

Chapter ETF 10

ADMINISTRATION

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ETF 10.01 Definitions. Words, phrases, and terms used in all ETF chapters which are not defined in this section shall have the meaning set forth in s. 40.02, Stats.:

(1g) "Active military service" and "active service," as that term is used with reference to military service, including in s. 40.02 (15) (a) (intro.) and 1, (c) (intro.), 1 and 4, and (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."

(1m) "Current basic pay rate" means:

(a) Unless otherwise provided by ch. 230, Stats., contractual agreements authorized under subch. V of ch. 111, Stats., or par. (b) or (c), the hourly rate, or its equivalent, excluding any overtime or supplementary compensation, at which the employe is paid at the time of termination of employment or at the time of death. For an active employe or employe on an approved leave of absence the "current basic pay rate" means the hourly rate, or its equivalent, the employe is paid during the pay period or was paid prior to the commencement of the leave of absence. The equivalent of the hourly rate of pay shall be obtained by dividing the

employee's total earnings in a typical pay period, excluding any overtime, on-call, extracurricular or supplementary compensation, by the number of hours, excluding hours, such as overtime, on-call and extracurricular hours which are incidental to the primary employment, for which the employee is paid in that pay period. If the employee has received a pay adjustment during the 12 months preceding termination, death or leave of absence, other than a permanent change that is broadly applicable to the employees of that employer, or unless that change is the result of a significant change in the nature and duties and activities of that employee, then the equivalent of the hourly rate shall be the greater of the previous current basic pay rate prior to the pay adjustment or the final average earnings divided by 174.

(b) For an annuitant who becomes a participating employee subject to s. 40.22, Stats., within 3 years of the original date of termination, the greater of the current basic pay rate as established under par. (a) on the effective date of the original annuity or the current basic pay rate at the time of subsequent termination.

(c) For annuitants who become participating employees subject to s. 40.22, Stats., after more than 3 years from the original date of termination the current basic pay rate determined in accordance with par. (a) at the time of subsequent termination for sick leave accumulated after re-employment only. The conversion of sick leave accumulation in effect prior to reemployment shall be calculated by application of the current basic pay rate in effect prior to reemployment as determined under par. (a).

(2) "Dependent" means:

(a) For life insurance purposes, an employee's spouse and an employee's unmarried child, including natural child, stepchild, adopted child and a child in an adoptive placement under s. 48.837 (1), Stats., who is dependent upon the employee for at least 50% of support and maintenance and who is:

1. More than 14 days of age, but under the age of 19,
2. Age 19 or over but less than age 25 if a full-time student, or
3. Age 19 or older and incapable of self-support because of a physical or mental disability which is expected to be of long-continued or indefinite duration.

(b) For health insurance purposes, an employee's spouse and an employee's unmarried child who is dependent upon the employee or the employee's former spouse for at least 50% of support and maintenance. In this paragraph, "child" includes a natural child, stepchild, adopted child, child in an adoptive placement under s. 48.837 (1), Stats., and a legal ward who became a legal ward of the employee or the employee's former spouse prior to age 19, and who is:

1. Under the age of 19,
2. Age 19 or over but less than age 25 if a full-time student, or
3. Age 19 or older and incapable of self-support because of a physical or mental disability which is expected to be of long-continued or indefinite duration.

for governmental agencies other than the city of Milwaukee pursuant to ss. 42.70 (2) (s), 42.78 (1) (a), 42.81 and 42.91, 1979 Stats., only if the requirements in subs. (1) to (6) are satisfied:

(1) The teacher was a member, as defined in s. 42.70 (k), 1979 Stats., of the former Milwaukee teachers retirement fund on August 31, 1958, has not received a separation benefit since that date and the teaching service for which creditable service is requested was prior to September 1, 1958.

(2) The participant has 10 or more years of teaching service in the city of Milwaukee and the outside teaching credit granted, when added to the participant's separate, combined and formula teaching service in the city of Milwaukee, does not exceed 35 years for benefit computation purposes. If at the time of a benefit computation the total service exceeds 35 years, any payment made previously for outside teaching service including interest which cannot be used shall be transferred to the additional contributions of that participant.

(3) The participant applies in writing for the outside teaching credit giving pertinent details on when, where and for whom the outside teaching service was performed.

(4) The outside teaching service is verified by the school district, successor school district or public retirement plan.

(5) The applicable public retirement plan certifies to the department that the participant is not entitled to any benefit, absolute, contingent or otherwise, from that retirement plan as a result of the teaching service.

(6) The participant makes the contributions which would have been required if the service to be credited had been subject to s. 42.80, 1979 Stats., at the time the teacher became a member, as defined in s. 42.70 (k), 1979 Stats., of the former Milwaukee teachers retirement fund, or if later, at the time the teacher returned to covered Milwaukee teaching after the period of outside teaching. The amount due shall be increased with interest at the effective rate, as defined in s. 40.02 (23), Stats., as though the contributions were in the fund on September 1, 1959.

History: Cr. Register, June, 1983, No. 330, eff. 7-1-83; am. (2), Register, September, 1983, No. 333, eff. 10-1-83.

ETF 10.07 Leave of absence. (1) A person on a paid leave of absence from a position in which the person was a participating employe shall continue to qualify as a participating employe.

(2) Service shall be determined and reported by the employer in the following manner:

(a) If the compensation paid during the leave of absence is less than the earnings paid during the participant's immediately preceding service with that employer in a time period of the same length as the leave, then the service shall be computed by dividing the compensation paid during the leave by the earnings paid in that preceding period and multiplying the result by the service reported for that preceding period.

(b) If the compensation paid during the leave of absence is equal to or greater than the earnings paid during the participant's immediately preceding service with that employer in a time period of the same length as the leave, then the service reported shall be the same as in that preceding period.

(3) Compensation paid during a paid leave of absence shall be treated the same as earnings for purposes of ch. 40, Stats.

Note: This rule requires a new form which will replace several existing forms. These forms are routinely provided by the department at no charge to reporting officials required to use them.

History: Cr. Register, March, 1985, No. 351, eff. 4-1-85.

ETF 10.10 Employe trust funds board and teachers retirement board elections. (1) The purpose of this section is to set forth procedures for all elections of participating employes and annuitants to the employe trust funds board or the teachers retirement board, pursuant to ss. 15.16 (1) (d), 15.165 (1) and (3) (a) 1, 2, 6 and 7, and 40.03 (2) (p), Stats. Except where noted otherwise, the procedures established in this section shall apply for elections to either the employe trust funds board or the teachers retirement board.

(1m) In this section:

(a) "Annuitant" has the meaning given in s. 40.02 (4), Stats.

(b) "Election category" means the class of participating employes or annuitants who are eligible under s. 15.16 (1) (d) or 15.165 (3) (a) 1, 2, 6 or 7, Stats., to vote to elect a member to the employe trust funds board or the teachers retirement board.

(c) "Participating employe" has the meaning given in s. 40.02 (46), Stats.

(d) "Teacher" has the meaning given in s. 40.02 (55), Stats.

(2) The secretary shall schedule an election when the term for an elective board position on the employe trust funds board or the teachers retirement board is due to expire or is vacated due to resignation, death or for any other reason. When a term is due to expire, the secretary shall schedule the election to assure that the election is completed and the new board member announced prior to the date the new term commences. If an elective board position is vacant for any reason other than the term expiring, the secretary shall schedule an election at a time determined by the secretary. The annuitant or participating employe elected in an election to fill a position vacated prior to the end of a term shall serve the remainder of the unexpired term.

(3) Annuitants or participating employes shall be eligible to vote if they are an annuitant or participating employe in the election category for which the election is being held and meet the other voting eligibility requirements set forth in this section at the time ballots are printed for distribution to employers or annuitants and the department has record of their eligibility.

(4) For a teacher employed in more than one employment location within an election category specified under s. 15.165 (3) (a) 1 or 2, Stats., the department shall send a ballot to only one location as determined by the department. For a teacher concurrently employed by both a public school and a vocational, technical and adult education district, the department shall send a ballot to both locations, and the teacher shall be eligible to vote in both categories specified under s. 15.165 (3) (a) 1 and 2, Stats.

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(6) Participating employes of the state department of public instruction; state department of health and social services; state board of vocational, technical and adult education; and the state educational communications board, who are classified as teachers under the Wisconsin retirement system, are not employed by a public school or a vocational, technical and adult education district and may not vote in any election to elect a teacher to serve on the teachers retirement board.

(7) Any participating employe or annuitant satisfying the eligibility requirements of s. 15.165 (3) 1, 2, 6 or 7, Stats., on the date he or she files nomination papers with the department and who plans to continue meeting the eligibility requirements when assuming office, if elected, may be nominated for election to the teachers retirement board or any annuitant meeting the eligibility requirements of s. 15.16 (1) (d), Stats., on the date he or she files nomination papers with the department and who plans to continue meeting the eligibility requirements when assuming office, if elected, may be nominated for election to the employe trust funds board by satisfying the requirements of pars. (a) to (c) within the calendar dates established by the department. The department shall publish notice of the election, the nomination timetable and instructions for prospective candidates in the department's newsletter. Prospective candidates may obtain nominating petition forms from the department. A candidate shall do all of the following:

(a) Submit to the department a nominating petition, which shall contain at least 25 but no more than 50 valid signatures of participating employes or annuitants eligible to vote in that election, indicating the name and address of the signer's employer, the signer's social security number and the date signed. For annuitants, the name and address of the signer's employer shall be that of the signer's last participating employer in the Wisconsin retirement system, if the candidate is seeking election to the employe trust funds board, or the signer's last public school or vocational, technical and adult education school employer, if the candidate is seeking election to the teachers retirement board. If more than 50 signatures are submitted, the department shall review for validity only the first 50 signatures based on the earliest date signed and disregard the balance.

(b) Certify that the signers are, to the best of the candidate's knowledge, eligible to vote in the election category for which the candidate is running.

(c) Submit to the department biographical or other information containing no more than 100 words. The department shall print no more than the first 100 words of the candidate's information and send it to eligible voters with the ballots.

(8) The department shall print ballots with the candidates' names in alphabetical order and shall include, when the ballots are distributed, instructions for marking the ballot and the deadline for its return. For elections in which participating employes may vote, the department shall send each employer one ballot individually labeled with the participating employe's name for each participating employe in the election category for which the election is being held who is employed by the employer and whose position is known to the department. A distribution list, prepared by the department and containing the names of participating employes for whom ballots are included, shall accompany the ballots. The department shall require employers to verify, by signing the distri-

bution list, that the employer distributed the ballots within 30 days of the date they were mailed by the department. The employer shall indicate on the distribution list which ballots could not be distributed and shall return the undistributed ballots. For annuitant elections, the department shall send a ballot directly to each annuitant who is eligible to vote in that election at the last home address the department has on file.

(9) All voters shall certify their eligibility to vote in the appropriate election category by signing the ballot and returning it in an envelope.

(10) The teachers retirement board shall appoint an election committee that shall consist of the secretary of the department or the secretary's designee and 2 teachers retirement board members not running for reelection to determine the election results. The employe trust funds board shall appoint an election committee which shall consist of the secretary of the department or the secretary's designee and two employe trust funds board members who are not running for reelection to determine the election results. A majority of the election committee appointed by the respective boards shall determine the validity of ballots set aside by the department and certify the election results.

(11) The department shall review each ballot by checking the signature against the name on the ballot. The department shall set aside ballots that it believes may be invalid under pars. (a) to (d) for review by the election committee. The election committee shall deem a ballot invalid if any of the following apply:

- (a) The signature is not the same as the name on the ballot.
- (b) The ballot is not signed.
- (c) Too many candidates have been voted for on the ballot.
- (d) A ballot is so defective that the committee cannot determine with reasonable certainty for whom the ballot was cast.
- (e) The ballot contains the name of a write-in candidate.

(12) If the number of candidates who file nomination papers is equal to or less than the number of positions to be filled within an election category, the department shall not schedule an election and the election committee shall declare all candidates to be elected.

(13) If there is more than one teachers retirement board position to be filled in an election category and an election is held, voters may vote for as many candidates, in the appropriate election category, as there are positions to be filled.

(15) Candidates receiving the largest number of votes shall be elected. The election committee shall break a tie by the drawing of lots. The counting of ballots shall be conducted under the direction of the secretary or his or her designee.

(16) For elections scheduled because a term is due to expire, the department shall notify all candidates of the results before May 1 following the close of the election. If the department calls an election for any reason other than the expiration of a term, the department shall notify all candidates of the results of the election within 15 days of the close of the election.

(17) The department shall retain nominating petitions and ballots for 45 days from the date the candidates are notified in sub. (16). If a candidate wishes to request a recount, the candidate shall submit the request to the department within 30 days of the date the candidates are notified of the election results. A recount shall be conducted under the direction of the secretary or his or her designee.

History: Cr. Register, March, 1984, No. 339, eff. 4-1-84; r. (5) and am. (7) (intro.), Register, January, 1985, No. 349, eff. 2-1-85; am. (10), Register, September, 1992, No. 441, eff. 10-1-92; am. (1) to (7) (a), (7) (c) to (11) (b), (d), (12), (13) and (16) to (17), cr. (1m) and (1) (e), r. (14), Register, April, 1993, No. 448, eff. 5-1-93.

ETF 10.12 Separate retirement system participation in the retirement trust fund. The governing body of the separate retirement system may request participation in the retirement trust fund by the adoption of a resolution accepting the provisions of this section in a form approved by the department. A certified copy of the resolution shall be forwarded to the department and participation shall be effective on the first day of the month following board approval of the resolution under s. 40.03 (1) (n), Stats. Funds may be delivered or sent to the department subject to the following:

(1) *Deposits.* (a) Deposits shall be made in accordance with instructions issued by the department.

(b) The separate retirement system may designate any portion of its deposit for investment in the variable retirement investment trust. Deposits shall be invested in the fixed retirement trust unless otherwise designated.

(c) The separate retirement system shall provide the department 30 days advance notice of any deposit in excess of \$10 million. This requirement may be waived by the secretary.

(d) Deposits to the fixed and variable retirement investment trusts shall be accepted on the first working day of the month only. Funds received after the first working day of the month shall be transferred by the department to the local government investment pool as defined in s. 25.50, Stats., until the first working day of the next month.

(2) **VALUATIONS.** A separate retirement system's investments shall be as follows:

(a) A separate retirement system's proportionate ownership share of the fixed or variable retirement investment trust at the time of the system's original deposit shall be calculated as the ratio of that system's deposit to the current market value of the trust fund including that system's deposit.

(b) The current market value of the fixed and variable retirement investment trusts shall be determined as of the last day of each month.

(c) Each separate retirement system's investment shall be adjusted to current market value as of the last day of each month. The current market value of each system's investment shall be calculated as the total value of the trust fund as of the last day of the month times the system's proportionate ownership share in the fund as of the first day of that month.

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