any final recommendations on the matter.

As a public body we are charged with the task of determining what is in the best interest of the State in matters that come before us. In discussing these questions, our ultimate goal should be to guarantee the highest level of protection possible for the public and WRS participants while keeping in mind the original intent of the POP classification. With this goal in mind, I believe our deliberations will ultimately provide us and the members of the Legislature with the answers to both the question of the definition of protectives and the question of an absolute mandatory retirement age.

In closing, I thank my fellow members of the RRC for your attention to this correspondence and invite you to call me with your input or comments.

Sincerely,

A handwritten signature in cursive script that reads "Tim Pelzek".

Tim Pelzek
RRC Member

STATE OF WISCONSIN
MINUTES OF MEETING
RETIREMENT RESEARCH COMMITTEE
PROTECTIVE STUDY SUBCOMMITTEE
TUESDAY, APRIL 16, 1996
9:00 A.M.
ROOM L106 - ONE EAST MAIN STREET
MADISON, WISCONSIN

CALL TO ORDER AND ROLL CALL
 (Agenda Item 1)

The meeting of the Protective Study Subcommittee was called to order by Co-Chair Petak at 9:05 A.M., in Room L106, One East Main Street, in Madison, Wisconsin.

Roll call was taken as follows:

Present: (6) Mr. Heineck, Rep. Klusman, Ms. O'Donnell, Sen. Petak, Mr. Stella, Rep. Wirch.

Absent: (2) Mayor Meyer, Mr. Pelzek.

Others Present: Steve Urso; Wis. Prof. Police Assoc.; Steve Werner, Wis. Prof. Police Assoc.; Roy E. Kubista, AFSCME; Mel Sensenbrenner, SEA; Sanger Powers, Dept. of Corrections; R. Berner, Retired RPD; R. Glenzer, Retired RPD; D. Povkovich, Retired RPD; Clinton H. Cagle, Retired RCSD; Michael Blumenfeld; Ken Opin, WRT & WEAC; Ted Ryan, Retired Prof. Firefighters; Alison Scherer, Dept. of Corrections; Susyn Dietz, Staff for Sen. Petak; Ginger Mueller, Staff for Rep. Klusman, Blair Testin, Consultant for RRC; Deb Breggeman, Staff for RRC.

Co-Chair Petak welcomed the members of the Protective Study Subcommittee to the first meeting and thanked them for their participation.

P.O.P. BACKGROUND INFORMATION
 (Agenda Item 2)

Mr. Blair Testin, Consultant for the Retirement Research Committee, reviewed the following memos:

- A. WRS Employee Classifications and Comparisons.
- B. P.O.P. Designations: Current Laws & Alternative Courses of Action.
- C. Protective Designation Legislation in Past Sessions:
Possible Rationale for Change or No Change.
- D. P.O.P. Qualification Standards: Possibly Restrict or Liberalize.
- E. Collective Bargaining of P.O.P. Status: Consider Prohibiting or Facilitating.
- F. Possible Reinstatement of Mandatory Retirement.

Mr. Testin reviewed with Subcommittee members two memos that were in their folders. The first memo was entitled, "Protective Occupation Participants" from Ms. Jessica O'Donnell, Subcommittee Member. The second memo was entitled, "Definition of Protective Occupation Participant" from Mr. Timothy Pelzek, Subcommittee member.

Co-Chair Petak opened the meeting to public testimony:

Appearing before the Subcommittee were:

<u>NAME</u>	<u>POSITION</u>
1. <u>Mr. Steve Urso</u> , Wisconsin Prof. Police Assoc.	INFORMATION
2. <u>Mr. Steve Werner</u> , Wisconsin Prof. Police Assoc.	INFORMATION

Hearing no further requests for testimony, Co-Chair Petak closed the hearing to public testimony.

No action was taken on any of the above memos.

DISCUSSION OF FUTURE MEETINGS AND TOPICS

(Agenda Item 3)

Co-Chair Petak asked that Subcommittee members review the information that was presented at today's meeting and submit to the Co-Chairs any topics of interest for future Subcommittee meetings. Co-Chair Petak indicated that the Subcommittee would be meeting in the future.

OTHER MATTERS

(Agenda Item 4)

There were no other matters discussed at this time.

ADJOURNMENT

(Agenda Item 5)

The meeting of the Protective Study Subcommittee of the Retirement Research Committee adjourned at 11:01 A.M. The next meeting will be at the call of the Co-Chairs.

Debra K. Breggeman, Recording Secretary

WISCONSIN PROFESSIONAL POLICE ASSOCIATION

TO: Members of the Protective Study Subcommittee of the Retirement Research Committee

FROM: Steven Urso, WPPA Executive Assistant

DATE: April 16, 1996

RE: Protective Status

Ladies and Gentlemen:

We want to take this opportunity to again bring to your attention an important area in which we are greatly interested--the classification of employees as protective service employees. We believe protective classification is a valuable benefit and encourages persons to seek employment in the police and fire services. We believe the program is effectively administered but is in need of upgrading.

Over the past eight years we have seen proposed, or proposed ourselves, various categories of jobs to be classified as protective. For some time we have struggled with what the true definition of a protective is. In some of the units we represent persons identified as deputy sheriffs are not classified as protectives. In some units persons designated as jailers are classified as protective. The confusion we experience as a result of the lack of clear, concise and definitive language in the statutes needs to be dealt with for our sakes and for the sakes of many good public servants.

We believe the three criteria listed in ss 40.02(48)(a) which the employer uses in determining whether or not an employee is a protective needs further clarification and defining. Specifically, we cannot find in the statutes a definition of "active law enforcement." We propose this subcommittee develop language defining "active law enforcement." We also propose an explanation be given of what frequent exposure to a high degree of danger requires and what a high degree of physical conditioning really is.

To us, an employer may arbitrarily decide if an employee meets one or more of the criteria, and if he/she in their opinion does not, the employer may decide not to designate the employee a protective. We believe the statute allows the employer too much leeway in exclusively holding the right to designate the status, especially when the criteria that must be met is unclear. We propose this subcommittee look at the language and make proposals to clarify the criteria.

Furthermore, we propose to the subcommittee the idea that protective status be made a mandatory subject of bargaining. We believe if the protective criteria is clearly defined, then both the employer and the employee can evaluate the facts and proceed to agree or disagree on the designation as each sees fit. If the parties agree, so be it. If the parties do not agree, the party desiring to do so may raise the issue at the bargaining table and both sides can address the issue.

Members of the Protective Study Subcommittee of the Retirement Research Committee
April 16, 1996
Page 2

If in bargaining the parties still cannot agree, an impartial third party can evaluate the claim and based upon the applicable statutory criteria issue an award. The impartial award could not run counter to the statutory language or the legislative intent. Both sides would have ample and equal opportunity to present the "facts." From our perspective, it would result in a far more equitable and less arbitrary system than presently exists.

It is our belief that protective status exists to assure the public it will have public servants who are capable and fit to perform their duties. Protective status should not be viewed as an arbitrary classification to which anyone is entitled. Rather, the job must fit into the criteria as designated by the statutes. Changes to the job may change the status of the individual from protective to general or general to protective, but what must not change is the criteria and system to be used in designating protectives. Only by clarifying the statute and putting in place a mechanism for communication over the classification can the system work effectively. We urge the subcommittee to direct its efforts into these areas.

APR 30 1997



State of Wisconsin

JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS
AND THE RETIREMENT RESEARCH COMMITTEE

BLAIR L. TESTIN
RESEARCH DIRECTOR
ROOM 316, 110 E. MAIN STREET
MADISON WISCONSIN 53703
(608) 267-0507
FAX (608) 267-0675

April 25, 1997

TO: Dept. Of Employment Relations - Jessica O'Donnell
Wisconsin Counties Association - Mark O'Connell
Alliance of Cities - Gail Sumi
Professional Firefighters of Wisconsin - Mark Zeier
Wisconsin Professional Police Association - Steve Urso
Wisconsin State Employees Union - Marty Beil

FROM: Blair Testin, Consultant for the RRC/JSCRS

RE: **PROTECTIVE PROGRAM SUGGESTIONS**

Representatives of the above parties of interest were asked to testify at the recent RRC Protective Study Subcommittee meeting on April 18. Of those testifying, there appeared to be a general consensus that the intent and existing definitions, standards, and procedures governing the protective program are vague and subject to misinterpretation. However, those testifying did not make specific suggestions which would add clarity to the state statutes governing that program.

Accordingly, Senator Grobschmidt and Representative Klusman respectfully request that the above parties of interest submit specific recommendations for change to the protective statutes that would enhance the intent and clarity of this program. Please refer these suggestions to the RRC office at your earliest convenience. Your input will aid the subcommittee in its deliberations.

If you have any questions, please contact the RRC staff.

BT:db