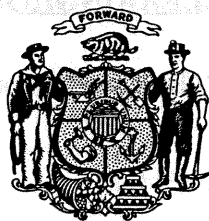


WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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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 00-022

AN ORDER to create ETF 10.01 (1k); and to create ETF 20.19, relating to the department's interpretation of what Wisconsin Retirement System creditable service is considered to be performed before January 1, 2000 versus considered to be performed on or after that date under 1999 Wisconsin Act 11.

Submitted by **DEPARTMENT OF EMPLOYE TRUST FUNDS**

01-31-00 RECEIVED BY LEGISLATIVE COUNCIL.

02-28-00 REPORT SENT TO AGENCY.

RNS:GAA;jal;rv

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)]

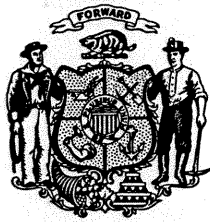
Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

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CLEARINGHOUSE RULE 00-022

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 September 1998.]

2. Form, Style and Placement in Administrative Code


- a. The rule does not contain a citation to statutes interpreted. [See s. 1.02 (2) (a), Manual.]
- b. "SECTION 1" should precede "ETF 10.01 (1k)" and "hereby" should be deleted. "SECTION 2" should precede "ETF 20.19" and "hereby" should be deleted. [See s. 1.04, Manual.]
- c. In s. ETF 10.01 (1k), the second sentence of the definition of "benefit approval date" should be moved since it contains additional substance. [See s. 1.01 (7) (b), Manual.]
- d. The colons following the titles of the subsections in s. ETF 20.19 should be deleted. [See s. 1.05 (2) (c), Manual.]
- e. In s. ETF 20.19 (2) (a), "(a)" should be deleted preceding "Creditable service."
- f. In s. ETF 20.19 (2) (intro.), the citation to s. 40.25 (2), Stats., is not in proper format. [See s. 1.07 (2), Manual.]
- g. Throughout the rule, there are references to events occurring "before" and "after" January 1, 2000 and "on or after" January 1, 2000. It is suggested that consistent terminology be used throughout the rule (i.e., "before January 1, 2000" and "after December 31, 1999").

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h. In s. ETF 20.19 (5), "The" should replace "Such."

i. The rule should contain an effective date provision. [See s. 1.02 (4), Manual.]

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UNIVERSITY REPRESENTATIVE COUNCIL STAFF

Agreements

The University Representative Council Staff is pleased to announce that it has entered into an agreement with the University of Wisconsin - Stevens Point. The agreement provides for the following:

UNIVERSITY REPRESENTATIVE COUNCIL STAFF

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

PROPOSED RULE: Creating ETF 10.01 (1k) and creating ETF 20.19, Wisconsin Administrative Code, relating to the Department's interpretation of what Wisconsin Retirement System creditable service is considered to be performed before January 1, 2000 vs. considered to be performed on or after that date under 1999 Wis. Act 11. A public hearing on this proposed rule has been scheduled for February 29, 2000.

NOTICE OF HEARING AND PROPOSED RULE

NOTICE OF HEARING

The Wisconsin Department of Employee Trust Funds will hold a public hearing to review the proposed rule, which creates ETF 10.01 (1k) and ETF 20.19, Wisconsin Administrative Code, relating to the Department's interpretation of what Wisconsin Retirement System creditable service is considered to be performed before January 1, 2000 vs. considered to be performed on or after that date under 1999 Wis. Act 11. The public hearing will be held on Tuesday, February 29, 2000 at 1:00 p.m. at the Department of Employee Trust Funds, Room 2B, 801 West Badger Road, Madison, Wisconsin.

The public record on the proposed rule will be held open until 4:30 p.m. on Wednesday, March 1, 2000 to permit the submission of written comments from persons unable to attend the public hearing in person, or who wish to supplement testimony offered at the hearing. Any such written comments should be addressed to Linda Owen, Department of Employee Trust Funds, 801 West Badger Road, P.O. Box 7931, Madison, Wisconsin 53707-7931.

Analysis Prepared by the Wisconsin Department of Employee Trust Funds

Section 19 of 1999 Wis. Act 11 provides higher percentage rates to be used to calculate the Wisconsin Retirement System benefits paid from the accounts of participants who are participating employees on the effective date of this provision, but only for creditable service that is considered to be performed before January 1, 2000. 1999 Wis. Act 11 provides some clarification of what creditable service shall be considered to be performed before January 1, 2000, but further clarification is required to administer this legislation.

1999 Wis. Act 11 provides that service forfeited through a separation benefit prior to January 1, 2000 shall be considered to be performed before that date; the rule would further clarify that service forfeited on or after January 1, 2000 and later purchased is considered to be performed on or after that January 1, 2000. The rule also clarifies that all other purchased service that

was actually performed before January 1, 2000 shall be considered to be performed before that date.

1999 Wis. Act 11 provides that the years of creditable military service for which a participant is eligible based on the creditable service performed before January 1, 2000 shall be considered to be performed before that date. The proposed rule would further clarify that the years of military service that are considered to be performed before January 1, 2000 are the years for which the participant would be eligible if the participant would not accrue any additional service after January 1, 2000, except that if after January 1, 2000 the participant purchases creditable service that is considered to be performed before January 1, 2000, those years of "pre-2000" service are treated as "pre-2000" years of service and may increase the years of creditable military service that are considered to be performed before January 1, 2000. The proposed rule would also clarify that assumed creditable service used to calculate a Wisconsin Retirement System disability benefit that is calculated through December 31, 1999 is considered to be performed before January 1, 2000.

The rule would also clarify that the percentage of the participant's account awarded to an alternate payee in a qualified domestic relations order shall apply equally to the participant's years of creditable service that is considered to be performed before January 1, 2000 and the years of service considered to be performed on or after January 1, 2000 that date that is credited or creditable to the participant's account as of the decree date. The creditable military service credited to the alternate payee's account is that is considered to be performed either before January 1, 2000 or performed on or after that date is based on the creditable military service for which the participant would be eligible based solely on the participant's years of service that are credited or creditable to the participant's account as of the decree date.

Finally, the rule specifies the treatment of creditable service for the purpose of determining the applicable percentage rate used to calculate Wisconsin Retirement System benefits after a participant's account is reestablished after a disability or retirement annuity is terminated.

Authority for Rule

*Notes -
Interpreting*

Wis. Stat. s. 227.24; s. 40.03 (2) (i)

Initial Fiscal Estimate

The rule has no fiscal impact on county, city, village, town, school district, technical college district and sewerage district fiscal liabilities and revenues. This rule itself has no anticipated state fiscal effect during the current biennium and no future effect on state funds, which do not include the Public Employee Trust Funds. The costs of implementing an April 1, 2000 distribution to annuitants of funds transferred into the annuity reserve by the special TAA transfer mandated in this legislation was incorporated into the fiscal effect prepared for 1999 Assembly Bill 495. However, if the payment of the special dividend resulting from the extraordinary transfer from the TAA was to be delayed after April 1, 2000 – for example because of an injunction or court action, then previously unanticipated costs in distributing these funds will arise. If the distribution survives review by the courts, then additional payments would be owed to annuitants, some of whom may have died in the interim. DETF anticipates at least some

administrative costs in locating, notifying and processing claims by estates or heirs of deceased annuitants, similar to the costs incurred in making the distribution required by the Supreme Court in *WRTA v. Employee Trust Funds Board*, 207 Wis. 2d 1, 558 N.W.2d 83 (1997). The exact amount of these costs will depend, in large part, on how long the litigation over this legislation remains before the courts and the mortality experience among the affected annuitants during the period.

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Persons

Copies of this rule are available without cost by making a request to the Department of Employee Trust Funds, Office of the Secretary, P.O. Box 7931, Madison, Wisconsin 53707, telephone (608) 266-1071. For questions about this rule making, please call Linda Owen, Policy Analyst for the Division of Retirement Services, at (608) 266-8164.

SECTION 1. TEXT OF PROPOSED RULE

ETF 10.01 (1k) is hereby created to read:

ETF 10.01 (1k). "Benefit approval date," means the date recorded in the voucher date box on the "Single Sum Benefit Data (form) ET-7102, or the electronic equivalent, associated with the benefit payment. The same date shall be used for purposes of determining the date an application for a separation benefit is approved, or for establishing the month in which a benefit or payment is approved under s. 40.04 (4) (b) or (bm) or 40.73 (1) (a) or (2) (a).

— Substantive

SECTION 2. ETF 20.19 is hereby created to read:

ETF 20.19 Treatment of purchased and other creditable service for percentage rates used to calculate retirement, disability and certain death benefits. (1) **PURPOSE:** 1999 Wisconsin Act 11 provides a higher percentage rate under s. 40.23 (2m) (e), Stats., for creditable service performed before January 1, 2000. The purpose of this section is to further clarify what percentage rate will apply to creditable service added to a participant's account through service purchases, creditable military service, creditable prior service, and any other service added to the participant's account as a result of a court decision, legislation, or any other means, and assumed creditable service used to calculate a disability benefit as provided in s. 40.63 (8), Stats.

(2) **PURCHASED AND OTHER CREDITABLE SERVICE:** For purposes of s. 40.23 (2m) (e), Stats., all of the following shall apply: (a) For purposes of s. 40.23 (2m) (em) 1. a., (a) Creditable service is forfeited on the date the participant's application for a separation benefit is approved under Wis. Stat.

§ 40.25 (2).

NOTE: See s. ETF 10.01 (1k).

(b) Purchased creditable service forfeited after January 1, 2000 shall be considered to be performed on or after January 1, 2000.

(c) Purchased creditable service that was originally forfeited before January 1, 2000, which

is purchased under s. 40.25 (6), Stats. and is subsequently forfeited after January 1, 2000, through a separation benefit paid under s. 40.25 (2), Stats., then later repurchased under s. 40.25 (6), Stats., shall be considered to be performed on or after January 1, 2000.

(d) A participant who applies to purchase forfeited service under s. 40.25 (6), Stats., and is eligible to purchase both service that was forfeited before January 1, 2000 and service that was forfeited after January 1, 2000, but is not eligible to purchase all of the forfeited service due to the restrictions in s. 40.25 (6) (a) 2., Stats., shall first receive credit for the maximum possible amount of purchased service that would be considered to be performed before January 1, 2000.

(e) A qualifying period of service purchased under s. 40.02 (17) (b), Stats., shall be considered to be performed before January 1, 2000.

(f) Executive service purchased under s. 40.02 (17) (e), Stats., shall be considered to be performed before January 1, 2000.

(g) Creditable service granted under s. 40.02 (17) (gm) for services performed as an assistant district attorney shall be considered to be performed before January 1, 2000.

(h) Teacher improvement leave purchased under s. 40.02 (17) (i), Stats., shall be considered to be performed before January 1, 2000.

(i) Junior teacher service purchased under s. 40.02 (17) (k), Stats., shall be considered to be performed before January 1, 2000.

(j) Service performed as a member or employe of the legislature or employe of a legislative service agency that is purchased under 1999 Wis. Act 11, section 27 (2), shall be considered to be performed before January 1, 2000.

(k) Creditable prior service credited under s. 40.02 (16), Stats., that was actually performed before January 1, 2000 shall be considered to be performed before January 1, 2000.

Creditable prior service that was actually performed on or after January 1, 2000 shall be considered to be performed on or after that date.

(l) Any other service actually performed before January 1, 2000 that is credited to the participant's account as a result of a court decision, legislation, or any other means shall be considered to be performed before January 1, 2000 for the purpose of determining the applicable percentage rate under s. 40.23 (2m) (e), Stats.

(3) CREDITABLE MILITARY SERVICE: (a) For purposes of s. 40.23 (2m) (e), Stats., except as provided in par. (b), creditable military service based on creditable service performed before January 1, 2000 means the years of creditable military service based on creditable service performed before January 1, 2000 as specified in s. 40.23 (2m) (em) 1. c., Stats., means the years of creditable military service for which the participant would be eligible that are based on the years of service that are considered to be performed before January 1, 2000. Creditable service that is considered to be performed on or after January 1, 2000 does not increase the amount of creditable military service that is considered to be performed before January 1, 2000.

(b) Any additional creditable military service for which a participant is eligible based on creditable service added to a participant's account on or after January 1, 2000, that is considered to have been performed before January 1, 2000 under sub. (2) or s. 40.23 (2m) (em) 1. a. or b., shall be considered to be based on service performed before January 1, 2000.

(4) ASSUMED SERVICE FOR DISABILITY BENEFITS: (a) The assumed creditable service under s. 40.63 (8), Stats., that is calculated through December 31, 1999 shall be considered to be performed before January 1, 2000, and the assumed creditable service calculated for any period on or after January 1, 2000 shall be considered to be performed on or after that date.

(b) Any assumed creditable military service for which a participant is eligible based on

actual and assumed creditable service that is calculated through December 31, 1999 shall be considered to be performed before January 1, 2000. Any assumed creditable military service for which a participant is eligible based on actual and assumed creditable service that is calculated for any period on or after January 1, 2000 shall be considered to be performed on or after that date.

(5) CREDITABLE SERVICE FOR PERIODS OF TEMPORARY DISABILITY: Creditable service granted for any period of temporary disability through December 31, 1999 under s. 40.29, Stats., shall be considered to be performed before January 1, 2000. Such creditable service granted for any period of temporary disability on or after January 1, 2000 shall be considered to be performed on or after that date.

(6) TREATMENT OF CREDITABLE SERVICE AFTER A RETIREMENT ANNUITY IS TERMINATED AND THE ACCOUNT REESTABLISHED: (a) Except as provided under par. (b), when a participant's account is reestablished under s. 40.26 (2), Stats., if the participant was not a participating employe on or after January 1, 2000 but before the effective date of the participant's retirement annuity that was terminated under s. 40.26 (1), Stats., the percentage rates under s. 40.23 (2m) (e), Stats., shall not apply to the creditable service considered to be performed before January 1, 2000 that was performed before the annuity effective date.

(b) If the participant whose account is reestablished under s. 40.26 (2), Stats., meets the criteria established in s. 40.26 (3) (bm), Stats., the percentage rates under s. 40.23 (2m) (e), Stats., shall apply to an amount of the creditable service considered to be performed before January 1, 2000 that was performed before the annuity effective date that is equal to the amount of service earned under s. 40.26 (3) (bm) 1., Stats. Any service earned under s. 40.26 (3) (bm) 1., Stats., that is performed before January 1, 2000 shall be considered to be performed after that date, and any service earned under s. 40.26 (3) (bm) 1., Stats., that is performed on or after January 1, 2000 shall be considered to be performed on or after that date.

(7) TREATMENT OF CREDITABLE SERVICE AFTER A DISABILITY ANNUITY IS TERMINATED AND THE ACCOUNT REESTABLISHED: (a) When a participant's account is reestablished under s. 40.63 (10), Stats., if the participant is a participating employe on or after January 1, 2000, all creditable service that is considered to be performed before January 1, 2000 under this section and under s. 40.23 (2m) (em), Stats., shall be considered to be performed before January 1, 2000 for any subsequent benefit calculations.

(8) CREDITABLE SERVICE DIVIDED PER A QUALIFIED DOMESTIC RELATIONS ORDER: (a) The percentage of a participant's account that is awarded to an alternate payee in qualified domestic relations order under s. 40.08 (1m), Stats., shall be applied equally to the creditable service considered to be performed both before January 1, 2000 and the service considered to be performed on or after that date which is credited or creditable to the participant's account as of the decree date.

(b) The percentage of a participant's account that is awarded to an alternate payee in a qualified domestic relations order under s. 40.08 (1m), Stats., shall be applied equally to the creditable military service considered to be performed both before January 1, 2000 and the creditable military service considered to be performed on or after that date for which the participant would be eligible based on the years of service that are credited or creditable to the participant's account as of the decree date. Creditable service performed after the decree date does not increase the amount of creditable military service that is awarded to the alternate payee.

(END OF RULE TEXT)

eff. date

**STATE OF WISCONSIN
DEPARTMENT OF EMPLOYE TRUST FUNDS**

FINAL DRAFT REPORT ON CLEARINGHOUSE RULE 00-022

AN ADMINISTRATIVE RULE creating ETF 10.01 (1k) and creating ETF 20.19, Wisconsin Administrative Code, relating to the Department's interpretation of what Wisconsin Retirement System creditable service is considered to be performed before January 1, 2000 vs. considered to be performed on or after that date under 1999 Wis. Act 11. A public hearing on this proposed rule has been scheduled for February 29, 2000.

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Agency Person to Be Contracted for Substantive Questions:

For information about this rule, please contact: Linda Owen, Benefits Plan Policy Analyst, Department of Employee Trust Funds, P.O. Box 7931, Madison, Wisconsin, 53707-7931. Telephone: (608) 261-8164. FAX: (608) 267-4549.

Statement Explaining Need for Rule:

1999 Wisconsin Act 11 (Act 11) provides a higher formula factor for service performed before January 1, 2000. Act 11 contains specifications how military service and certain purchased service will be allocated to pre-2000 vs. post-1999 service, but needs further clarification or is silent for certain types of service. This rule is necessary for determining exactly how military, purchased and other service will be allocated to pre-2000 and post-1999 service for the wide variety of issues that can arise. The DETF is required by Wis. Stat. § 227.10 (1) to promulgate as a rule each interpretation of statute which it specifically adopts to govern its enforcement or administration of that statute. In addition, the DETF is required by Wis. Stat. § 40.03 (2) (i) to promulgate, with the approval of the Employee Trust Funds Board, rules necessary for the efficient administration of the fund or any of the benefit plans established by ch. 40, Stats.

Analysis Prepared by Department of Employee Trust Funds

Authority for Rule:

Wis. Stat. s. 40.03 (2) (i)

Statutes Interpreted:

Wis. Stats. § 40.23 (2m) (e) 1., 2., 3. and 4. as amended by 1999 Wis. Act 11, and Wis. Stat. 40.23 (2m) (em) 1. a., b. and c. as created by 1999 Wis. Act 11.

Analysis:

Section 19 of 1999 Wis. Act 11 provides higher percentage rates to be used to calculate the Wisconsin Retirement System benefits paid from the accounts of participants who are participating employees on the effective date of this provision, but only for creditable service that is considered to be performed before January 1, 2000. 1999 Wis. Act 11 provides some clarification of what creditable service shall be considered to be performed before January 1, 2000, but further clarification is required to administer this legislation.

1999 Wis. Act 11 provides that service forfeited through a separation benefit prior to January 1, 2000 shall be considered to be performed before that date; the rule would further clarify that service forfeited after December 31, 1999 and later purchased is considered to be performed after December 31, 1999. The rule also clarifies that all other purchased service that was actually performed before January 1, 2000 shall be considered to be performed before that date.

1999 Wis. Act 11 provides that the years of creditable military service for which a participant is eligible based on the creditable service performed before January 1, 2000 shall be considered to be performed before that date. The proposed rule would further clarify that the years of military service that are considered to be performed before January 1, 2000 are the years for

NOTE: See "benefit approval date" in s. ETF 20.19 (2) (a), "date the application for a separation benefit is approved" in s. 40.25 (2), Stats., and reference to the month in which the payment of a benefit is approved in ss. 40.04 (4) (b) and (bm) and 40.73 (1) (a) and (2) (a), Stats.

Section 2:

ETF 20.19 is created to read:

ETF 20.19 Treatment of purchased and other creditable service for percentage rates used to calculate retirement, disability and certain death benefits. (1) **PURPOSE.** 1999 Wisconsin Act 11 provides a higher percentage rate under s. 40.23 (2m) (e), Stats., for creditable service performed before January 1, 2000. The purpose of this section is to further clarify what percentage rate will apply to creditable service added to a participant's account through service purchases, creditable military service, creditable prior service, and any other service added to the participant's account as a result of a court decision, legislation, or any other means, and assumed creditable service used to calculate a disability benefit as provided in s. 40.63 (8), Stats.

(2) **PURCHASED AND OTHER CREDITABLE SERVICE.** For purposes of s. 40.23 (2m) (e), Stats., all of the following shall apply: (a) For purposes of s. 40.23 (2m) (em) 1. a., creditable service is forfeited on the date the participant's benefit approval date for a benefit paid under s. 40.25 (2), Stats.

NOTE: See s. ETF 10.01 (1k).

(b) Purchased creditable service forfeited after January 1, 2000 shall be considered to be performed on or after January 1, 2000.

(c) Purchased creditable service that was originally forfeited before January 1, 2000, which is purchased under s. 40.25 (6), Stats. and is subsequently reforfeited after January 1, 2000, through a separation benefit paid under s. 40.25 (2), Stats., then later repurchased under s. 40.25 (6), Stats., shall be considered to be performed on or after January 1, 2000.

(d) A participant who applies to purchase forfeited service under s. 40.25 (6), Stats., and is eligible to purchase both service that was forfeited before January 1, 2000 and service that was forfeited after January 1, 2000, but is not eligible to purchase all of the forfeited service due to the restrictions in s. 40.25 (6) (a) 2., Stats., shall first receive credit for the maximum possible amount of purchased service that would be considered to be performed before January 1, 2000.

(e) A qualifying period of service purchased under s. 40.02 (17) (b), Stats., shall be considered to be performed before January 1, 2000.

(f) Executive service purchased under s. 40.02 (17) (e), Stats., shall be considered to be performed before January 1, 2000.

(g) Creditable service granted under s. 40.02 (17) (gm) for services performed as an assistant district attorney shall be considered to be performed before January 1, 2000.

(h) Teacher improvement leave purchased under s. 40.02 (17) (i), Stats., shall be considered to be performed before January 1, 2000.

(i) Junior teacher service purchased under s. 40.02 (17) (k), Stats., shall be considered to be performed before January 1, 2000.

(j) Service performed as a member or employe of the legislature or employe of a legislative service agency that is purchased under 1999 Wis. Act 11, section 27 (2), shall be considered to be performed before January 1, 2000.

(k) Creditable prior service credited under s. 40.02 (16), Stats., that was actually performed before January 1, 2000 shall be considered to be performed before January 1, 2000. Creditable prior service that was actually performed after December 31, 1999 shall be considered to be performed after that date.

2000 under this section and under s. 40.23 (2m) (em), Stats., shall be considered to be performed before January 1, 2000, for any subsequent benefit calculations.

(8) CREDITABLE SERVICE DIVIDED PER A QUALIFIED DOMESTIC RELATIONS ORDER. (a) The percentage of a participant's account that is awarded to an alternate payee in a qualified domestic relations order under s. 40.08 (1m), Stats., shall be applied equally to the creditable service considered to be performed both before January 1, 2000 and the service considered to be performed after December 31, 1999, which is credited or creditable to the participant's account as of the decree date.

(b) The percentage of a participant's account that is awarded to an alternate payee in a qualified domestic relations order under s. 40.08 (1m), Stats., shall be applied equally to the creditable military service considered to be performed both before January 1, 2000 and the creditable military service considered to be performed after December 31, 1999, date for which the participant would be eligible based on the years of service that are credited or creditable to the participant's account as of the decree date. Creditable service performed after the decree date does not increase the amount of creditable military service that is awarded to the alternate payee.

(END OF RULE TEXT)

Effective Date:

This rule shall take effect on the first day of the month following publication in the register, as provided in s. 227.22 (2), Stats.

Explanation of Modifications as Result of Testimony at Public Hearing:

No testimony was offered at the public hearing.

List of persons appearing or registering for or against the rule: —

No persons appeared or registered either for or against the rule at the public hearing on February 29, 2000. The record was held open for written comments until Wednesday, March 1, 2000, but no comments were received.

Response to Legislative Council Staff Recommendations:

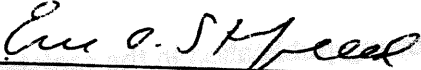
All the recommendations of the Legislative Council Staff were accepted and implemented except one. With respect to comment 2.c., the proposed definition of "benefit approval date" was revised to clarify that the DETF intended only to provide a definition of the approval date for the rule and for identifying the date referred to in Wis. Stat. § 40.04 (4) (b) and (bm), 40.25 (2), and 40.73 (1) (a) and (2) (a).

Board Authorizations for Promulgation:

This final draft report on Clearinghouse Rule #00-022 has been duly approved for submission to the Legislature and for promulgation by the Teacher Retirement Board and the Wisconsin Retirement Board at their meetings on March 9, 2000, and by the Employee Trust Funds Board at its meeting on March 10, 2000.

Respectfully Submitted,

DEPARTMENT OF EMPLOYEE TRUST FUNDS



Eric O. Stanchfield, Secretary
Wisconsin Department of Employee Trust Funds

Date 3/13/00