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Chapter ETF 20

WISCONSIN RETIREMENT SYSTEM

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ETF 20.01 Actuarial estimate charges. (1) Before submitting a resolution to become a participating employer under the Wisconsin retirement system, an employer, as defined in s. 40.02 (28), Stats., may obtain, upon written request to the department and the payment of a fee of $50.00 if more than 10 employees or $25.00 if 10 employees or less, an actuarial determination of its estimated prior service liability. The employer shall supply the data with respect to its employees in accordance with instructions from the department.

(2) The determination of the prior service liability shall be furnished without charge to any employer which has submitted a resolution for inclusion under the Wisconsin retirement system.

(3) The secretary of the department is authorized to set the rates for special actuarial studies or estimates requested by state agencies, local units of government, or other organizations when in the secretary's judgment it is feasible and appropriate to perform the studies.

History: Emerg. eff. 6−30−77; cr. Register, November, 1977, No. 263, eff. 12−1−77; renum. from ETF 4.03 and am., Register, December, 1982, No. 324, eff. 1−1−83.

ETF 20.015 Participating employees: one−third of full−time employment. (1) NON−TEACHERS. Except as provided in sub. (2), for purposes of s. 40.22, Stats., 600 hours of employment with an employer in one year is considered one−third of full−time employment.

(2) TEACHERS. For an employee classified as a teacher under s. 40.02 (55), Stats., for purposes of s. 40.22, Stats., 440 hours of employment with an employer in one year is considered one−third of full−time employment.

(3) YEAR. For purposes of this section "year" means 365 consecutive calendar days, or 366 consecutive calendar days if the period measured includes February 29.

History: Cr. Register, January, 1985, No. 349, eff. 2−1−85; r. and recr. Register, September, 1992, No. 441, eff. 10−1−92.

ETF 20.016 Student employees. (1) As provided in s. 40.22 (2) (gm), Stats., a participating employer may not include under the provisions of the Wisconsin retirement system an employee first hired on or after April 23, 1992, if the employee is under the age of 20 and is regularly enrolled or expected to be enrolled as a full−time student in a public, private, or parochial elementary or high school as defined in s. 118.257 (1) (d), Stats.

(2) For purposes of this section, an employee who is not enrolled in school is expected to be regularly enrolled as a full−time student in a school included under s. 118.257 (1) (d), Stats., if all of the following apply:

(a) The employee is under age 20 and has not received a high school diploma or a general equivalency diploma;

(b) The employee was enrolled in a school included under s. 118.257 (1) (d), Stats., during the immediately prior regular semester;

(c) The employee has not notified the employer, as provided in sub. (3) (c), that he or she does not intend to enroll as a full−time student in a school included under s. 118.257 (1) (d), Stats., during the next regular semester.

(3) An employee who is excluded from participation in the Wisconsin retirement system by s. 40.22 (2) (gm), Stats., shall become eligible for participation, subject to s. 40.22 (2) and (2m), Stats., as if he or she had been initially hired on the earliest of the following dates:

(a) The date the employee attains age 20;

(b) The employee's first working day following the date the employee completes all requirements for a high school diploma;

(c) The employee's first working day following the date the employee notifies the employer that he or she has ceased to be enrolled, and does not expect to be enrolled during the next regular semester, as a full−time student in a school included under s. 118.257 (1) (d), Stats. The written statement of the employee or, if the employee is under age 18, of the employee's parent or guardian shall be sufficient to establish that the employee has left school and does not intend to return in the next semester. If the employee intends to continue as a part−time student only, he or she may establish this fact by submitting to the employer a written certification from the principal of the school in which the student is enrolled. The definition of full−time student shall be that of the school in which the student is enrolled.

History: Cr. Register, October, 1992, No. 442, eff. 11−1−92.

ETF 20.02 Rehired annuitants. (1) In this section, "rehired annuitant"means a participant 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.

(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.

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(c) The thirty−first day after the date the benefit application was received by the department.

(3) (a) The department shall include a rehired annuitant under the provisions of the Wisconsin retirement system as a participating employee if all of the following conditions apply:

1. The rehired annuitant is employed in a position which meets the requirements for participation specified in s. 40.22, Stats.;

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.

Note: A "Rehired Annuitant Election" form, ET−2319, is available from the department of employee trust funds.

(c) An election filed pursuant to par. (a) shall take effect on the first day of the month following its receipt by the department. The department shall terminate the annuity on the day prior to the effective date of the election, unless the department receives the rehired annuitant's written notice revoking the election prior to the effective date of the election.

Note: A rehired annuitant or employer may secure a copy of the election form required by s. ETF 20.02 at no charge by contacting the department of employee trust funds and asking for form ET−2319.

History: Emerg. cr. eff. 7−1−83; cr. Register, October, 1983, No. 334, eff. 11−1−83; r. and recr. Register, October, 1992, No. 442, eff. 11−1−92; correction in (3) (a) 2. made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1999, No. 523; am. (1) and (3) (a) 3., r. and recr. (2) and r. (3) (a) 2., (b), (4) and (5), Register, August, 2000, No. 536, eff. 9−1−00.

ETF 20.03 Annuity computations. (1) For purposes of annuity computations, other than option conversion, an applicant's age shall be determined to the nearest month. For option conversion purposes, an applicant's age shall be determined to the nearest quarter year.

(2) For purposes of determining maximum benefits under s. 40.23 (2), Stats., and integrated benefits under s. 40.24 (4), Stats., except as provided to the contrary in s. ETF 20.35 (3) (c) 2., the estimated OASDHI benefit shall be based on the following:

(a) It shall be assumed that the employee has been in a position covered under OASDHI from the year in which age 30 was attained to the year of retirement or death, except that years in which earnings are reported under s. 40.05 (1) (a) 4., Stats., shall not be counted.

(b) It shall be assumed that covered earnings increased from the year in which age 30 was attained to the year of retirement or death at a rate determined by the actuary to reflect changes in the OASDHI wage base and approximate average changes in earnings during that time.

(c) The delayed retirement credit under federal social security regulations shall be applied to each year after age 65 and up to age 72.

(d) Based upon the assumptions in pars. (a) to (c) and in accordance with the provisions of the federal social security act, the actuary shall prepare a table correlating the employee's age and final average earnings with a primary OASDHI benefit, adjusting the table as necessary to prevent, in most cases, assumed OASDHI benefits from exceeding actual OASDHI benefits.

(e) Notwithstanding pars. (a) to (d), if the applicant furnishes the official social security award certificate or a letter from the social security administration which shows that the retirement or disability benefit that is first payable from the participant's OASDHI account at the time of application for Wisconsin retirement system benefits is or will be in a different amount, the amount certified by the social security administration shall be used in the benefit computation.

(3) The actuarial factors used in computing annuities for beneficiaries shall be the same as the factors used in computing retirement annuities. For purposes of computing a beneficiary social security integrated annuity the beneficiary's estimated OASDHI benefit shall be the primary OASDHI benefit amount determined for the deceased participant pursuant to sub. (2).

History: Renum. from ETF 7.01 (2), 7.03 and 7.06 and am. Register, December, 1983, No. 336, eff. 1−1−84; r. and recr. (2) (a) and (b), Register, December, 1990, No. 420, eff. 1−1−91.

ETF 20.04 Optional forms of annuity. Pursuant to s. 40.24, Stats., a participant may elect one of the optional annuity forms prescribed in this section in lieu of an option prescribed under s. 40.24, Stats.:

(1) A joint survivorship annuity with payments reduced 25% upon the death of the participant or the one beneficiary who was designated by the participant in the original application for an annuity.

(2) (a) A joint survivorship annuity payable for the life of the annuitant, with a guarantee period of at least 180 monthly payments, and after the death of the annuitant continued at 100% for the life of the one beneficiary who was designated by the participant as the joint survivor in the original application for the annuity.

(b) The participant may name a secondary beneficiary or beneficiaries to receive the balance of payments due in the event of the death of both the participant and named joint survivor before 180 monthly payments have been made.

(c) The participant, or in the event of the death of the participant, the named joint survivor, may at any time change the designation of the secondary beneficiary.

(d) In the event of the death of the joint survivor who is receiving continued benefits after the death of the participant, but prior to payment of 180 monthly benefits, the remainder of the 180 monthly payments shall continue to the secondary beneficiary, or in the absence of a secondary beneficiary or the death of the secondary beneficiary prior to the death of the joint survivor, payment shall be made under the joint survivor's standard sequence as set forth in s. 40.02 (8) (a) 2., Stats.

(e) In the event of the death of the joint survivor prior to the death of the participant, the remainder of the 180 monthly payments shall continue to the secondary beneficiary, or in the absence of a secondary beneficiary designation or the death of the secondary beneficiary prior to the death of the participant, payment shall be made under the participant's standard sequence as set forth in s. 40.02 (8) (a) 2., Stats.

(f) In the event of the death of the secondary beneficiary after becoming entitled to receive monthly payments but before receipt of the remainder of the guaranteed 180 monthly payments, the then present value of the annuity shall be paid, in lieu of the continuation of monthly payments, pursuant to s. 40.73 (2) (b) 3., Stats., as a death benefit to the secondary beneficiary's named beneficiary, or in the absence of a beneficiary designation or the death of the secondary beneficiary's named beneficiary prior to the death of the secondary beneficiary, the then present value of the annuity shall be paid under the secondary beneficiary's standard sequence as set forth in s. 40.02 (8) (a) 2., Stats.

(g) In the event of the death of both the joint survivor and secondary beneficiary prior to being entitled to receive benefits, the remaining monthly payments shall continue pursuant to the participant's standard sequence as set forth under s. 40.02 (8) (a) 2., Stats., if the participant's death occurs before 180 monthly payments have been made.

(3) An annuity payable under sub. (1) or (2) plus a social security integrated annuity as determined under s. 40.24 (4), Stats.

(4) If the participant's or alternate payee's age on the birthday which occurs during the year that the annuity begins is 72 or more, a life annuity with a number of guaranteed payments equal to the number of full calendar months in the life expectancy for that age as determined under Table V of 26 CFR 1.72−9 as in effect on January 1, 1997.

History: Cr. Register, November, 1982, No. 323, eff. 12−1−82; am. (intro.), renum. (2) to be (3) and am., cr. (2), Register, May, 1987, No. 377, eff. 11−1−87; cr. (4), Register, December, 1996, No. 492, eff. 1−1−97.

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ETF 20.05 Annuity options integrated with social security. (1) A participant or beneficiary shall not be eligible for the social security integrated annuity if the reduced annuity payable for life in the normal form under s. 40.24 (4), Stats., would be equal to or less than $25.00 per month for a benefit with an effective date in calendar year 1982 or, for a benefit with an effective date in a subsequent calendar year, the monthly amount applied under this section for the previous calendar year increased by the salary index, as defined in s. 40.02 (52), Stats., ignoring fractions of the dollar.

(2) Pursuant to s. 40.03 (2) (k), Stats., the department will assume that the primary OASDHI benefit, as defined in s. 40.02 (44), Stats., for a person eligible to receive a beneficiary annuity and selecting an option payable under s. 40.24 (4), Stats., will be based on the work record of the participant from whose account the benefit is being paid.

History: Cr. Register, June, 1979, No. 282, eff. 1−1−80; cr. (2), (1) renum. from ETF 7.02 (1) and am., Register, November, 1982, No. 323, eff. 12−1−82; am. (1), Register, December, 1987, No. 384, eff. 1−1−88.

ETF 20.055 Spouse's signature on an annuity application. Documentation of inability to obtain a spouse's signature on an annuity application as required under s. 40.24 (7) (a), Stats., shall be accepted for the following reasons only:

(1) The spouse is incompetent as defined under s. 880.01 (4), Stats., and a copy of the court order appointing the spouse's guardian is submitted to the department, except guardianship papers are not required when payment is a single sum benefit payable under s. 40.25 (1), Stats. The guardian's signature shall be required on the annuity application in lieu of the spouse's signature if the participant chooses an annuity option other than an option specified under s. 40.24 (7) (a), Stats.; or

(2) The participant certifies, on a form provided by the department, that the participant does not now know and has not known the whereabouts of the spouse for at least the 90 days immediately prior to the date the application is signed.

Note: Section ETF 20.055 (2) requires forms which are available at no cost by contacting the Department of Employee Trust Funds, P.O. Box 7930, Madison, WI 53707.

History: Cr. Register, September, 1986, No. 369, eff. 10−1−86.

ETF 20.06 Early retirement reduction factors. Pursuant to s. 40.23 (2), Stats., this section applies only to participants who are not participating employees after March 9, 1984. In computing a formula annuity in the normal form beginning prior to the normal retirement date of a participant, there shall be a .5% reduction for each month the participant's age is under 65 but at least 60 and a .4% reduction for each month the participant's age is under 60.

History: Cr. Register, June, 1979, No. 282, eff. 1−1−80; renum. from ETF 7.02 (2), Register, November, 1982, No. 323, eff. 12−1−82; am. Register, March, 1986, No. 363, eff. 4−1−86.

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

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

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

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

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

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

(3) The effective date of the automatic distribution paid under sub. (2) shall be January 1 of the year in which the participant attains or would have attained age 70.5 years, or January 1 of the year following the year in which the participant retires, if later. Standard sequence under s. 40.02 (8) (a) 2., Stats., shall become effective with regard to beneficiaries of death benefits under ss. 40.71 and 40.73, Stats., on the effective date of the automatic distribution.

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

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

Note: Federal regulations require that a distribution from a qualified retirement plan begin no later than April 1 of the year following the year in which the participant turns age 70.5 or retires, whichever is later. Under s. 40.23 (1) (c), Stats., an inactive participant who wishes to receive an annuity payment on April 1 must elect a benefit effective date which is no later than March 1. A form specifying a requested annuity effective date, form ET−4934, is available from the department of employee trust funds at no charge.

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

History: Cr. Register, December, 1996, No. 492, eff. 1−1−97; correction in (2) (a) made under s. 13.93 (2m) (b) 4. and 7., Stats., Register, July, 1999, No. 523.

ETF 20.12 Payments considered Wisconsin retirement system earnings. (1) (a) The purpose of this section is to establish the circumstances under which some or all payments made as a remedy for an employment dispute may be treated as earnings for Wisconsin retirement system purposes and to state the elements required for such treatment.

(b) This section applies to court orders and compromise settlements having an effective date which is on or after May 16, 1996.

(c) This section does not apply to retroactive or other wage payments made to all eligible employees in a bargaining unit under a collective bargaining contract.

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(2) DEFINITIONS. (a) "Compromise settlement," for purposes of this section, means a written, binding agreement between a participating employer and a current or former participating employee of that employer, to settle a wage claim or a dispute involving an involuntary suspension or termination of participating employment. For purposes of this section only, the department shall treat a final order issued by the personnel commission or an arbitration award under a collective bargaining agreement, for which all appeal opportunities have expired without an appeal being filed, as a compromise settlement.

(b) "Effective date" of the court order or compromise settlement, for purposes of this section, means the date an order of the court, the personnel commission, or an arbitrator is issued or, when the matter is resolved by a compromise settlement signed by the parties rather than a final order, the date on which the compromise settlement in its final form is first signed by all of the parties.

(3) Except as provided in this section, no payment resulting from a court order or compromise settlement may be considered as earnings for Wisconsin retirement system purposes. The department may decline to act on a court order or compromise settlement which does not contain all of the information required under this section or is otherwise defective.

(4) Subject to all provisions of this section, the department shall treat as earnings for Wisconsin retirement system purposes a payment made under a court order or compromise settlement by a participating employer to an employee or former employee provided all of the following conditions are met:

(a) The payment is one of the following:

1. Retroactive wages paid to a participant for a period following an involuntary termination of the employee's participating employment by that participating employer, which are paid under court order or the terms of a compromise settlement which also expunges the previously reported termination.

2. Retroactive wages paid to a participant for a period during which the participating employee was involuntarily placed on unpaid leave or suspension by that participating employer.

3. Additional wages properly due to a continuously participating employee from that participating employer for hours of service actually rendered and previously reported to the department.

4. Additional wages properly due to a continuously participating employee from that participating employer for hours of service actually rendered but not previously reported to the department.

(b) The employee or former employee is living on the effective date of the court order or compromise settlement.

(c) The court order or compromise settlement is in writing and is signed and dated by the issuing authority or by the parties to the agreement.

(d) The court order or compromise settlement specifies the wages to be paid to the employee for each annual earnings period and the associated hours of service actually rendered by the employee or that would have been rendered but for the disputed suspension or termination.

Note: "Annual earnings period" is defined by s. 40.02 (3), Stats.

(e) The employer reports the wages and hours of service to the department under a transaction code designated by the department for actions resulting from court orders and compromise settlements. At the department's request, the employer shall report wages and hours of service in sufficient detail to enable the department readily to calculate the wages and hours for each payroll period during the period under dispute and shall distinguish between additional wages, if any, paid for hours of service previously reported to the department, and wages and hours of service not previously reported.

Note: Employer reporting is described in detail in ET−1127, WRS Administration Manual, which is available from the Department at no charge.

(f) If the dispute concerns a termination of participating employment or if the amount of wages reported under par. (e) exceeds the employee's current basic rate of pay multiplied by 80, the employer submits with the transaction report the original court order or compromise settlement or a complete copy thereof. The department may require submittal of the court order or compromise settlement associated with a smaller wage payment. If the employer fails to submit the transaction report and the court order or compromise settlement, if required, within 90 days after the effective date, the employee, the collective bargaining agent, or the issuing court or agency may submit a complete copy of the court order or compromise settlement to the department for purposes of requesting employer reporting.

(g) The employer remits required contributions on the wages, or that portion of the wages which the department treats as earnings, including interest computed under s. 40.06 (5), Stats., and s. ETF 10.635.

(h) If the remedy includes payment of wages for a period following a disputed termination of participating employment, the court order or compromise settlement does all of the following:

1. Directs the employer to rescind the termination date previously reported to the department and, if the employee is not to be reinstated, specifies the date on which the employee−employer relationship terminated, which date shall be treated as the termination date for Wisconsin retirement system purposes. This date may not be later than the effective date of the court order or compromise settlement.

2. Directs the employer to pay the employee all wages from the rescinded termination date to the date the employee returns to work or the new termination date reported under subd. 1. as if the employee had been continuously employed throughout the period under the conditions of employment prevailing prior to the termination, except that the court order or compromise settlement may direct that wages be reduced by amounts earned from other sources and may identify a period of suspension for which wages are not paid.

(5) The department may not consider any of the following payments as earnings:

(a) A payment that results from resolution of a dispute over the employer's failure to hire a person. Any payment in such cases shall be considered by the department as a damage award. This paragraph does not exclude retroactive wages related to a participating employer's failure to hire a participating employee of that employer for another position, provided the court order or compromise settlement also directs that the employee's basic pay rate be permanently increased.

(b) A payment directed by a court order or compromise settlement if either the specified hours of service or associated wages exceed the creditable service and earnings which would have been properly reported for the employee if the employee had been continuously employed through the period at issue under the conditions of employment prevailing prior to the dispute.

(c) A payment directed by a court order or compromise settlement which purports to pay earnings in one annual earnings period which actually result from employment during another annual earnings period or a combination of annual earnings periods.

(d) A payment for actual or constructive services rendered, or deemed to have been rendered, after termination of employment.

(e) A payment directed by a court order or compromise settlement which is excluded from earnings under s. 40.02 (22) (b), Stats., including all of the following:

1. A payment which is other than wages or salary for personal services actually rendered to that participating employer by the participating employee, or which would have been rendered but for the disputed termination or suspension;

2. A payment, including a wage payment, made in return for, or in order to secure, the employee's resignation or termination from participating employment, whether immediately or at some specified time in the future, or to secure release from an unexpired

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contract of employment, including the employee's voluntary waiver of grievance rights under a collective bargaining contract. This subdivision does not prevent a remedy from including both a wage payment and a payment to secure the employee's agreement to other conditions, provided the court order or compromise settlement specifies the portion of the total payment that represents wages.

3. A lump sum payment for accumulated vacation, sick leave, or compensatory time, unless the payment is broadly applicable to the employees of the employer regardless of age, length of service or likelihood of employment termination.

4. A payment for damages, attorney fees, interest or penalties included in the court order or compromise settlement, regardless of whether the amount of the payment reflects previous salary levels.

5. A payment based on a change in the method of computing the base compensation of the employee during the last 5 years of employment, unless resulting from application of a broader change permitted under s. 40.02 (22) (b) 10., Stats.

6. A payment made in lieu of fringe benefits normally paid for or provided by the employer.

(6) The department may not consider as earnings a payment for wages for a period during which the employee was an annuitant, or a payment made to a person whose Wisconsin retirement system account was closed by receipt of a benefit under s. 40.25 (1), or (2) Stats., on or before the effective date of the court order or compromise settlement. This subsection shall not be construed to affect a reinstatement as provided under s. 40.25 (5), Stats.

(7) (a) Except as provided in par. (b), if the court order or compromise settlement directs that the retroactive earnings to be paid first be reduced by amounts earned from other sources, the department shall determine the earnings to be credited in each annual earnings period based on the unreduced amount, subject to the limitations of section 415 of the internal revenue code and to sub. (5) (b). The department may determine the hours of service to be credited in each annual earnings period from data available to the department or by dividing the unreduced amount otherwise treatable as earnings in accord with this section for each affected annual earnings period by the rate of pay the department determines applied during the period under dispute.

(b) If the employee has other participating employment during the disputed period, the department shall reduce the amount of earnings and service it credits under the court order or compromise settlement by the earnings and service resulting from the other participating employment.

Example: An employee who normally earns $12.00 per hour in a full−time position works half−time in another participating position for $10.00 per hour during the disputed termination. In each week, the employee earns $200.00 and 20 hours of service. If the employee is made whole for wages and benefits under the compromise settlement and receives back wages of $480.00 per week for the period of termination, the department will credit only an additional $280 in earnings and an additional 20 hours of service for each week.

(c) In cases of part−time participating employment, the department may increase the service and earnings credited under par. (b) if the employee submits satisfactory evidence showing that the total earnings and service credited during the disputed period, if properly reported, would have been greater than those prevailing before the dispute.

(8) Regardless of when payment to the employee actually occurs and regardless of whether payment is reported as taxable income in the year payment was made or by revising reports of taxable income for previous years, any payments considered as earnings under this section shall be treated for the purposes of the Wisconsin retirement system as earnings in the annual earnings period in which the earnings should normally have been paid.

(9) (a) Except as limited by sub. (10), resolution of any employment dispute between a participating employer and participating employee may include making additional contributions to the participant's account.

(b) The department shall respond to reasonable requests by a participant or a participating employer to estimate the amount of additional contribution necessary to fund a benefit equivalent to a hypothetical Wisconsin retirement system benefit.

(10) (a) Regardless of the terms of a court order or compromise settlement, if the department finds that a contribution exceeds the limits on contributions to qualified pension plans established by the internal revenue code and regulations promulgated thereunder, as determined by the department, the department shall refuse to accept the contribution. If any excess contribution is accepted in error, the department shall refund or credit it as provided in s. 40.08 (6), Stats.

(b) In order to establish the amount of an employee's reportable income for a specified year, as necessary to compute contribution limits, and in order to verify that payments requested to be considered as earnings under this section were reported as taxable income, the employee shall furnish to the department upon request proof of all taxable compensation received and all retirement contributions made to all retirement plans during each year at issue.

History: Cr., Register, July, 1997, No. 499, eff. 8−1−97; correction in (6) made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1999, No. 523.

ETF 20.14 Service purchases: general provisions. This section applies to applications to purchase service under ss. 40.02 (17) and 40.25 (6) and (7), Stats., which are received by the department on or after January 1, 1997.

(1) MAXIMUM PURCHASE. An employee may not purchase more creditable service in a calendar year than can be fully paid for by the employee's maximum voluntary contribution in that year, increased by any after−tax additional contributions made in previous years under s. 40.05 (1) (a) 5., Stats., and accumulated interest, that the employee elects to use to pay for service purchases. As provided in s. 40.08 (6) (d) and (e), Stats., the department shall refund without interest any portion of the employee's annual contributions that is in excess of the contributions permitted for that calendar year under section 415 (c) of the internal revenue code.

(2) PAYMENT. (a) The department may not accept an application to purchase service under this section unless it is accompanied by a lump sum payment equal to the lesser of the following:

1. The employee's maximum voluntary contribution amount, as estimated by the employee, for the calendar year in which the department receives the application, reduced by any voluntary contributions made previously in the same calendar year.

2. The full cost of the service as estimated by the department, reduced by any payment from the employee's after−tax additional contributions account that the employee elects to make under sub. (1).

(b) The employee may request on the application form that a specific dollar amount of the payment be transferred from the employee's after−tax additional contributions account under s. 40.05 (1) (a) 5., Stats. For interest crediting purposes the department shall treat the amount transferred from the additional account as an employee−required contribution for the entire year in which the transfer occurs. The department shall transfer additional contribution accumulations in the following order:

1. Contributions made in the current year.
2. Contributions made in previous years.
3. Accumulated interest.

(3) CREDITING OF SERVICE. The department shall grant creditable service in the amount for which the employee is eligible and for which the employee applied and made payment. If the total payment, including any amount paid from additional contributions and reduced by any refund required under sub. (1), is less than the full cost of the service, the department shall adjust service granted under ss. 40.02 (17) and 40.25 (6), Stats., in proportion to the payment made, and shall adjust service granted under s. 40.25

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(7), Stats., using the calculation specified under s. ETF 20.18 (5) (b).

History: Cr. Register, December, 1996, No. 492, eff. 1−1−97.

ETF 20.15 Computation for reestablishment of creditable service forfeited. (1) For purposes of reestablishing creditable service as provided in s. 40.25 (6) (a) 3., Stats., the application received date is deemed to be the first day of the annual earnings period in which it is received. In cases where the service to be reestablished was earned in more than one employment category separate calculations shall be done for each period of service using the statutory contribution under s. 40.05 (1) (a), Stats., for each employment category.

(2) Upon making application, the amount payable shall be due as follows:

(a) If the creditable service being reestablished is 2 or less years the amount payable shall accompany the application. The application and amount payable shall be deemed to be received within the preceding annual earnings period if received within the first month after the end of an annual earnings period.

(b) If the creditable service being reestablished exceeds 2 years, the amount payable may be divided into 5 equal annual installments. The first installment shall accompany the application. Subsequent installments shall be received by the department on or before the last day of the annual earnings period, June 30 for teachers applying to reestablish creditable service on or after November 1, 1985 and December 31 for non−teachers, or 30 days from the date of the billing by the department, whichever is later. Payment received within 30 days of the date of billing, but later than the last day of the annual earnings period, shall be deemed received within the preceding annual earnings period.

(c) Interest shall be added to each installment after the first installment and shall be paid in full each year. The interest shall be calculated at the most recently established fixed effective rate as defined in s. 40.02 (23) (a), Stats., on the unpaid principal balance outstanding on the prior January 1 for non−teachers or the prior July 1 for teachers. The participant may prepay any or all installments at the time the regular annual installment payment is made. Paying more than the required installment shall reduce the amount of the last installment due. Interest at the most recently established effective rate shall be prorated monthly on the balance remaining after payments made prior to the month of December for non−teachers or the month of June for teachers.

(d) Failure to pay the installments as due shall result in notification by the department of the past due installment. If within 30 days from the date of the notification the past due amount is not received or the department is not advised in writing by the employee of eligibility under sub. (4), and eligibility under sub. (4) is subsequently certified by the employer, all amounts previously paid plus any interest credited to the amounts shall be refunded as provided in s. 40.08 (6), Stats., and the application to reestablish the forfeited service shall be canceled.

(e) If the department notifies the applicant that the payment or first installment accompanying the application is insufficient, the additional amount payable, except as provided in par. (em), shall be due no later than 30 days from the date of the department's notice.

(em) Any amount due as a result of the actual amount of repurchase being greater than the estimate provided shall be deducted from the applicant's annuity, if an annuity is being paid, when the final repurchase calculation is complete. Notification of such deduction shall be provided to the applicant and the option of withdrawal provided under sub. (4) (b) shall still be available.

(f) If a benefit application is received by the department, any unpaid balance, including prorated interest on that balance from the last regular installment date, shall be due within 30 days after the benefit application is effective. Failure to pay the amount due within 30 days after the benefit application is effective shall result in the department refunding any amounts previously received as provided in s. 40.08 (6), Stats., and the application to reestablish the forfeited service shall be canceled.

(g) If the participant dies prior to repayment of all installments due under this subsection, and the department determines that after deducting the unpaid balance the benefit available under s. 40.25 (6), Stats., would be greater if the previously forfeited creditable service had been fully reestablished than the value of the benefit without reestablishing the creditable service previously forfeited, the department shall deduct any unpaid balance due under this subsection from the benefit payable under s. 40.25 (6), Stats., prior to approval of the benefit application; otherwise the installments already received shall be refunded with the death benefit as provided in s. 40.08 (6), Stats.

(4) (a) If a participant fails to pay an installment, as required by sub. (2) (b) to (d), to reestablish credits under s. 40.25 (6), Stats., the application shall not be canceled if failure to pay is due to an involuntary leave of absence or is due to a discharge or removal from the employee's covered employment and the employee exercises a right to appeal within 30 days of the discharge or removal. The involuntary leave of absence, discharge, or removal must have had a duration of at least 90 calendar days at the time the installment is first due. The past due installment plus interest shall be deferred until the following June 30 for teachers who applied to reestablish creditable service on or after November 1, 1985 or December 31 for non−teachers at which time both the deferred installment and any other installment regularly due on that date shall be payable. Failure to pay the deferred installment shall result in cancellation of the application to reestablish forfeited service and all amounts previously paid plus interest credited to the account shall be refunded as provided in s. 40.08 (6), Stats.

(b) If the actual amount due under sub. (2) (e) is greater than the estimate provided the applicant by the department, the applicant shall have the option of withdrawing the application without prejudice. If withdrawal of the application is desired, the applicant shall notify the department no later than 30 days from the date of the department's notice of the actual amount due, and any amounts previously received by the department shall be refunded as provided in s. 40.08 (6), Stats.

(5) Payment by installments for reestablished credits shall not be available to any participant whose application is actually received by the department on or after October 1, 1992, notwithstanding the deemed application receipt date specified in sub. (1). The provisions of this section regarding installment payments shall continue to apply to those repurchases for which an installment payment was made prior to October 1, 1992, until that repurchase is completed or terminated pursuant to sub. (4).

Note: Section ETF 20.15 requires a form which is available at no charge by contacting the department of employee trust funds.

History: Emerg. cr. eff. 1−1−82; cr. Register, June, 1982, No. 318, eff. 7−1−82; renum. from ETF 9.01 and am. (2) and (3), cr. (4), Register, March, 1983, No. 327, eff. 4−1−83; am. (1) and (4), r. and recr. (2), cr. (4) (b), Register, October, 1985, No. 358, eff. 11−1−85; am. (2) (e) and (4) (b), cr. (2) (em), Register, March, 1987, No. 375, eff. 4−1−87; am. (3), cr. (5), Register, October, 1992, No. 442, eff. 11−1−92; r. (3), Register, December, 1996, No. 492, eff. 1−1−97.

ETF 20.16 Credit for service during qualifying period. (1) If a participating employee has previously received a separation benefit, and the employee has reestablished the maximum possible forfeited creditable service under s. 40.25 (6), Stats., the employee may receive credit for service during any qualifying period if otherwise eligible under s. 40.02 (17) (b), Stats.

(2) The payment to purchase qualifying service as provided in s. 40.02 (17) (b), Stats., shall be based on the applicant's highest earnings in a single annual earnings period at the time the application is received. The earnings shall be annualized prior to calculating the amount due from an applicant who worked less than full−time as defined in s. ETF 10.03 (3) or had less than a full year of service reported. For purposes of this section, the application

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received date is deemed to be the first day of the annual earnings period in which it is received. In cases where the applicant has service credited in more than one employment category, the service shall be credited to the employment category in effect at the time the service originally would have been credited.

(3) The amount payable shall accompany the application and shall be deemed to be received within the preceding annual earnings period if received within the first month after the end of an annual earnings period.

(4) If the department notifies the applicant that the payment accompanying the application is insufficient, the additional amount payable, except as provided in sub. (4m), shall be due no later than 30 days from the date of the department's notice. If the actual amount due is greater than the estimate provided the applicant by the department, the applicant shall have the option of withdrawing the application without prejudice. If withdrawal of the application is desired, the applicant shall notify the department no later than 30 days from the date of the department's notice of the actual amount due, and any amounts previously received by the department shall be refunded as provided in s. 40.08 (6), Stats.

(4m) Any amount due as a result of the actual cost being greater than the estimate provided shall be deducted from the applicant's annuity, if an annuity is being paid, when the final calculation is complete. Notification of such deduction shall be provided to the applicant and the option of the withdrawal provided under sub. (4) shall still be available.

Note: Section ETF 20.16 requires a form which is available at no charge by contacting the Department of Employee Trust Funds, P.O. Box 7930, Madison, WI 53707.

History: Emerg. cr. eff. 2−19−82; cr. Register, June, 1982, No. 318, eff. 7−1−82; renum. from ETF 9.02 and am., Register, March, 1983, No. 327, eff. 4−1−83; renum. to be (1), cr. (2) to (5), Register, October, 1985, No. 358, eff. 11−1−85; am. (4), cr. (4m), Register, March, 1987, No. 375, eff. 4−1−87; r. (5), Register, December, 1996, No. 492, eff. 1−1−97.

ETF 20.18 Purchase and crediting of other governmental service. (1) PURPOSE. The purpose of this section is to interpret s. 40.25 (7), Stats., to establish procedures to implement this statute, and to establish the method of determining the purchase cost of other governmental service.

(2) DEFINITIONS. In this section:

(a) "Current earnings" means the participant's earnings in the most recent complete annual earnings period provided the participant was a participating employee for the full annual earnings period, or the product of the participant's hourly pay rate on the date of application multiplied by the number of hours the participant is expected to be employed as a participating employee during a full annual earnings period.

(b) "Date of application" means the date the department receives the participant's application to purchase other governmental service in a form approved by the department.

(c) "Military service" means active military service and active service as defined in s. ETF 10.01 (1g), active duty for training, and service in the national guard and the reserves.

(d) "Money purchase balance" means the sum of the participant's employee required contributions and accrued interest, including accumulations resulting from purchases under this section, and an amount from the employer reserve equal to the employee required accumulation less any amount resulting from purchases under this section.

(e) "Other governmental service" means one of the following:

1. Service, other than military service, performed as an employee of the federal government or of a state or local governmental entity in the United States which does not participate in the Wisconsin retirement system.

2. Service as an employee for a participating employer in the Wisconsin retirement system that was performed before the employer began to participate with respect to the employee's employment category, and that has not been recognized by the employer as creditable prior service.

(3) APPLICATION REQUIREMENTS. The department shall grant creditable service for other governmental service to participants who meet all of the following requirements:

(a) The participant has at least 3 continuous years of creditable service on the date of application.

(b) The participant submits a complete application to the department within 90 days after terminating participating employment. An application is complete on the date the department receives all of the following:

1. An application to purchase the service, in a form approved by the department, signed and dated by the participant or the participant's authorized representative.

Note: An Estimate/Application to Purchase Other Governmental Service, form ET−2205, is available from the Department of Employee Trust Funds at no charge.

2. Evidence of the service which meets the requirements of sub. (4).

3. Payment of the cost of the other governmental service either in a lump sum or by transfer from the participant's additional contributions under s. 40.05 (1) (a) 5., Stats. Pursuant to sub. (9), the department may reject payments received after the end of the calendar year in which employment terminates, notwithstanding the 90−day time−limit in s. 40.25 (7) (a) 1., Stats.

4. Certification by the employer for which the service was rendered that the service will not be used to establish entitlement to, or the amount of, any other benefit from a plan regulated by ss. 401 or 403 of the internal revenue code as defined in s. 71.01 (6), Stats., to be paid by or on behalf of any federal, state, or local government entity, except for a disability or OASDHI benefit or a benefit paid for service in the national guard. If the employer's certification cannot be obtained, the department may accept the employee's affidavit.

Note: An Employer Certification Regarding Other Governmental Service, form ET−2206, is available from the Department of Employee Trust Funds at no charge.

(4) REQUIRED EVIDENCE OF SERVICE. A participant who proposes to purchase other governmental service shall provide to the department all of the following:

(a) The correct name and current or latest address, and telephone number, if any, of the employer for which the service was rendered.

(b) The dates of service for the other governmental employer, including the beginning and ending dates of each period of employment.

(c) Evidence that the employment was full−time as defined in s. ETF 10.03 (2), or, if part−time, evidence of the number of hours worked in each calendar year sufficient to establish the amount of service which the participant is eligible to purchase. The department's determination as to the sufficiency of the documentation shall be conclusive.

Note: Examples of relevant documentation include: employer payroll records, the affidavit of the employer's authorized representative, the employee's pay stubs, records of the social security administration or the internal revenue service.

(d) Evidence that the employer was a federal, state, or local governmental entity in the United States. The department may rely on the determination of the social security administration as to whether an employer is a governmental entity.

(e) Evidence that the participant was an employee, as defined in s. 40.02 (26), Stats., of the governmental entity. Employment by a private or non−profit entity which received government moneys or which was under contract to provide services to or on behalf of a governmental entity does not constitute employment by the governmental entity.

(f) Evidence that the service required, or was expected to require, at least 600 hours of employment. If the employer's expectation cannot be established, the department may accept the employee's certification.

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(g) The employee's certification that the service was not of a type that would be excluded under s. 40.22 (2) (e), (g), (gm), or (L), Stats., if the employer were a participating employer.

(5) COST TO PURCHASE OTHER GOVERNMENTAL SERVICE. (a) The cost to purchase other governmental service shall be sufficient to fund the increased benefit anticipated based on the law in effect on the date the department receives a complete application.

(b) The actuary shall recommend a method for calculating the purchase cost expressed as a percentage of the participant's current earnings. The calculation shall reflect the current benefit provisions of the Wisconsin retirement system and shall use the following factors:

1. Factors determined as of the date of application:

a. The participant's current employment category as determined under s. 40.23 (2m) (b), Stats. If the participant is employed in 2 or more categories, the computation shall be based on the current employment category in which the participant has accrued the most creditable service.

b. The participant's current earnings.

c. The number of years, in hundredths of a year, of other governmental service which the participant proposes to purchase.

2. Factors determined as of the January 1 preceding the date of application:

a. The participant's attained age.

b. The participant's money−purchase balance.

c. The interest crediting for which the participant is eligible under s. 40.04 (4) (a), Stats.

d. The participant's final average earnings multiplied by 12.

e. The participant's years of creditable service accrued under the Wisconsin retirement system.

f. Economic assumptions used by the actuary to value Wisconsin retirement system liabilities.

g. Assumptions regarding rates of mortality and withdrawal used by the actuary to value Wisconsin retirement system liabilities, modified to remove distinctions based on gender and occupation within the general employee category.

3. If the participant has terminated participating employment, the date of such termination, or otherwise the participant's assumed retirement date as determined by the actuary.

(c) The calculation may not be used as a basis for purchase of other governmental service until approved by the department.

(d) The actuary may at any time recommend changes in the factors or method of calculating the price of other governmental service if warranted by changes in the benefit structure or valuation assumptions of the Wisconsin retirement system. The calculation based on the new method or factors shall be applied in the manner and at the time prescribed by the department. However, complete applications already received by the department shall not be amended to reflect the new method or factors.

(6) CREDITABLE SERVICE BASED ON PURCHASE OF OTHER GOVERNMENTAL SERVICE; LIMITATIONS. (a) The amount of other governmental service purchased through all purchases made under this section may not exceed the lesser of ten years or the amount of the participant's creditable service earned under the Wisconsin retirement system and credited as of the date of the last application.

(b) Other governmental service shall be credited in the general employment category regardless of the employee's current employment category or the nature of the service.

(c) Service, including teaching service, shall be granted in hundredths of a year, at the rate of one year for 1,904 hours worked in one calendar year.

(d) A participant's total creditable service in any annual earnings period from all sources may not exceed one year.

(e) Creditable service purchased under this section shall be used solely to determine a benefit amount under ss. 40.23, 40.25, 40.63, and 40.73, Stats. The department may not consider other governmental service when determining any of the following:

1. Whether the participant has met the vesting requirement under s. 40.23 (1) (a) 3., 1995 Stats.

2. Whether the participant has met the service requirements for disability benefits under s. 40.63, Stats., or s. ETF 50.50 (2) (b).

3. Whether the participant has met the service requirements to continue insurance after termination of employment under ss. 40.02 (25) (b) 6. a., 6m. b., 6r., or 40.72 (4) (b), Stats.

4. The amount of creditable service which the participant is eligible to re−establish under s. 40.25 (6) (a) 2., Stats., or to purchase under this section.

5. The amount of creditable military service for which the participant is eligible under s. 40.02 (15) (c), Stats.

(f) If service for a Wisconsin employer which has been credited under this section is subsequently recognized as creditable prior service under s. 40.21 (6), Stats., the participant's other governmental service credits shall be reduced accordingly and the associated contributions and interest shall be transferred to the employee's additional account.

(g) When the date of application precedes the decree date, service purchased under this section and the associated account value shall be included in account divisions pursuant to s. 40.08 (1m), Stats.

(7) APPLICATION PROCESS. (a) Upon the participant's request, the department shall issue an application to purchase a specified amount of other governmental service, including an estimate of the cost based on an estimated date of application.

(b) The participant may elect to make a payment which is greater or lesser than the amount estimated by the department.

(c) Upon receipt of a complete and timely application, the department shall grant creditable service in an amount based on the amount of the payment received and the calculation described in sub. (5), but not more than the department determines to be eligible for purchase. If otherwise eligible, the participant may subsequently apply to purchase all or any part of the eligible service which has not yet been purchased.

(d) If for any reason the department determines that the participant is ineligible to purchase other governmental service, it shall reject the application and return the payment.

(e) If the department determines that the payment is not sufficient to purchase all of the service applied for, or that some or all of the service is ineligible for purchase, it shall notify the participant. The participant may remit an additional payment or provide additional evidence of service within 30 days of the notification. At the end of this 30−day period, the department shall grant service up to the maximum which is eligible and has been paid for, and refund any balance remaining.

(f) The department may reject any application which is incomplete 6 months after the date of application, and refund any associated payment.

(g) Except as provided in sub. (8) (b), interest on refunds is limited to the amount provided under s. 40.08 (6), Stats.

(8) CREDITING OF PURCHASE PRICE. (a) The department shall deposit the payment in the participant's required contribution account under s. 40.04 (4) (a) 1., Stats. If the participant participates in the variable trust the payment shall be divided between the fixed and variable accounts in the same proportion as the participant's current contributions.

(b) The participant may request on the application form that a specific dollar amount of the payment be transferred from the participant's employee additional account under s. 40.05 (1) (a) 5., Stats. All additional contributions paid by the participant shall be applied to the payment before any interest accumulations are applied. For interest crediting purposes, the transfer shall be deemed to occur on the January 1 preceding the date of applica-

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tion. If the department refunds any payment taken from additional contributions, it shall restore the refunded amount to the additional account as if the transfer had not occurred.

(c) The participant may not revoke or withdraw an application to purchase other governmental service once payment has been received by the department.

(d) The department shall notify the participant of the final disposition of the application, including the amount of the payment accepted, the amount of creditable service granted, and any portion of the purchase which was found to be ineligible. Any appeal regarding the purchase, including but not limited to the amount of service granted, the eligibility of the service proposed for purchase, the cost, or the participant's eligibility to make the purchase, must be received by the department within 90 days after the date of this notification. The fact that the purchase is less beneficial to the participant at retirement than anticipated is not grounds for appeal.

(9) LIMITATION ON CONTRIBUTIONS. Nothing in this section shall prohibit the department from refunding payments which are in excess of the limits on contributions to qualified retirement plans established under section 415 of the internal revenue code, as defined in s. 71.01 (6), Stats., and reducing the creditable service granted accordingly.

History: Cr. Register, June, 1995, No. 474, eff. 7−1−95; correction in (6) (e) 1. made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1999, No. 523.

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 employee of the legislature or employee 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.

(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 after December 31, 1999 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 after December 31, 1999, 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 after December 31, 1999 shall be considered to be performed 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 after December 31, 1999 shall be considered to be performed 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. The creditable service granted for any period of temporary disability after December 31, 1999 shall be considered to be performed 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

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a participating employee after December 31, 1999 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 after December 31, 1999 shall be considered to be performed 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 employee after December 31, 1999, 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 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.

History: CR 00−022: cr. Register July 2001, No. 547 eff. 8−1−01.

ETF 20.20 Cancellation of application for retirement annuity, separation or lump sum benefit. (1) Any separation, retirement or lump sum benefit payment application canceled pursuant to this section shall have no force or effect, and any subsequent application shall be treated as a new application. Repayment in full of any sum paid under the application for which cancellation is sought shall be required. The employer may not make this payment on behalf of the recipient of the benefit.

(2) A request to cancel an application under this section shall be in writing. The request to cancel shall be rejected unless received by the department by the close of regular office hours on the last working day prior to the applicable deadline under sub. (3) or (4). If the deadline specified under sub. (3) or (4) falls on a Saturday, Sunday or holiday under s. 230.35 (4) (a), Stats., the request to cancel shall be timely only if received in the department by the close of regular office hours on the last working day preceding the Saturday, Sunday or holiday.

Example: If the date the account will be debited in response to the application falls on a Monday which is not a holiday, then the request to cancel must be received by the department no later than 4:30 p.m. on the preceding Friday, the last working day prior to the debiting date. If that Monday were a holiday, the debiting date would be Tuesday, the next working day as provided by s. ETF 10.633 (3), but the deadline for cancelling the application would remain Friday, the last working day preceding the debiting date.

(3) An application for a separation benefit under s. 40.25 (2), Stats., shall be canceled if:

(a) The applicant's written request for cancellation is received by the department no later than the close of the department's regular office hours on the last working day before the participant's account in the employee accumulation reserve is debited for funding the benefit as provided by s. ETF 10.633 (1) (c).

(b) The applicant becomes a participating employee within 30 days after the application was received by the department.

(c) The applicant dies prior to the date of the separation benefit check.

(4) An application for a retirement annuity under s. 40.23 or 40.24, Stats., or s. ETF 20.04, or a lump sum payment under s. 40.25 (1) or (4), Stats., shall be canceled if the participant's written request for cancellation is received by the department no later than the close of the department's regular office hours on the last day before the participant's account in the employee accumulation reserve is debited for funding the benefit as provided by s. ETF 10.633 (1) (a) or (c) for retirement annuities or lump sum payments, respectively.

History: Cr. Register, April, 1983, No. 328, eff. 5−1−83; am. (3) (intro.), Register, October, 1992, No. 442, eff. 11−1−92; am. (1), (2), (3) (intro.) and (a) and (4), Register, January, 1996, No. 481, eff. 2−1−96; correction in (3) (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1999, No. 523.

ETF 20.23 Adjusting annuities for equity after reentry into service. (1) Pursuant to s. 40.03 (1) (a), Stats., in determining the monthly amount of a recomputed annuity in the normal form under s. 40.26 (3), Stats., the applicant's estimated social security benefit shall not be greater than the amount determined by:

(a) Dividing the creditable service earned prior to the effective date of the prior annuity by the participant's total creditable service.

(b) Dividing the final average earnings determined for the new annuity computation by the final average earnings determined in computing the prior annuity.

(c) Multiplying the result in par. (a) times the result in par. (b) times the social security benefit amount used in determining the amount of the prior annuity.

(d) Dividing the creditable service earned since the effective date of the prior annuity by the participant's total creditable service.

(e) Multiplying the result in par. (d) times the social security benefit amount determined under s. ETF 20.03 (2) based on the participant's total service and earnings.

(f) Adding the amounts determined in pars. (c) and (e).

(2) Pursuant to s. 40.03 (1) (a), Stats., the monthly amount of a recomputed annuity in the normal form under s. 40.26 (3), Stats., excluding any portion which on either the original or recomputed annuity was a variable annuity, shall not be less than the monthly amount of the original fixed annuity in the normal form increased by any dividends granted prior to termination of the original annuity.

(3) The board may review adjustments made under this section and may make other adjustments as necessary to prevent any inequity.

History: Cr. Register, February, 1984, No. 338, eff. 3−1−84.

ETF 20.25 Fixed and variable annuity changes. Annuity changes shall be made as follows:

(1) (a) Except as otherwise provided in par. (b), a fixed annuity dividend, as recommended by the actuary and approved by the chair of the employee trust funds board and the department's secretary, shall be distributed based on each December 31 valuation as specified in s. 40.27 (2), Stats. The dividend shall be effective

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on the April 1 following the valuation date and shall apply to fixed annuities effective on or prior to the date of the valuation. As authorized under s. 40.27 (2) (b), Stats., different percentages shall be determined for annuities effective for less than a full year on the valuation date. The percentages shall be determined by multiplying the number of full months the annuity was in force times the percentage change applicable to annuities effective for the full year, dividing the result by 12 and rounding the answer to the nearest tenth of a percent. No increase shall be applied to any annuity for which the resulting increase would be less than one percent.

(b) The total amount distributed to the annuity reserve under 1999 Wis. Act 11, section 27 (1) (a) shall be distributed effective April 1, 2000, in the form of a percentage increase. The percentage shall be recommended by the actuary separate from the distribution of any surplus created by the annual distribution under s. 40.04 (3) (a), Stats., or otherwise. The percentage under this paragraph shall be the same for all affected annuities, including those with effective dates after December 31, 1998 and before January 1, 2000.

(2) Variable annuity changes, as recommended by the actuary and approved by the secretary, shall be made based on each December 31 valuation as specified in s. 40.28 (2), Stats. The changes shall be effective on the April 1 following the valuation and shall apply to variable annuities effective on or prior to the date of the valuation, regardless of whether the annuity becomes a fixed annuity in the following year.

History: Cr. Register, November, 1957, No. 23, eff. 12−31−57; r. and recr. Register, December, 1976, No. 252, eff. 1−1−77; renum. from Ret 8.05 (2) and am., Register, January, 1983, No. 325, eff. 2−1−83; emerg. r. and recr. eff. 1−1−84; r. and recr. Register, April, 1984, No. 340, eff. 5−1−84; renum. (1) to (1) (a) and am., cr. (1) (b), Register, September, 2000, No. 537, eff. 10−1−00.

ETF 20.30 Annuity underpayments. Pursuant to s. 40.08 (7) (c), Stats., if an annuity under s. 40.23, 40.24, 40.63, or 40.73, Stats., is underpaid by more than $2 per month, and if the underpayment continues for 12 or more monthly payments, the payment to the annuitant to correct the underpayment shall include interest equal to 0.4% of the cumulative underpayment amount multiplied by the number of monthly payments in which the annuity was underpaid.

History: Cr. Register, October, 1992, No. 442, eff. 11−1−92.

ETF 20.35 Qualified domestic relations orders; division of WRS accounts and annuities. (1) SCOPE AND PURPOSE. (a) This section applies to any order to divide any benefit of the Wisconsin retirement system which is received by the department.

(b) The purpose of this section is to specify how the department shall apply a valid QDRO to the account or annuity or respond to an order which is not a valid QDRO.

(c) For purposes of ss. 40.02 (48m) and 40.08 (1m), Stats., and this section, a marriage is terminated upon entry of a judgment, decree or order of divorce, annulment or legal separation.

(2) DIVISION BY VALID QDRO. Except as otherwise provided in sub. (6) or (7), upon receipt of a valid QDRO the department shall divide WRS accounts and annuities in accordance with the percentage awarded to the alternate payee in the valid QDRO, based on the date on which the marriage was terminated by a court judgment, decree or order which includes the order to divide Wisconsin retirement system benefits and the date the valid QDRO was received by the department, as follows:

(a) With respect to marriages terminated on or after January 1, 1982, and before April 28, 1990, the division shall be as provided in subs. (3) and (4), when a valid QDRO is received by the department after May 2, 1998.

(b) With respect to marriages terminated before April 28, 1990, the division shall be as provided in subs. (3) and (5).

Note: See s. ETF 10.82 concerning receipt by the department.

Note: It was the department's intent for par. (b) to read as follows: "With respect to marriages terminated on or after April 28, 1990, the division shall be as provided in subs. (3) and (5)." This language is consistent with the heading of s. ETF 20.35 (5), which reads: "Marriages terminated on or after April 28, 1990."

(3) ALL QDRO DIVISIONS. (a) *Percentages.* The percentage of the participant's account or annuity that is awarded to the alternate payee by a valid QDRO is limited to a percentage between zero percent (0%) and fifty percent (50%) expressed to more than 2 decimal places. An otherwise valid QDRO with a percentage awarded to the alternate payee expressed to more than 2 decimal places may not be rejected for that reason alone but the department shall round the percentage to 2 decimal places.

(b) *Debts of the participant.* Any debt, memorandum account or account receivable balance reflecting amounts owed by the participant to the department, the fund or any benefit plan, accrued as of the decree date, shall be divided between the participant and alternate payee in the same proportion as the participant's account or annuity.

(c) *Dividing Wisconsin retirement system annuities.* 1. 'Present actuarial values before and after division shall be equal.' An annuity shall be divided so that the actuarial present value of the undivided annuity is equal to the aggregate actuarial present values of the 2 separate annuities resulting from the division, all calculated as of the effective date of the division.

2. 'Division of accelerated annuity option.' If the participant selected an accelerated payment option as provided in s. 40.24 (1) (e), Stats., or s. ETF 20.04 (3), and the participant's temporary annuity is still in force as of the effective date of the annuity division, then the department shall calculate the present value of both the temporary and life annuities using the actuarial tables in effect on the effective date of the annuity division. The department shall then divide the total present value based on the percentages specified in the QDRO and calculate separate annuities for the participant and alternate payee as specified in s. 40.08 (1m) (f) 2., Stats. If the participant or alternate payee provides a projection of his or her social security benefits at age 62 from the social security administration, the department shall use the projected social security amount to calculate the amount of the temporary annuity for that person. If no projection is supplied, then notwithstanding s. ETF 20.03 (2), the department shall assume that person's projected social security benefits at age 62 equals the that person's prorated portion of the participant's temporary annuity amount as of the effective date of the annuity division, calculated based on the respective percentages of the annuity being awarded to the participant and alternate payee. If the reduced annuity payable for life to the alternate payee or participant is below the threshold specified by s. ETF 20.05 (1), then that person shall receive an annuity in the same optional form originally selected by the participant, except that the temporary annuity option provided in s. 40.24 (1) (e), Stats., or s. ETF 20.04 (3) is not available.

3. 'Disability annuities.' Upon division of a disability annuity calculated under the provisions of s. 40.63 (1) or (4), Stats., the alternate payee's annuity shall consist of a portion based on the participant's actual service and a portion based on assumed service. The portion of the alternate payee's annuity based on the participant's assumed service and age shall cease upon the death of the alternate payee. Benefits payable upon the death of the alternate payee's shall be based on the guaranteed portion of the alternate payee's annuity only. Once the participant's disability annuity has been divided, the termination or suspension of the participant's disability annuity or the death of the participant has no effect on the alternate payee's annuity. If the participant's disability annuity is subsequently terminated and the participant's account restored under the provisions of s. 40.63 (9) and (10), Stats., the contributions and service credited to the restored account shall be reduced by the same percentage awarded to the alternate payee by the valid QDRO.

4. 'Actuarial adjustment for early retirement.' The actuarial reduction applied to the participant's and alternate payee's annuities as provided in s. 40.23 (2m) (f) and (fm), Stats., shall be calculated based on the participant's and alternate payee's actual ages

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on his or her respective annuity effective dates, using the creditable service that would otherwise have been credited to the participant's account on the respective annuity effective dates if the participant's creditable service had not been reduced per a valid QDRO.

(d) *Dividing Wisconsin retirement system accounts.* 1. 'Creditable service.' Creditable service which the participant has been granted as of the decree date is a part of the Wisconsin retirement system account of a participant and shall be divided in the same ratio as other account balances. With respect to a decree date on or after January 1, 1982 through April 1, 1990, if the employer is unable to accurately report earnings and service up to the decree date, as required by s. 40.02 (48m) (j), Stats., the department shall prorate the participant's service, earnings and contributions for the calendar year in which the decree date falls. The service and contributions shall be prorated based on the number of months between January 1 of the year in which the marriage is terminated and the decree date, divided by the number of complete and partial months during that calendar year in which the participant was a participating employee, with the quotient rounded to 2 decimal places.

2. 'Purchased service credits.' If the department has received the participant's application and payment to purchase creditable service before the decree date, the purchased service shall be divided in the same proportion as the other portions of the participant's account. Any refunds or billing for supplemental payment due for such purchased service shall be divided between the participant and alternate payee in the same proportion as the service was divided.

3. 'Creditable military service.' If the participant has active military service, the alternate payee shall be granted the percentage specified in the valid QDRO of the military service for which the participant would be eligible as of the decree date, based on the participant's total creditable service as of the decree date, regardless of when the participant requests the crediting or provides satisfactory documentation. If a participant does not provide to the department proof of active military service and the certification of active military service on the form prescribed by the department, the department shall nevertheless divide the participant's account without the military service provided the court order is otherwise a valid QDRO.

4. 'Rehired annuitant with reestablished account.' If the participant's account has been reestablished since the decree date under the provisions of s. 40.26 (2), Stats., any memorandum account balance resulting from the annuity payments paid during the period in which the participant was an annuitant between the decree date and the effective date on which the account was reestablished, plus accumulated interest on that amount, shall be divided in the same proportion as the other portions of the participant's account.

(4) MARRIAGES TERMINATED ON OR AFTER JANUARY 1, 1982 AND BEFORE APRIL 28, 1990. (a) The division of accounts and annuities that are divided per valid QDROs with respect to marriages terminated between January 1, 1982 and April 27, 1990, both dates inclusive, shall be calculated to reflect changes in the participant's account, including but not limited to commencing or terminating an annuity, between the decree date and the effective date of the account or annuity division, as provided in this subsection.

(b) If the participant was an annuitant on the decree date and has continued to be an annuitant until the effective date of the annuity division, the department shall calculate the present value of the participant's annuity as of the effective date of the division based on the actuarial tables in effect on the effective date of the annuity division, and award a share of the total present value to the alternate payee, then calculate separate annuities for the alternate payee as provided in s. 40.08 (1m) (b) 2., (c) and (d), Stats.

(c) If the participant was not an annuitant on the decree date, but is an annuitant on the date that the department receives the valid QDRO, the participant's annuity shall be divided as provided in sub. (3) (c), and as follows:

1. The portion of the annuity awarded to the alternate payee may not reflect any service or contributions reportable for any period of the participant's participating employment after the decree date.

2. If the participant's retirement annuity is a formula annuity calculated under the provisions of s. 40.23 (2) (b) or (2m) (e), Stats., the percentage of the participant's annuity awarded to the alternate payee shall be based on the ratio of the years of creditable service awarded to the alternate payee as of the decree date, based on the percentage specified in the valid QDRO and including any creditable military service, divided by the total creditable service used to calculate the participant's retirement annuity, with the quotient rounded to 2 decimal places.

3. If the participant's retirement annuity is a money purchase annuity calculated under the provisions of s. 40.23 (2) (c), (2m) (c) or (d), or (3), Stats., the portion of the participant's annuity awarded to the alternate payee shall be based on the ratio of the portion of the account balance awarded to the alternate payee as of the decree date, based on the percentage specified in the valid QDRO, divided by the total account balance used to calculate the participant's retirement annuity, with the quotient rounded to 2 decimal places.

4. If the participant is receiving a disability annuity under s. 40.63 (1) or (4), Stats., the alternate payee's share of the portion of the participant's disability annuity based on assumed service shall be calculated by dividing the years of creditable service awarded to the alternate payee as of the decree date, based on the percentage specified in the valid QDRO and including any creditable military service, by the total service that was available to calculate the guaranteed portion of the participant's disability annuity, including any creditable military service, regardless of whether the guaranteed portion of the disability annuity was calculated under s. 40.23 (2) (b) or (c), (2m) (c), (d) or (e) or (3), Stats.

(d) If a participant's annuity is divided under the provisions of par. (c), and that annuity was reduced under the provisions of s. 40.23 (2) or (2m) (b), Stats., the percentage of the annuity to be awarded to the alternate payee shall be determined as provided in par. (c), and those percentages shall be applied to the annuity amounts payable on the effective date that the annuity is divided per the valid QDRO.

(e) If the participant was an annuitant on the decree date but the account was subsequently reestablished under the provisions of s. 40.26 (2), Stats., and the participant is not an annuitant on the date the department receives the valid QDRO, the department shall establish a separate account for the alternate payee consisting of a share of the participant's contributions and creditable service, based on the percentage specified in the valid QDRO and including any creditable military service, that was available to calculate the participant's original retirement annuity. Interest shall be added to the contribution balances for the period between the decree date and the date the alternate payee's account is reestablished. If the participant has a memorandum account balance, the alternate payee's account shall also be credited with a share of the participant's memorandum account balance as provided in sub. (3) (b), based on the percentage specified in the valid QDRO.

(5) MARRIAGES TERMINATED ON OR AFTER APRIL 28, 1990. (a) If the participant was not an annuitant on the decree date, the department shall divide the participant's account as provided in s. 40.08 (1m) (b) 1., (c), (d) and (f) 1., Stats., and sub. (3) (d), and as follows:

1. The creditable service and amounts awarded to the alternate payee shall be in a separate account in the fund for the benefit of the alternate payee. After the division under this section, the alternate payee may apply for a separation benefit under s. 40.25 (2), Stats., provided the application is received by the department prior to the date on which the participant would have met the mini-

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mum age requirement for a retirement annuity under s. 40.23, Stats. After the date the participant would have reached the minimum retirement age, the alternate payee may only apply for retirement benefits under s. 40.23, 40.24, or 40.25 (1), Stats.

2. The participant shall have the remainder in his or her separate account under s. 40.04 (4) (a), Stats., unless the participant is an annuitant at the time of the division. If the participant is an annuitant when the division occurs, the participant's creditable service and account as of the decree date shall be reduced by the percentage awarded to the alternate payee. The balances shall then be brought forward to the effective date of the current annuity, including any contributions and service for periods after the decree date, and the annuity option chosen by the participant shall be recalculated. The amount by which the monthly annuity payments previously made to the participant exceed the participant's recalculated monthly entitlement for the same period shall be a balance due from the participant. This balance due shall be due from the participant and may be collected as provided in s. 40.08 (4), Stats., including by a reduction of the present value of the participant's annuity as reduced by the division, resulting in a recalculation and reduction of the participant's monthly annuity.

(b) 1. Except as provided in subd. 2., if the participant was an annuitant on the decree date, the department shall divide the present value of the annuity as provided in s. 40.08 (1m) (b) 2., (c), (d) and (f) 2., Stats., and sub. (3) (c) and pay separate annuities to the participant and alternate payee, respectively.

2. If the participant's annuity is a joint and survivor annuity with the alternate payee as the named survivor, and the percentage awarded to the alternate payee in the valid QDRO is zero percent (0%), then the alternate payee may not receive any Wisconsin retirement system annuity based on the valid QDRO and the participant's annuity shall be recalculated as a straight life annuity payable to the participant, with no change in the remaining guarantee period, if any.

(6) INVALID QDRO. (a) *Rejection and notice.* The department may not honor any order to divide Wisconsin retirement system benefits which it determines is not a valid QDRO. The department shall send written notice of its rejection of an order to the person offering the order and to the participant and alternate payee if that person's name and address is stated in the order or is readily determinable from department records.

(b) *Account already closed.* An otherwise valid QDRO received after the participant's account was closed by payment of a lump sum benefit on or after the decree date has no effect, regardless of whether the participant returned to participating employment after the decree date. If the participant's account to which the valid QDRO applies is subsequently restored under the provisions of s. 40.25 (5), Stats., or because the benefit was paid in error, the restored account shall be divided according to the valid QDRO.

(c) *Participant deceased.* An otherwise valid QDRO received after the participant's date of death has no effect on the participant's account or annuity.

(7) LIMITED GRACE PERIOD TO CORRECT SPECIFIED ERRORS. (a) If the department rejects an order for the division of a participant's account and subsequently receives a otherwise acceptable application for a benefit which would close the participant's account due to payment of a lump sum benefit, the department shall delay payment of the lump sum benefit until 30 days after the date the order for division was rejected. This paragraph applies only if the basis for the rejection was one or more of the following:

1. The order did not meet all of the requirements in s. 40.02 (48m), Stats.,

2. The order received by the department was not a certified copy or an original, signed by the judge or a duly authorized family court commissioner.

(b) If the department has not received a second, valid QDRO within 30 days after the rejection, then the department shall complete processing the application for benefits and sub. (6) (b) shall apply.

(8) EFFECT OF POST–DECREE DATE CORRECTIONS AND ADJUSTMENTS. (a) *Service purchased after decree date.* Credit for service purchased by the participant after the decree date in a valid QDRO may not be affected by that QDRO.

(b) *Active military service.* If the department divided a participant's account per a valid QDRO without first receiving proof and certification of active military service, as provided in sub. (3) (d) 3., and the participant subsequently provides documentation of active military service and the certification on the form prescribed by the department, the department shall divide the creditable military service for services rendered prior to the decree date between the participant and alternate payee's accounts pursuant to the valid QDRO. The participant may not receive creditable military service for any active military service that would have been granted to the alternate payee had the participant submitted timely to the department the certification of active military service as provided in s. 40.02 (48m) (f), Stats.

(c) *Other corrections and adjustments directly affecting benefits.* The effect of any other corrections and adjustments to service, contributions, or interest earnings affecting the benefits the participant accrued as of the decree date, including corrections of administrative errors and corrections or adjustments of any factor affecting the calculation of an annuity to be divided, shall be divided between the participant and the alternate pursuant to the valid QDRO. The participant and alternate payee accounts or annuities shall be adjusted accordingly.

History: Cr. Register, July, 1999, No. 523, eff. 8−1−99.