

2001 DRAFTING REQUEST

Bill

Received: **09/07/2000**

Received By: **champra**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Currier**

This file may be shown to any legislator: **NO**

Drafter: **champra**

May Contact:

Alt. Drafters:

Subject: **Employ Pub - miscellaneous**
Employ Pub - retirement

Extra Copies: **Pam Henning-DETF (e-mail)**

Pre Topic:

DOA:.....Currier -

Topic:

Resolution of administrative errors

Instructions:

See Attached.

Drafting History:

Vers.	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	champra 09/25/2000	jdyer 09/25/2000	pgreensl 09/27/2000	_____	gretskl 09/27/2000		State
/1	champra 11/13/2000	jdyer 11/13/2000	jfrantze 11/13/2000	_____	lrb_docadmin 11/13/2000		State
/2	champra 11/14/2000	jdyer 11/15/2000	pgreensl 11/15/2000	_____	lrb_docadmin 11/15/2000		State
/3	champra 11/16/2000	jdyer 11/17/2000	jfrantze 11/17/2000	_____	lrb_docadmin 11/17/2000		State

FE Sent For:

<END>

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By/Representing: Currier

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/2	champra 11/14/2000	jdyer 11/15/2000	pgreensl 11/15/2000	_____	lrb_docadmin 11/15/2000		State

FE Sent For:

13 11/16 jld
26 11/17
26 KM
11/17
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11/15 pg
km
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/P1	champra 09/25/2000	jdye 09/25/2000	pgreensl 09/27/2000		gretski 09/27/2000		State

FE Sent For:

1 1/2 jld
 10/11/00
 11/13
 <END>

2001 DRAFTING REQUEST

Bill

Received: **09/07/2000**

Received By: **champra**

Wanted: **As time permits**

Identical to LRB:

For: **Employee Trust Funds**

By/Representing: **pam Henning**

This file may be shown to any legislator: **NO**

Drafter: **champra**

May Contact:

Alt. Drafters:

Subject: **Employ Pub - miscellaneous
Employ Pub - retirement**

Extra Copies:

Email ↑

Pre Topic:

No specific pre topic given

Topic:

Resolution of administrative errors

Instructions:

See Attached.

Drafting History:

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FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: 09/07/2000

Received By: champra

Wanted: As time permits

Identical to LRB:

For: Employee Trust Funds

By/Representing: pam Henning


This file may be shown to any legislator: NO

Drafter: champra

May Contact:

Alt. Drafters:

Subject: Employ Pub - miscellaneous
Employ Pub - retirement

Extra Copies: e-mail copy to 

Pre Topic:

No specific pre topic given

Topic:

Resolution of administrative errors

Instructions:

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1?	champra	10/1 9/25 jld	9/25 P8	9/25 DC/KK			

FE Sent For:

<END>

Champagne, Rick

From: Henning, Pamela
Sent: Wednesday, September 06, 2000 3:11 PM
To: Champagne, Rick
Subject: DETF Statutory Language

Hi Rick. Finally getting around to sending you at least one item to draft for inclusion in our department's 2001-2003 biennial budget. The other item was put on hold for now.

The intent of the language request is to amend the statute to provide specific authority for the DETF Board/Secretary to resolve certain issues involving administrative errors.

Colorado statutes may provide the language necessary to provide the Secretary and/or Board with equity power authority. Here is the excerpt from the Colorado statutes for your reference and use. I believe the reference to "association" would be equivalent to our agency/department. Give me a call if you'd like to discuss further or have any questions. THANKS, Rick.

Colorado Revised Statutes 24-51-205 General authority of the Board

(3.5) The board is authorized to settle or compromise any dispute on behalf of the association. The board may consider relevant factors regarding any dispute, including but not limited to the cost of litigation, the likelihood of success on the merits, the cost of delay in resolving the dispute, and the actuarial impact on the fund, in determining whether to settle or compromise the dispute.

(6) (a) The board may delegate any of its responsibilities, duties, and authorities as set forth in this article to the executive director of the association or to designated agents of the association. Subject to paragraph (b) of this subsection (6), the executive director may correct an administrative error made by the board, the executive director, or the employees of the association and may make any appropriate correcting adjustments upon receiving written documentation of the following:

- (I) That the error was an administrative error of the plan;
- (II) That the error was not caused or contributed to in whole or in part by an employer, member, retiree, or other person eligible to receive payments from the association; and
- (III) That the error was discovered on or after July 1, 1997.

(b) The executive director shall file a report monthly with the board setting forth the administrative errors corrected pursuant to paragraph (a) of this subsection (6). Such corrections shall be subject to board review after which the board may take any action it deems appropriate with regard to such errors.

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Champagne, Rick

From: Henning, Pamela
Sent: Friday, September 15, 2000 2:35 PM
To: Champagne, Rick
Subject: DETF Statutory Language

Importance: High

Hi Rick. Sorry I haven't responded back earlier to you regarding our statutory language. As you know, we've been busy pounding the keys and crunching numbers to get our budget done by 4:30 today.

Anyway, this is the language that we are submitting in our budget regarding the creation of a legal services biennial appropriation and also language on equity authority to resolve contested cases. Would you please make the appropriate changes to the Chapter 20 language (as underlined or stricken below) and create the language on equity authority per the below. If you have any questions, please give me a call. Thanks.

SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

20.515 Employee trust funds, department of

(1) EMPLOYEE BENEFIT PLANS
(tm) Legal services SEG B -0- -0-

SECTION 2. 20.515 (1) (tm) of the statutes is created to read:

20.515 (1) (tm) *Legal services.* Biennially, from the public employee trust fund, the amounts in the schedule to contract with 3rd parties for contested case hearing services and to represent the department of employee trust funds in legal proceedings contested cases and to contract with legal counsel for services on issues relating to plan qualification and the Internal Revenue Code, as defined in s. 40.02 (39m), ~~and for fiduciary training for members of the employee trust funds board.~~

b. Authority to Settle Appeals and Other Disputes Language

Under Wis. Stat. § 40.03 (2) [powers and duties of the Secretary] create two new paragraphs - a new Wis. Stat. § 40.03 (2) (v) and (w):

(v) May, subject to the approval of the employee trust funds board, pay a single lump-sum from the appropriation under s. 20.515 (1) (r), for the purpose of settling or compromising any appeal under s. 40.03 (1) (j), (6) (i), (7) (f), (8) (f) and 40.80 (2g) of a determination made by the department. In deciding whether to approve the settlement or compromise relevant factors to be considered include, but are not limited to, the cost of litigation, the likelihood of success on the merits, the cost of delay in resolving the dispute, and the actuarial impact on the trust fund.

(w) Based on a determination by the secretary that an otherwise eligible participant has unintentionally forfeited or otherwise involuntarily ceased to be eligible for a benefit under this chapter because of an error in administration by the department, the secretary may order the benefit paid from

the benefit plan. A decision to grant or refuse a specific benefit under this paragraph is not subject to review. The secretary shall report quarterly to the employee trust funds board on actions taken under this paragraph.

Under Wis. Stat. 40.03 (1) [*duties of the ETF Board*], add a new reporting requirement - create a new Wis. Stat. § 40.03 (1) (q):

(q) Prepare an annual public report summarizing the nature and amount paid with respect to each compromise or settlement under sec. (2) (v) which was approved by the board during the year.

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D-Note
State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0169/P1

RAC:.....

Jld

gen

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen

1 AN ACT ...; relating to: the authority of the secretary of the department of
2 employee trust funds to resolve certain disputes and correct administrative
3 errors.

Analysis by the Legislative Reference Bureau (secretary)

This bill authorizes the secretary of employee trust funds, with the approval of the employee trust funds board, to resolve any dispute over a determination made by the department of employee trust funds (DETF) that is subject to review by the employee trust funds board, the group insurance board, the teachers retirement board, the Wisconsin retirement board, and the deferred compensation board. In deciding whether to resolve such a dispute, the secretary must consider the cost of litigation, the likelihood of success on the merits, the cost of delay in resolving the dispute, the actuarial impact on the public employee trust fund, and any other relevant factor the secretary considers appropriate.

In addition, the bill authorizes the secretary of employee trust funds, if the secretary determines that an otherwise eligible participant has unintentionally forfeited or otherwise involuntarily ceased to be eligible for any benefit administered by DETF because of an error in administration by DETF, to order the benefit paid from the benefit plan.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 40.03 (1) (q) ^X of the statutes is created to read:

2 40.03 (1) (q) ^{Shall} Prepare an annual report detailing the nature of, and amount of
3 moneys paid relating to, each dispute resolved by the secretary under sub. [✓](2) (v)
4 during the preceding year.

5 **SECTION 2.** 40.03 (2) (v) ^X of the statutes is created to read:

6 40.03 (2) (v) May, with the approval of the board, resolve any dispute over a
7 determination made by the department that is subject to review under ^{sub.} ~~40.03~~ (1)
8 (j), (6) (i), (7) (f), or (8) (f), or ^{s.} ~~40.80~~ (2g) [✓]. In deciding whether to resolve such a dispute,
9 the secretary shall consider the cost of litigation, the likelihood of success on the
10 merits, the cost of delay in resolving the dispute, the actuarial impact on the trust
11 fund, and any other relevant factor the secretary considers appropriate. Any moneys
12 paid by the department to resolve a dispute under this [✓]paragraph shall be paid as
13 a lump sum payment and shall be paid from the appropriation account under s.
14 20.515 (1) (r) [✓].

15 **SECTION 3.** 40.03 (2) (w) ^X of the statutes is created to read:

16 40.03 (2) (w) If the secretary determines that an otherwise eligible participant
17 has unintentionally forfeited or otherwise involuntarily ceased to be eligible for any
18 benefit provided under this chapter because of an error in administration by the
19 department, may order the benefit paid from the benefit plan. A decision under this

1 paragraph[✓] is not subject to review. The secretary shall submit a quarterly report to
2 the board on decisions made under this paragraph.

3 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0169/P1dn

RAC:.....

Jld

Please note that by having the employee trust funds board approve the dispute resolutions under s. 40.03 (2) (v) you are requiring that the employee trust funds board involve itself in matters otherwise reserved to the group insurance board under s. 40.03 (6) (i), the teachers retirement board under s. 40.03 (7) (f), the Wisconsin retirement board under s. 40.03 (8) (f), and the deferred compensation board under s. 40.80 (2g). Is this your intent?

Also, you have asked that a decision by the secretary of employee trust funds under s. 40.03 (2) (w) not be "subject to review". Do you mean that such a decision is not subject to review by one of the boards attached to DETF or not by the courts? Obviously, it is not possible to restrict court jurisdiction in areas in which the court is required to enforce the Constitution, such as in areas involving due process and equal protection of the laws. In addition, please note that s. 40.08 (12) will not apply to decisions made under s. 40.03 (2) (w), because decisions of the secretary are not covered under s. 40.08 (12). check A

Finally, if your intent is not to have decisions under s. 40.03 (2) (w) subject to review by the various boards, then I would advise also amending the various provisions in ch. 40 that authorize the boards to accept appeals from determinations made by DETF. In this way, it is perfectly clear that the boards have no power to review the decisions under s. 40.03 (2) (w).

Rick A. Champagne
Senior Legislative Attorney
Phone: (608) 266-9930
E-mail: rick.champagne@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0169/P1dn
RAC:jld:pg

September 27, 2000

Please note that by having the employee trust funds board approve the dispute resolutions under s. 40.03 (2) (v) you are requiring that the employee trust funds board involve itself in matters otherwise reserved to the group insurance board under s. 40.03 (6) (i), the teachers retirement board under s. 40.03 (7) (f), the Wisconsin retirement board under s. 40.03 (8) (f), and the deferred compensation board under s. 40.80 (2g). Is this your intent?

Also, you have asked that a decision by the secretary of employee trust funds under s. 40.03 (2) (w) not be "subject to review". Do you mean that such a decision is not subject to review by one of the boards attached to DETF or not by the courts? Obviously, it is not possible to restrict court jurisdiction in areas in which the court is required to enforce the Constitution, such as in areas involving due process and equal protection of the laws. In addition, please note that s. 40.08 (12) will not apply to decisions made under s. 40.03 (2) (w), because decisions of the secretary are not covered under s. 40.08 (12).

Finally, if your intent is not to have decisions under s. 40.03 (2) (w) subject to review by the various boards, then I would advise also amending the various provisions in ch. 40 that authorize the boards to accept appeals from determinations made by DETF. In this way, it is perfectly clear that the boards have no power to review the decisions under s. 40.03 (2) (w).

Rick A. Champagne
Senior Legislative Attorney
Phone: (608) 266-9930
E-mail: rick.champagne@legis.state.wi.us

Champagne, Rick

From: Henning, Pamela
Sent: Wednesday, November 08, 2000 2:54 PM
To: Champagne, Rick
Subject: FW: ETF Appeals Stat Language

One more thing, we would prefer the term "dispute" be changed to "appeal". I did not make this change in the attached language. Was there some reason for your change to the word, "dispute"?

-----Original Message-----

From: Henning, Pamela
Sent: Wednesday, November 08, 2000 2:21 PM
To: Champagne, Rick
Cc: Currier, Dawn
Subject: ETF Appeals Stat Language

Rick,

I wanted to get back to you on revisions to the appeal language budget draft (LRB-0169/P1) so that Dawn can take ownership of the draft for the biennial budget.

First, you asked two questions in your drafter's note that need response.

LRB #1: Is the intent to require the ETF Board to involve itself in matters otherwise reserved to the GIB, TRB, WRB or DCB?

ETF: Yes/No, but language has been revised to include the other Boards having trustee roles to be involved in decisions affecting those boards.

LRB #2: Does s. 40.03 (2)(w) stating the secretary's decision is not subject to review refer to review by the boards or the courts?

ETF: Both. The intention was there would be no court review and that no Board could reverse the Secretary's exercise of discretion in a case. Since the Board has authority over the Secretary, if they feel he isn't doing a good job they can take corrective measures (i.e., fire him). With regard to due process, there is no intention in this legislation to alter the existing rights of the aggrieved person to seek redress. The person may still file an appeal of the department's determination and seek to prove his/her case to the benefit in question.

I have attached our revisions to the LRB draft. We are asking that section s. 40.03 (1)(q) be deleted because it is not necessary. Since the Board would be already approving these as outlined under s. 40.03 (2)(v), there would be a Board record of the action taken. It is unnecessary for us to require an additional report - redundant.



appeals language.doc

If you have any questions, please let me know. Thanks, Rick.

Pam Henning, Director
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SECTION 1. ~~40.03 (1) (q) of the statutes is created to read:~~

~~40.03 (1) (q) Shall prepare an annual report detailing the nature of, and amount of moneys paid relating to, each dispute resolved by the secretary under sub. (2) (v) during the preceding year.~~

SECTION 2. 40.03 (2) (v) of the statutes is created to read:

40.03 (2) (v) May, with the approval of the board having jurisdiction, ~~resolve~~ settle any dispute over a determination made by the department that is subject to review under sub. (1) (j), (6) (i), (7) (f), or (8) (f), or s. 40.80 (2g). In deciding whether to ~~resolve~~ settle such a dispute, the secretary and board shall consider the cost of litigation, the likelihood of success on the merits, the cost of delay in resolving the dispute, the actuarial impact on the trust fund, and any other relevant appropriate factor the secretary ~~considers appropriate~~. Any moneys paid by the department to resolve a dispute under this paragraph shall be paid ~~as a lump sum payment and shall be paid from the appropriation account under s. 20.515 (1) (r).~~

SECTION 3. 40.03 (2) (w) of the statutes is created to read:

40.03 (2) (w) If the secretary determines that an otherwise eligible participant has unintentionally forfeited or otherwise involuntarily ceased to be eligible for any benefit provided under this chapter principally because of an error in administration by the department, may order the benefit paid from the benefit plan to prevent inequity, pending any necessary board approval. A decision under this paragraph is not subject to review. The secretary shall submit a quarterly report to the Employee Trust Funds board on decisions made under this paragraph.

(END)

Champagne, Rick

To: Henning, Pamela
Cc: Currier, Dawn

Pam:

I have a couple of questions with respect to your revised language. Below, for the purpose of review, I've copied your proposed changes and have put my questions below the revised text.

SECTION 2. 40.03 (2) (v) of the statutes is created to read:

40.03 (2) (v) May, with the approval of the board having jurisdiction, ~~resolve~~ settle any dispute over a determination made by the department ~~that is subject to review~~ under sub. (1) (j), (6) (i), (7) (f), or (8) (f), or s. 40.80 (2g). In deciding whether to ~~resolve~~ settle such a dispute, the secretary ~~and board~~ shall consider the cost of litigation, the likelihood of success on the merits, the cost of delay in resolving the dispute, the actuarial impact on the trust fund, and any other ~~relevant~~ appropriate factor ~~the secretary considers appropriate~~. Any moneys paid by the department to resolve a dispute under this paragraph shall be paid ~~as a lump sum payment and shall be paid~~ from the appropriation account under s. 20.515 (1) (r).

1. I originally used the phrase "resolve any dispute" instead of "settle any appeal" for two reasons. First, I was unsure if you wished for a participant or other affected party to have to formally "appeal" a determination before the secretary could exercise his or her powers under this paragraph. By using the phrase "settle any appeal", a participant or other affected party would have to formally appeal the determination. However, if the phrase "resolve any dispute" is used, a participant or other affected party would not have to formally appeal a department determination. Instead, the secretary and the participant could simply resolve the matter with the secretary using the criteria specified in the paragraph. Do you wish for the department to have the flexibility to resolve issues before they are formally appealed? The other reason is that I am not sure if the locution "settle any appeal" is the proper one. What is actually occurring is that, if the secretary and the participant can work out the problem, the participant is actually withdrawing his or her appeal; they are not "settling" an appeal. Also, you should be aware that the phrase "settle any appeal" does not appear anywhere else in the Wisconsin statutes. While the second reason is not as important as the first, it is still a consideration.

2. I do not believe that you can strike the phrase "that is subject to review." The reason is that the determinations made by the department are not made under s. 40.03 (1) (j), (6) (i), (7) (f), or (8) (f), or s. 40.80 (2g). These determinations are made throughout ch. 40 in statutory provisions that require or permit the department to make certain decisions. These decisions are then subject to review by the various boards under s. 40.03 (1) (j), (6) (i), (7) (f), and (8) (f), and s. 40.80 (2g). In other words, these statutory sections grant powers to the various boards, not to the department. The department is not acting under these statutory sections; instead, its determinations are subject to review under these sections.

3. Please note that by deleting the phrase "relevant factor the secretary considers appropriate" and substituting "appropriate factor" the power of the secretary is reduced. Under the first phrase, the law grants the secretary the power to determine which factors are appropriate. Under the second phrase, the secretary must consider all factors that are appropriate even if the secretary does not consider one of the factors appropriate. In practice, the difference in the language in the two phrases will probably not matter. But the standard is different. This is your call.

4. When you say that the "secretary and board shall...", do you mean the secretary and the ETF board or the appropriate board having the power to accept appeals of department determinations?

SECTION 3. 40.03 (2) (w) of the statutes is created to read:

40.03 (2) (w) If the secretary determines that an otherwise eligible participant has unintentionally forfeited or otherwise involuntarily ceased to be eligible for any benefit provided under this chapter

principally because of an error in administration by the department, may order the benefit paid from the benefit plan to prevent inequity, pending any necessary board approval. A decision under this paragraph is not subject to review. The secretary shall submit a quarterly report to the Employee Trust Funds board on decisions made under this paragraph.

1. By adding the phrase "to prevent inequity" you are narrowing the grounds on which the secretary may order a benefit to be paid from a benefit plan under this paragraph. In the language I had drafted, the secretary simply had to determine that the department had made an error in administration to pay the lost benefit. With the new language, the secretary would have to determine that the department had made an error and that the payment will "prevent inequity". Are you therefore saying that even though the department has made an error in administration, the department cannot correct the error unless it prevents an inequity? Your call.

2. I am confused by the phrase "pending any necessary board approval." In the paragraph, there is language that states that "A decision under this paragraph is not subject to review." There is also language in your e-mail comments on 11/08/2000 which states that the intent of this paragraph is that there "be no court review and that no Board could reverse the Secretary's exercise of discretion in a case." It would seem that with this language there is contemplated a situation in which a board would not approve the secretary's decision. If this is so, is this not a review? Because you are explicitly acknowledging a board power not to approve the secretary's decision, the sentence, "A decision under this paragraph is not subject to review.", could be interpreted only to apply to court review.

I will hold off on redrafting the draft until I hear from you on these issues. Talk to you soon.

Rick

Rick Champagne
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Champagne, Rick

From: Henning, Pamela
Sent: Friday, November 10, 2000 9:57 AM
To: Champagne, Rick
Cc: Currier, Dawn
Subject: FW: DETF Appeals Language

Rick,

I'll answer you in the same order using numbers that you presented in your first email. Due to viruses and email size restrictions, I'm not able to resend your original message so I hope my descriptions and numbering have enough information to answer your questions.

1. First, if we used the language "resolve any dispute" then we might be opening the door to having a participant contact the Secretary to resolve any matter. We are making several other changes in the department's appeal process to alleviate appeals from even entering the process so this change really needs to be more related to an appeal and the determination process. Would it be possible to instead state, "settle a dispute of any matter on appeal."
2. Okay with your suggestion - please add back in the language, "that is subject to review."
3. Okay with your suggestion - please add back in the language, "relevant factor the secretary considers appropriate."
4. It should reference the "appropriate board(s)", not just the ETF Board, having power to accept appeals of department determinations.

Last #1-2. We prefer to keep the phrase, "to prevent inequity" as we want to correct an unfair or unjust matter. But, the language, "pending any necessary board approval" should be stricken as you suggested. Also, we'd like to change the wording slightly to distinguish that the Secretary is ordering the correction of the error (which may result in a benefit paid or some other remedy). Please see my changes below.

SECTION 3. 40.03 (2) (w) of the statutes is created to read:

40.03 (2) (w) If the secretary determines that an otherwise eligible participant has unintentionally forfeited or otherwise involuntarily ceased to be eligible for any benefit provided under this chapter principally because of an error in administration by the department, may order the correction of the error ~~the benefit paid from the benefit plan~~ to prevent inequity, pending any necessary board approval. A decision under this paragraph is not subject to review. The secretary shall submit a quarterly report to the Employee Trust Funds board on decisions made under this paragraph.

Let me know if you have any more questions/changes. Thanks again, Rick.

Per Pam

11/10/2000

- OK to take out and board in letter
draft instructions. TG boards will exercise their
fiduciary & policymaking duties in reviewing settlements.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0169/P1

RAC:jld:pg

soon

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

DOA
Budget Draft

don't gen

but only with the approval of the board having authority to accept the appeal

1
2
3

AN ACT to create 40.03 (1) (q), 40.03 (2) (v) and 40.03 (2) (w) of the statutes; relating to: the authority of the secretary of the department of employee trust funds to resolve certain disputes and correct administrative errors.

Analysis by the Legislative Reference Bureau

settle

This bill authorizes the secretary of employee trust funds (secretary), ~~with the approval of the employee trust funds board,~~ to resolve any dispute over a determination made by the department of employee trust funds (DETF), that is subject to review by the employee trust funds board, the group insurance board, the teachers retirement board, the Wisconsin retirement board, and the deferred compensation board. In deciding whether to resolve such a dispute, the secretary must consider the cost of litigation, the likelihood of success on the merits, the cost of delay in resolving the dispute, the actuarial impact on the public employee trust fund, and any other relevant factor the secretary considers appropriate.

of an appeal of

In addition, the bill authorizes the secretary, if the secretary determines that an otherwise eligible participant has unintentionally forfeited or otherwise involuntarily ceased to be eligible for any benefit administered by DETF because of an error in administration by DETF, to order the benefit paid from the benefit plan.

to prevent inequity

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1

1 SECTION 1. 40.03 (1) (q) of the statutes is created to read:

2 40.03 (1) (q) Shall prepare an annual report detailing the nature of, and
3 amount of moneys paid relating to, each dispute resolved by the secretary under sub.
4 (2) (v) during the preceding year.

5 SECTION 2. 40.03 (2) (v) of the statutes is created to read:

6 40.03 (2) (v) May, ~~with the approval of the board, resolve~~ ^{settle} any dispute ~~over~~ ^{in an appeal} a
7 determination made by the department that is subject to review under sub. (1) (j),
8 (6) (i), (7) (f), or (8) (f), or s. 40.80 (2g). In deciding whether to ~~resolve~~ ^{settle} such a dispute,
9 the secretary shall consider the cost of litigation, the likelihood of success on the
10 merits, the cost of delay in resolving the dispute, the actuarial impact on the trust
11 fund, and any other relevant factor the secretary considers appropriate. Any moneys
12 paid by the department to ~~resolve~~ ^{settle} a dispute under this paragraph ~~shall be paid as~~
13 ~~a lump sum payment and~~ shall be paid from the appropriation account under s.
14 20.515 (1) (r).

15 SECTION 3. 40.03 (2) (w) of the statutes is created to read:

16 40.03 (2) (w) If the secretary determines that an otherwise eligible participant
17 has unintentionally forfeited or otherwise involuntarily ceased to be eligible for any
18 benefit provided under this chapter ^{principally} because of an error in administration by the
19 department, may order the benefit paid from the benefit plan ^{to prevent inequity}. A decision under this
20 paragraph is not subject to review. The secretary shall submit a quarterly report to
21 ^{employee trust funds} the board on decisions made under this paragraph.

*but only with the approval of the board
having the authority to accept the appeal*



D-Note
State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0169/1 2

RAC:jld:jf

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SOON

DOA:.....Currier – Resolution of administrative errors

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

Retirement and Group Insurance

do not gen

1 AN ACT ...; relating to: the authority of the secretary of the department of
2 employee trust funds to resolve certain disputes and correct administrative
3 errors.

Analysis by the Legislative Reference Bureau

This bill authorizes the secretary of employee trust funds (secretary) to settle any dispute of an appeal of a determination made by DETF that is subject to review by the employee trust funds board, the group insurance board, the teachers retirement board, the Wisconsin retirement board, and the deferred compensation board, but only with the approval of the board having authority to accept the appeal. In deciding whether to resolve such a dispute, the secretary must consider the cost of litigation, the likelihood of success on the merits, the cost of delay in resolving the dispute, the actuarial impact on the public employee trust fund, and any other relevant factor the secretary considers appropriate.

In addition, the bill authorizes the secretary, if the secretary determines that an otherwise eligible participant has unintentionally forfeited or otherwise involuntarily ceased to be eligible for any benefit administered by DETF because of an error in administration by DETF, to order the benefit paid from the benefit plan to prevent inequity.

D Note

This version of the draft simply inserts a title in
the Analysis.

RAC

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0169/2dn
RAC:jld:pg

November 15, 2000

This version of the draft simply inserts a title in the analysis.

Rick A. Champagne
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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0169/2 3

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DOA:.....Currier – Resolution of administrative errors

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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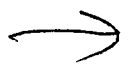
1 AN ACT ...; relating to: the authority of the secretary of the department of
2 employee trust funds to resolve certain disputes and correct administrative
3 errors.

Analysis by the Legislative Reference Bureau

RETIREMENT AND GROUP INSURANCE

This bill authorizes the secretary of employee trust funds (secretary) to settle any dispute of an appeal of a determination made by DETF that is subject to review by the employee trust funds board, the group insurance board, the teachers retirement board, the Wisconsin retirement board, and the deferred compensation board, but only with the approval of the board having authority to accept the appeal. In deciding whether to resolve such a dispute, the secretary must consider the cost of litigation, the likelihood of success on the merits, the cost of delay in resolving the dispute, the actuarial impact on the public employee trust fund, and any other relevant factor the secretary considers appropriate.

In addition, the bill authorizes the secretary, if the secretary determines that an otherwise eligible participant has unintentionally forfeited or otherwise involuntarily ceased to be eligible for any benefit administered by DETF because of an error in administration by DETF, to order the ~~benefit paid from the benefit plan~~ to prevent inequity.



correction of the error

D-Note

DAWN CURRIER:

the instructions of

Per PAM HENNING, I have revised the

wording on page 2, line 15.

RAC

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0169/3dn
RAC:jld:jf

November 17, 2000

Dawn Currier:

Per the instructions of Pam Henning, I have revised the wording on Page 2, line 15.

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DOA:.....Currier – Resolution of administrative errors

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the authority of the secretary of the department of
2 employee trust funds to resolve certain disputes and correct administrative
3 errors.

Analysis by the Legislative Reference Bureau

RETIREMENT AND GROUP INSURANCE

This bill authorizes the secretary of employee trust funds (secretary) to settle any dispute of an appeal of a determination made by DETF that is subject to review by the employee trust funds board, the group insurance board, the teachers retirement board, the Wisconsin retirement board, and the deferred compensation board, but only with the approval of the board having authority to accept the appeal. In deciding whether to resolve such a dispute, the secretary must consider the cost of litigation, the likelihood of success on the merits, the cost of delay in resolving the dispute, the actuarial impact on the public employee trust fund, and any other relevant factor the secretary considers appropriate.

In addition, the bill authorizes the secretary, if the secretary determines that an otherwise eligible participant has unintentionally forfeited or otherwise involuntarily ceased to be eligible for any benefit administered by DETF because of an error in administration by DETF, to order the correction of the error to prevent inequity.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 40.03 (2) (v) of the statutes is created to read:

2 40.03 (2) (v) May settle any dispute in an appeal of a determination made by
3 the department that is subject to review under sub. (1) (j), (6) (i), (7) (f), or (8) (f), or
4 s. 40.80 (2g), but only with the approval of the board having the authority to accept
5 the appeal. In deciding whether to settle such a dispute, the secretary shall consider
6 the cost of litigation, the likelihood of success on the merits, the cost of delay in
7 resolving the dispute, the actuarial impact on the trust fund, and any other relevant
8 factor the secretary considers appropriate. Any moneys paid by the department to
9 settle a dispute under this paragraph shall be paid from the appropriation account
10 under s. 20.515 (1) (r).

11 **SECTION 2.** 40.03 (2) (w) of the statutes is created to read:

12 40.03 (2) (w) If the secretary determines that an otherwise eligible participant
13 has unintentionally forfeited or otherwise involuntarily ceased to be eligible for any
14 benefit provided under this chapter principally because of an error in administration
15 by the department, may order the correction of the error to prevent inequity. A
16 decision under this paragraph is not subject to review. The secretary shall submit
17 a quarterly report to the employee trust funds board on decisions made under this
18 paragraph.

19

(END)