



STATE OF WISCONSIN

Department of Employee Trust Funds

Eric Stanchfield
Secretary
201 East Washington Avenue
P. O. Box 7931
Madison, Wisconsin 53707

In Reply Refer To:

STATE OF WISCONSIN)
) SS
DEPARTMENT OF EMPLOYEE TRUST FUNDS)

I, David C. Mills, Deputy Secretary of the Department of Employee Trust Funds and custodian of the official records, certify that the annexed rule, relating to purchases of service under the Wisconsin Retirement System, including forfeited, qualifying, and other governmental service, was duly approved and adopted by the State of Wisconsin Teachers Retirement Board and Wisconsin Retirement Board on September 12, 1996 and by the State of Wisconsin Employee Trust Funds Board on September 13, 1996.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

(no seal)

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Employee Trust Funds at 201 East Washington Avenue in the city of Madison, this 11th day of November 1996

David C. Mills



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

Clearinghouse Rule #CR-96-137.

AN ORDER repealing ss. ETF 20.15 (3) and 20.16 (5), and creating ss. ETF 10.01 (3i) and 20.14, Wisconsin Administrative Code, relating to purchases of service under the Wisconsin Retirement system, including forfeited, qualifying, and other governmental service.

REPORT OF THE WISCONSIN DEPARTMENT OF EMPLOYE TRUST FUNDS
ON THE FINAL DRAFT RULE

This report, prepared in compliance with ch. 227, Wis. Stats., includes the following:

Part 1 - Analysis prepared by the Department of Employee Trust Funds;

Part 2 - Rule text in Final Draft Form;

Part 3 - Recommendations of the Legislative Council Staff;

Part 4 - Report prepared pursuant to the provisions of s. 227.19 (3),
Wis. Stats., including:

- (a) Statement of the Need for the Rule;
- (b) Explanation of Modifications to the Rule after Public Hearings;
- (c) List of Persons Appearing or Registering an Opinion;
- (d) Response to Legislative Council Staff Recommendations;
- (e) Final Regulatory Flexibility Analysis.

Submitted by:

Mary Anglim, Assistant Director
Retirement and Survivor Benefits
Wisconsin Department of Employee Trust Funds
201 East Washington Avenue, Room 171
P.O. Box 7931
Madison, Wisconsin 53707-7931
Telephone: (608) 266-6611

Analysis Prepared by the Wisconsin Department of Employee Trust Funds

Section 40.25 (6), Stats., permits participating employees who meet certain conditions to reestablish creditable service that was forfeited by a withdrawal of employee contributions. In addition, ss. 40.02 (17) and 40.25 (7), Stats., allow participating employees to purchase certain other types of service, the most common of which is the six-month qualifying period that was served by non-teachers prior to 1973. Costs for the service types vary depending on the provisions of statute and rule, but all are based in some way on the employee's WRS earnings.

Applicants who purchase service initially pay an estimated cost calculated by the Department. The estimate may be imprecise because earnings and service information is incomplete at the time it is prepared. The Department audits service purchases based on final earnings and service information and bills the participant for any remaining balance or deducts the amount due from an annuity being paid. Due to the timing of annual employer reporting, it is common for these supplementary billings to be paid in the calendar year following the date of application, sometimes well after the employe has retired.

Payments to reestablish forfeited service and to purchase other types of service are included in the maximum annual contributions to a qualified retirement plan permitted under Sec. 415 (c) of the Internal Revenue Code (IRC). 1995 Wisconsin Act 302 limits annual contributions to the Wisconsin Retirement System to comply with Sec. 415(c). Purchase of service in any one calendar year will therefore be restricted. After required retirement contributions are made, an employee's maximum elective contribution will approach 25% of compensation for employees hired after 1981, and 10% to 15% of compensation for employees hired before 1982. (Differences in amount of the IRC Sec. 415 (c) limit are related to different interest crediting provisions for pre-1982 and post-1981 employees.) As a broad rule of thumb, a full-time, full-year general employe or teacher will be able to purchase no more than about five years of general service in one calendar year if the employe was hired after 1981 or about three years if the employe was hired before 1982. It may be impossible for an employe nearing retirement to reestablish all of his or her forfeited service, as is required under existing rules.

Act 302 permits the Department to promulgate a rule on purchase of forfeited service to allow participants to make payments for forfeited service over more than one calendar year. Section 40.25 (6) (a) 2. Stats., requires the application to include all of the forfeited service which the employe is eligible to purchase, but subd. 5. restricts this payment based on the IRC Sec. 415 (c) limits. Under the proposed rule an applicant must contribute the full cost of the forfeited service or the maximum contribution permitted under IRC Sec. 415 (c) for that calendar year, whichever is less. Service will be credited up to the amount funded by the payment.

Since at the time of application the Department cannot predict the employe's taxable compensation for that year, the employe is responsible for computing his or her maximum voluntary contribution. After employer reporting for the calendar year is complete, the Department will test

all employees' contributions against the IRC Sec. 415 (c) limits and will refund any excess contributions. Service granted will be adjusted if a refund is necessary or if the payment was insufficient.

EXAMPLE. A general employe has 1997 taxable compensation of \$25,000 and WRS earnings of \$26,000. The employe's total permitted contribution is \$6,250 (25% of \$25,000). The employer pays the employe-required contributions on the employe's behalf, but the employe is required to pay 0.5% of earnings toward the benefit adjustment contribution. The employe has 6.33 years of forfeited service to purchase, at a total cost in 1997 of \$7,956.

If hired before 1982, the employe's WRS account earns interest at the effective rate. Employe-required contributions (5% of WRS earnings, or \$1,300) and matching employer contributions (\$1,300) are included in the Sec. 415 (c) limit. The employe's 0.5% benefit adjustment contribution, \$130, is also included. The employe's maximum voluntary contribution is \$3,520 (\$6,250 - \$1,300 - \$1,300 - \$130). The employe can purchase 2.80 years of service ($\$3,520 / \$7,956 \times 6.33$) in 1997.

If hired after 1981, the employe's WRS account earns 5% interest. Required employe and employer contributions are not included in the contribution limit; only the \$130 benefit adjustment contribution is included. The employe's maximum voluntary contribution is \$6,120. The employe can purchase 4.87 years of service in 1997.

When the purchase is completed, employes who still have more forfeited service to buy may reapply to purchase the remaining service based on the new final average earnings in effect in the next calendar year. While the employe is not required to pay interest on the unpaid cost, each year's cost increases proportionately to the increase in the employe's final average earnings. The purchase process can be repeated in each year in which the employe has some taxable earnings from a WRS employer until all service is purchased or the employe terminates employment. There is no penalty if the employe does not continue to make annual purchases.

The final rule draft is much more brief than the rule submitted to the Clearinghouse on Administrative Rules. The Department still intends to promulgate a more detailed and comprehensive rule on service purchases. However, it was impossible to complete all necessary internal reviews in time to submit the comprehensive rule to the Employee Trust Funds Board at its September, 1996 meeting. The rule as contained in this final draft report is intended to specify the payment that is required for a service purchase and to establish the Department's authority to accept payments for service purchases in amounts less than the full cost of the service. This rule is the minimum needed to permit service purchases without potential violations of the IRC Sec. 415 (c) limits.

General Summary of Rule

Section 1 provides a definition of "maximum voluntary contribution," i.e., the maximum amount that a participating employe may contribute in one calendar year to purchase service.

Section 2 creates s. ETF 20.14, specifying general provisions regarding service purchases of all types. The employe must pay the lesser of the full cost of the service or his or her maximum

voluntary contribution for that year. The employe may choose to use additional contributions to pay some or all of the cost. If the employe's contributions for the year are in excess of the IRC Sec. 415 (c) limits, the department will refund the excess. Service will be adjusted if the payment is insufficient.

Sections 3 and 4 repeal current provisions which bar an employe from applying more than once to reestablish forfeited service or purchase qualifying service.

Statutes Interpreted

S. 40.02 (17), Stats.; ss. 40.05 (1) (a) 7, 40.06 (d) and (e), and 40.25 (6) and (7), Stats., as affected by 1995 Wisconsin Act 302.

Related Federal Statutes and Regulations

IRC Sec. 415 (c); Treas. Reg. 1.415-6(b)(3)(iii).

Authority for Rule.

Ss. 40.03 (2) (i) and (t), and 40.25 (6), Stats., as affected by 1995 Wisconsin Act 302.

Final fiscal estimate. The Department anticipates no fiscal effect of this proposed rule on the fiscal liabilities or revenues of the state or any county, city, village, town, school district, vocational, technical and adult education district or sewer district.

Copies of Rule. Copies of this rule are available without cost upon request to the Office of the Secretary, Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707, telephone (608) 266-1071.

Contact Persons. Persons with questions about this rule may write to the above address or call Mary Anglim, Assistant Director, Retirement and Survivor Benefits, (608) 266-6611. Legal questions about this rule may be addressed to Robert Weber, Wisconsin Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707, telephone (608) 266-5804.

Part 2

TEXT OF RULE

SECTION 1. ETF SECTION 1. ETF 10.01 (3i) is created to read:

ETF 10.01 (3i) "Maximum voluntary contribution" means the total amount eligible under s. 415 (c) of the internal revenue code to be contributed to the Wisconsin retirement system in a calendar year by or on behalf of a participating employee, less all benefit adjustment contributions and required and employer-paid additional contributions which are includable in the limits of s. 415 (c) of the internal revenue code, as determined by the department.

NOTE: A worksheet to assist the employee to estimate his or her maximum voluntary contribution is available from the Department of Employee Trust Funds at no charge.

SECTION 2. ETF 20.14 is created to read:

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

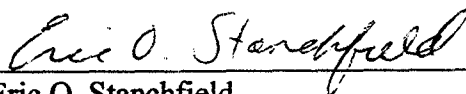
SECTION 3. ETF 20.15 (3) is repealed.

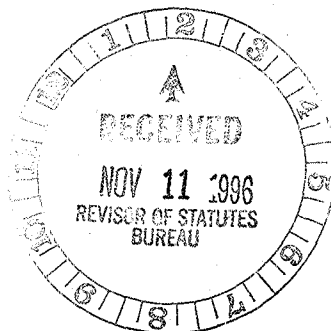
SECTION 4. ETF 20.16 (5) is repealed.

(END OF RULE TEXT)

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.

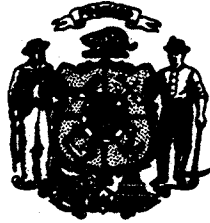
Signed at Madison, Wisconsin this 24th
day of September, 1996.


Eric O. Stanchfield
Secretary
Wisconsin Department of Employee Trust
Funds



RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

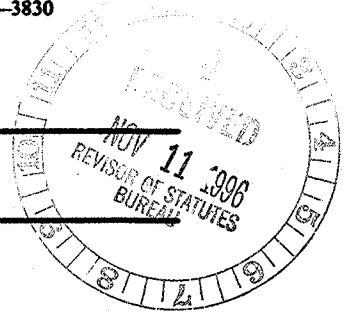


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CLEARINGHOUSE REPORT TO AGENCY



[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 96-137

AN ORDER to repeal ETF 20.15 (4) and (5), 20.16 (3), (4), (4m) and (5) and 20.18 (6) (g), (7) (g) and (8) (title), (a) and (b); to renumber ETF 20.18 (3) (b) 2. and (8) (c) and (d); to renumber and amend ETF 20.18 (3) (b) 3. and 4. and (9); to amend ETF 20.15 (1), 20.18 (3) (b) (intro.), (5) (a), (b) 3. and (d) and (7) (e); to repeal and recreate ETF 20.15 (2) and (3); and to create ETF 10.01 (3i), 20.14 and 20.18 (3) (c) (intro.), relating to purchases of service under the Wisconsin retirement system, including forfeited, qualifying and other governmental service.

Submitted by **DEPARTMENT OF EMPLOYE TRUST FUNDS**

08-09-96 RECEIVED BY LEGISLATIVE COUNCIL.
09-06-96 REPORT SENT TO AGENCY.

RS:GAA:jt;kjf

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 96-137

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. In the last paragraph on the second page of the analysis, the reference to "s. 40.15 (6) (a) 2., Stats.," should be to "s. 40.25 (6) (a) 2., Stats." Also, it is suggested for clarity that the analysis indicate that s. 40.25 (6) (a) 5., Stats., as created by Act 302, limits the amount of maximum contribution to that permitted under s. 415 of the Internal Revenue Code.

b. In the "statutes interpreted" section on the fifth page, a reference should be included to s. 40.03 (1) (am), Stats., which requires that the Wisconsin Retirement System comply with the Internal Revenue Code as a qualified plan for income tax purposes. Also, in the list of statutes interpreted by the rule, it appears that the citation to "40.06 (d) and (e)" should be replaced by a reference to "40.08 (6) (d) and (e)." Finally, in the reference to related federal statutes and regulations, it appears that the citation to the treasury regulation should be to "Treas. Reg. 1.415-6 (b) (3) (iii)."

c. In s. ETF 20.14 (3), the notation "ss." should be replaced by the notation "s." and the first occurrence of the notation "s." should be deleted.

d. In s. ETF 20.14 (4) (a) 2., it is preferable to include a numerical cross-reference rather than a reference to a "statute." Also, the phrase "and in ss. ETF 20.14 to 20.18" should be replaced by the phrase ", in this section and in ss. ETF 20.15 to 20.18."

e. In s. ETF 20.14 (4) (b), the phrase "at its discretion" is unnecessary and should be deleted. [See also s. ETF 20.14 (6) (d).]

f. In s. ETF 20.15 (3) (c), the notation "s." should precede the notation "ETF."

g. The treatment clause in SECTION 8 should read: "ETF 20.18 (3) (b) 2. is renumbered ETF 20.18 (3) (c) 1. a." The treatment clause in SECTION 9 then should read: "ETF 20.18 (3) (b) 3. and 4. are renumbered ETF 20.18 (3) (b) 2. and (c) 1. b. and amended to read:". Finally, the treatment clause of SECTION 10 should read: "ETF 20.18 (3) (c) 1. (intro.) and 2. are created to read:". (The version of par. (c) contained in the rule-making order should be divided so that the first sentence, subd. 1., ends with a colon and the second sentence is presented as subd. 2. The newly created material should not be shown with underscoring.)

h. In s. ETF 20.18 (3) (b) 2., the notation "s." should precede the notation "ETF."

i. In s. ETF 20.18 (7) (e), the word "~~The~~" should precede the phrase "Within 30 days of the notification, the."

j. In the treatment clauses of SECTIONS 15 and 16, the word "to" should be replaced by the notation "ETF."

5. Clarity, Grammar, Punctuation and Use of Plain Language

Section ETF 20.15 (2) (a) 2. describes the treatment the department will give a payment received on or after January 31, 1997. What treatment will the department give the payment if it is received before January 31, 1997?

Part 4

Report Required by s. 227.19 (3), Wis. Stats.

(a) Need for the Rule.

Currently, s. ETF 20.15 (3) and 20.16 (3) restrict an employe to one application to purchase forfeited and qualifying service. This restriction is incompatible with the limits on annual contributions to a qualified retirement plan contained in s. 415 (c) of the Internal Revenue Code and incorporated into state statutes by 1995 Wisconsin Act 302. The proposed rule repeals most current rules on purchases of forfeited and qualifying service and provides for a series of partial purchases of service.

(b) Modifications to the Rule.

The rule has been significantly shortened from the version presented to the Clearinghouse on Administrative Rules. While the Department intends to promulgate a more detailed rule on service purchases in the near future, it was not possible to finalize all administrative details in time for presentation of the rule as initially drafted to the Employe Trust Funds Board at its September, 1996 meeting.

The specific changes are as follows:

Section 1. No change.

Section 2. An introductory sentence was added. Sections ETF 20.14 (1), (3) (Intro.), (a), and (b), (4), (5) (a), and (b) and (6) (a) and (d) were deleted. Sections ETF 20.14 (2), (3) (c), (5) (b), and (6) (Intro.), (b) and (c) were consolidated and renumbered to s. ETF 20.14 (1), (2) (a) and (b), and (3).

Sections 3- 4. Deleted. The repeal of s. ETF 20.15 (3) is contained in the new Section 3.

Section 5. Renumbered to Section 3.

Section 6. Deleted. The repeal of s. ETF 20.16 (5) is contained in the new Section 4.

Sections 7-16. Deleted.

(c) List of Persons Who Appeared or Registered For or Against the Proposed Rule at a Public Hearing.

One member of the public attended the public hearing but did not wish to appear or register for or against the proposed rule.

(d) Response to Legislative Council Staff Recommendations.

All of the recommendations of the Legislative Council Staff were implemented, or will be implemented in any future expansion of this rule.

(e) Final regulatory flexibility analysis. The proposed rule itself does not directly affect small businesses.

(END OF FINAL DRAFT REPORT)



STATE OF WISCONSIN

Department of Employee Trust Funds

Eric Stanchfield
Secretary
201 East Washington Avenue
P. O. Box 7931
Madison, Wisconsin 53707

November 11, 1996

In Reply Refer To:

GARY L. POULSON, DEPUTY REVISOR
REVISOR OF STATUTES BUREAU
8TH FLOOR
131 W WILSON ST
MADISON, WISCONSIN 53707

Dear Mr. Poulson:

RE: Clearinghouse Rule No. 96-137

Enclosed is a Certificate and two copies of an Order creating and adopting rules. A certified copy of this Order has been forwarded to the Secretary of State.

I request that the rule be published in the December 31 issue of the administrative register.

I also enclose a copy of the rule on disk, in Wordperfect 5.1 format.

Please contact me if you have any questions.

Sincerely,

David Stella, Administrator
Division of Retirement Services
(608) 267-9038
FAX # (608) 267-0633
TDD # (608) 267-0676

