



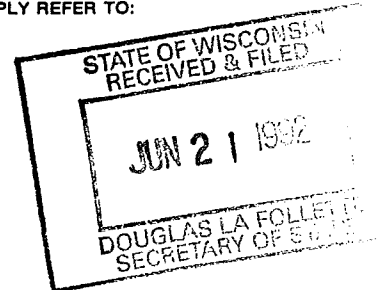
CR 91-188

State of Wisconsin \ DEPARTMENT OF EMPLOYE TRUST FUNDS

Gary I. Gates  
Secretary

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P.O. BOX 7931  
MADISON, WISCONSIN 53707

IN REPLY REFER TO:



STATE OF WISCONSIN )  
DEPARTMENT OF EMPLOYE TRUST FUNDS)

I, Gary I. Gates, Secretary of the Department of Employee Trust Funds and custodian of the official records of this department, certify that the attached rule-making order affecting s. ETF 10.01 (1g), Wis. Adm. Code, relating to active service in the U.S. armed forces and creditable service under s. 40.02 (15), Wis. Stats., was issued by this department on July 21, 1992.

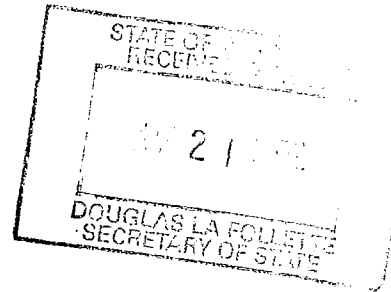
I further certify that I have compared this copy with the original on file in this department and that it is a true copy of the whole of the original.

Dated at Madison, Wisconsin, this 21<sup>st</sup> day of July, 1992.

Gary I. Gates  
Gary I. Gates  
Secretary

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JUL 24 1992  
1:00  
Revisor of Statutes  
Bureau



ORDER OF THE  
DEPARTMENT OF EMPLOYE TRUST FUNDS -- OFFICE OF THE SECRETARY  
and  
EMPLOYE TRUST FUNDS BOARD  
WISCONSIN RETIREMENT BOARD  
TEACHERS RETIREMENT BOARD

To create s. ETF 10.01 (1g) relating to active service in the U.S. armed forces and creditable military service under s. 40.02 (15), Wis. Stats.

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ANALYSIS PREPARED BY THE DEPARTMENT OF EMPLOY TRUST FUNDS

Statutory Authority: s. 40.03 (1) (m), (2) (i), (7) (d), and (8) (d), Stats.

Statutes Interpreted: s. 40.02 (15) (a), Stats.

General Summary of Rule: Section 40.02 (15) (a) (intro.), Wis. Stats., defines "creditable military service" in terms of active service in the U.S. armed forces.

This rule codifies the Department of Employee Trust Funds' interpretation that "active service" does not include service on active duty for training purposes. This interpretation is consistent with the definition of "veteran" in s. 45.35 (5)(intro.), Wis. Stats., which applies to the chapter of the Wisconsin statutes on veterans' affairs, benefits and memorials. It is also consistent with Title 38 U.S. Code §101 (21)(A), which defines "active duty" in part as "full time duty in the Armed Forces, other than active duty for training."

The rule also codifies the Department of Employe Trust Funds' interpretation that "active service" does not include service as a cadet (i.e., a student) at an armed service military academy. Under Title 10 U.S. Code §971(b), the U.S. Congress has prohibited officers from being credited with cadet service after 1912 when "computing length of service for any purpose."

The Teachers Retirement Board and the Wisconsin Retirement Board, as required by ss. 40.03 (7) (d) and (8) (d), Stats., approved the rule respectively, on March 26, 1992. The Employe Trust Funds Board, as required by s. 40.03 (1) (m), Stats., approved the rule on March 27, 1992.

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SECTION 1. ETF 10.01 (1g) is created to read:

ETF 10.01 (1g) "Active military service" and "active service," as that term is used with reference to military service, including in ss. 40.02 (15)(a) (intro.) and 1, (c)(intro.), 1 and 4, and 40.02 (48m)(f), Stats., mean active duty military service in the armed forces of the United States, excluding:

(a) Service reported by the military as active duty for training purposes.

(b) Service as a cadet or student at a U.S. military service academy.

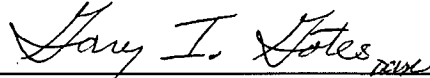
NOTE: This definition does not apply to the term "active service" used in reference to active performance of the duties of employment with a participating employer, as for example in s. 40.63 (1)(c) and (2), Stats.

Insofar as possible, the department relies on U.S. Armed Forces documents, such as the DD 214, the AGO53-55 series, NAVPERS 553, and GSA 6851, to identify periods of "active duty" and "active duty for training."

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

Signed at Madison, Wisconsin this

21<sup>st</sup> day of July, 1992.



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Gary I. Gates  
Secretary  
Department of Employee Trust Funds