

**2007 DRAFTING REQUEST**

**Bill**

Received: **09/21/2007**

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Employee Trust Funds**

By/Representing: **Bob Conlin**

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

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - retirement**

Extra Copies:

Submit via email: **YES**

Requester's email: **bob.conlin@etf.state.wi.us**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Omnibus legislation relating to administration of WRS benefits

**Instructions:**

See Attached.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State Retire
/1	rchampag 09/25/2007	csicilia 10/01/2007	jfrantze 10/02/2007	_____	sbasford 10/02/2007		State Retire
				_____	sbasford 10/02/2007		
/2	rchampag 11/06/2007	csicilia 11/07/2007	rschluet 11/07/2007	_____	lparisi 11/07/2007		State Retire

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	rchampag 12/04/2007	lkunkel 12/04/2007	rschluet 12/05/2007	_____	cduerst 12/05/2007		State Retire
/4	rchampag 12/12/2007	jdyer 12/12/2007	jfrantze 12/12/2007	_____	cduerst 12/12/2007		State Retire
/5	rchampag 12/17/2007	jdyer 12/17/2007	rschluet 12/17/2007	_____	sbasford 12/17/2007		State Retire
/6	rchampag 01/28/2008	jdyer 01/28/2008	pgreensl 01/28/2008	_____	mbarman 01/28/2008	mbarman 02/13/2008	State Retire

FE Sent For:

at  
intro

<END>

**2007 DRAFTING REQUEST**

**Bill**

Received: **09/21/2007**

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Employee Trust Funds**

By/Representing: **Bob Conlin**

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

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - retirement**

Extra Copies:

Submit via email: **YES**

Requester's email: **bob.conlin@etf.state.wi.us**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Omnibus legislation relating to administration of WRS benefits

---

**Instructions:**

See Attached.

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State Retire
/1	rchampag 09/25/2007	csicilia 10/01/2007	jfrantze 10/02/2007	_____	sbasford 10/02/2007 sbasford 10/02/2007		State Retire
/2	rchampag 11/06/2007	csicilia 11/07/2007	rschluet 11/07/2007	_____	lparisi 11/07/2007		State Retire

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	rchampag 12/04/2007	lkunkel 12/04/2007	rschluet 12/05/2007	_____	cduerst 12/05/2007		State Retire
/4	rchampag 12/12/2007	jdyer 12/12/2007	jfrantze 12/12/2007	_____	cduerst 12/12/2007		State Retire
/5	rchampag 12/17/2007	jdyer 12/17/2007	rschluet 12/17/2007	_____	sbasford 12/17/2007		State Retire
/6	rchampag 01/28/2008	jdyer 01/28/2008	pgreensl 01/28/2008	_____	mbarman 01/28/2008		State Retire

FE Sent For:

<END>

**2007 DRAFTING REQUEST**

**Bill**

Received: **09/21/2007**

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Employee Trust Funds**

By/Representing: **Bob Conlin**

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

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - retirement**

Extra Copies:

Submit via email: **YES**

Requester's email: **bob.conlin@etf.state.wi.us**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Omnibus legislation relating to administration of WRS benefits

**Instructions:**

See Attached.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?		<i>10/28 jld</i>		_____			State Retire
/1	rchampag 09/25/2007	csicilia 10/01/2007	jfrantze 10/02/2007	_____	sbasford 10/02/2007		State Retire
				_____	sbasford 10/02/2007		
/2	rchampag 11/06/2007	csicilia 11/07/2007	rschluet 11/07/2007	_____	lparisi 11/07/2007		State Retire

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	rchampag 12/04/2007	lkunkel 12/04/2007	rschluet 12/05/2007	_____	cduerst 12/05/2007		State Retire
/4	rchampag 12/12/2007	jdye 12/12/2007	jfrantze 12/12/2007	_____	cduerst 12/12/2007		State Retire
/5	rchampag 12/17/2007	jdye 12/17/2007	rschluet 12/17/2007	_____	sbasford 12/17/2007		State Retire

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 09/21/2007

Received By: rchampag

Wanted: Soon

Identical to LRB:

For: Employee Trust Funds

By/Representing: Bob Conlin

This file may be shown to any legislator: NO

Drafter: rchampag

May Contact:

Addl. Drafters:

Subject: Employ Pub - retirement

Extra Copies:

Submit via email: YES

Requester's email: bob.conlin@etf.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Omnibus legislation relating to administration of WRS benefits

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?		15 12/16 jld					State Retire
/1	rchampag 09/25/2007	csicilia 10/01/2007	jfrantze 10/02/2007		sbasford 10/02/2007 sbasford 10/02/2007		State Retire
/2	rchampag 11/06/2007	csicilia 11/07/2007	rschluet 11/07/2007		lparisi 11/07/2007		State Retire

Handwritten signature and date 12/17/07

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	rchampag 12/04/2007	lkunkel 12/04/2007	rschlue 12/05/2007	_____	cduerst 12/05/2007		State Retire
/4	rchampag 12/12/2007	jdye 12/12/2007	jfrantze 12/12/2007	_____	cduerst 12/12/2007		State Retire

FE Sent For:

<END>



**2007 DRAFTING REQUEST**

**Bill**

Received: **09/21/2007**

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Employee Trust Funds**

By/Representing: **Bob Conlin**

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

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - retirement**

Extra Copies:

Submit via email: **YES**

Requester's email: **bob.conlin@etf.state.wi.us**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Omnibus legislation relating to administration of WRS benefits

---

**Instructions:**

See Attached.

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?		14/12 12 jld	jb 12/12	Self			State Retire
/1	rchampag 09/25/2007	csicilia 10/01/2007	jfrantze 10/02/2007	_____	sbasford 10/02/2007		State Retire
				_____	sbasford 10/02/2007		
/2	rchampag 11/06/2007	csicilia 11/07/2007	rschluet 11/07/2007	_____	lparisi 11/07/2007		State Retire

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	rchampag 12/04/2007	lkunkel 12/04/2007	rschluet 12/05/2007	_____	cduerst 12/05/2007		State Retire

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 09/21/2007

Received By: rchampag

Wanted: Soon

Identical to LRB:

For: Employee Trust Funds

By/Representing: Bob Conlin

This file may be shown to any legislator: NO

Drafter: rchampag

May Contact:

Addl. Drafters:

Subject: Employ Pub - retirement

Extra Copies:

Submit via email: YES

Requester's email: bob.conlin@etf.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Omnibus legislation relating to administration of WRS benefits

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State Retire
/1	rchampag 09/25/2007	csicilia 10/01/2007	jfrantze 10/02/2007	_____	sbasford 10/02/2007		State Retire
				_____	sbasford 10/02/2007		
/2	rchampag 11/06/2007	csicilia 11/07/2007	rschluet 11/07/2007	_____	lparisi 11/07/2007		State Retire

1/3/mk 12/4

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For:

<END>

### 2007 DRAFTING REQUEST

#### Bill

Received: **09/21/2007**

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Employee Trust Funds**

By/Representing: **Bob Conlin**

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

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - retirement**

Extra Copies:

Submit via email: **YES**

Requester's email:

**bob.conlin@etf.state.wi.us**

Carbon copy (CC:) to:

*Corrected address*

---

#### Pre Topic:

No specific pre topic given

---

#### Topic:

Omnibus legislation relating to administration of WRS benefits

---

#### Instructions:

See Attached.

---

#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State Retire
/1	rchampag 09/25/2007	csicilia 10/01/2007	jfrantze 10/02/2007	_____	sbasford 10/02/2007 sbasford 10/02/2007		State Retire

*1/2 gjs 11/7 07*  
*[Signature]*  
*1177 NW*

FE Sent For:

2007 DRAFTING REQUEST

Bill

Received: 09/21/2007

Received By: rchampag

Wanted: Soon

Identical to LRB:

For: Employee Trust Funds

By/Representing: Bob Conlin

This file may be shown to any legislator: NO

Drafter: rchampag

May Contact:

Addl. Drafters:

Subject: Employ Pub - retirement

Extra Copies:

Submit via email: YES

Requester's email: Bob.Conlin@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Omnibus legislation relating to administration of WRS benefits

Instructions:

See Attached.

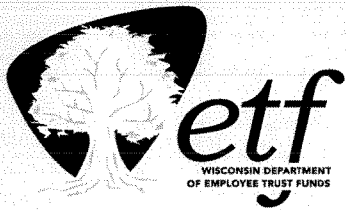
Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State Retire
/1	rchampag 09/25/2007	csicilia 10/01/2007	jfrantze 10/02/2007		sbasford 10/02/2007		State Retire

FE Sent For:

<END>





STATE OF WISCONSIN  
Department of Employee Trust Funds  
David A Stella, Secretary

801 W Badger Road  
PO Box 7931  
Madison WI 53707-7931  
1-877-533-5020 (toll free)  
Fax (608) 267-4549  
<http://etf.wi.gov>

**CORRESPONDENCE MEMORANDUM**

**DATE:** September 21, 2007  
**TO:** Rick Champagne, Senior Attorney, LRB  
**FROM:** Bob Conlin, Director of Legislation, Communications and Planning  
261-7940  
**SUBJECT:** Request for Bill Draft Regarding Ch. 40 Modifications

Please prepare a bill draft consisting of the following:

✓ 1. The provisions of **2007 LRB 0636/1**, relating to the Uniformed Services Employment and Reemployment Rights Act with the following technical changes:

- ✓ P. 5, line 16, after "40.287" insert "(1) or (3)".
- ✓ P. 5, line 24, delete "date" and substitute "dates".
- ✓ P. 6, line 15, delete "person's" and substitute "employee's".
- ✓ P. 6, line 24, delete "person's" and substitute "employee's".
- ✓ P. 7, line 5, after "he" insert "or she".
- ✓ P. 8, lines 17 and 18, delete "sub. (1)" and insert "par. (a)".

✓ 2. The provisions of **2007 LRB 0635/1**, relating to the proration of military service credit based on different types of WRS creditable service.

✓ 3. The provisions of **2007 LRB 0648/1**, relating to the distribution of moneys to WRS employers under 1999 Wisconsin Act 11 with the following technical changes:

- ✓ Specify that the distribution must be complete by January 1, 2009, rather than January 1, 2008.

✓ 4. The provisions of **2007 LRB 0502/1**, relating to payment of interest by ETF on credited or refunded moneys and granting rule-making authority.

✓ 5. The provisions of **2007 LRB 0499/1**, relating to the WRS beneficiary standard sequence.

✓ 6. The provisions of **2007 LRB 0498/1**, relating to the WRS accelerated death benefit option continuing beyond the annuitant's death.

✓ 7. The provisions of **2007 LRB 0505/1**, relating to ETF life insurance benefit application according to rule or contract and eliminating the age 55 cutoff.



8. The provisions of **2007 LRB 0500/1**, relating to the abandonment of life insurance and other WRS benefits with the following technical change:

- P. 3, line 2, after "date of" insert "death of".

9. The provisions of **2007 LRB 0501/1**, relating to definition of the term Internal Revenue Code for purposes of ch. 40.

10. The following provision relating to reducing the amortization period for unfunded liabilities under the WRS from 40 years to 30 years:

*40.05 (2) (b) of the statutes is amended to read:*

*40.05 (2) (b) Contributions shall be made by each participating employer for unfunded prior service liability in a percentage of the earnings of each participating employee. A separate percentage rate shall be determined for the employee occupational categories under s. 40.23 (2m) as of the employer's effective date of participation. The rates shall be sufficient to amortize as a level percent of payroll over a period of 40 30 years from the later of that date or January 1, 1986, the unfunded prior service liability for the categories of employees of each employer determined under s. 40.05 (2) (b), 1981 stats., increased to reflect any creditable prior service granted on or after January 1, 1986, increased to reflect the effect of 1983 Wisconsin Act 141, increased at the end of each calendar year after January 1, 1986, by interest at the assumed rate on the unpaid balance at the end of the year and adjusted under pars. (bu) , (bv) and (bw).*

11. The following provisions to allow the Department to charge interest on certain receivables at the "assumed" rate of interest rather than the "effective" rate of interest.

*SECTION \_\_. 40.08 (4) of the statutes is amended to read:*

*40.08 (4) Retention of payments. Unless voluntarily repaid and except as limited by sub. (10), the department may retain out of any annuity or benefit an amount as the department in its discretion may determine, for the purpose of reimbursing the appropriate benefit plan accounts for a balance due under s. 40.25 (5) or for any money paid, plus interest at the ~~effective rate of the core annuity division~~ assumed rate, unless the department sets a different*

rate by rule, to any person or estate, through misrepresentation, fraud, or error. Upon the request of the department any employer shall withhold from any sum payable by the employer to any person or estate and remit to the department any amount, plus interest at the ~~effective rate of the core annuity division~~ assumed rate, unless the department sets a different rate by rule, which the department paid to the person or estate through misrepresentation, fraud, or error. Any amount, plus interest at the ~~effective rate~~ assumed rate, unless the department sets a different rate by rule, not recovered by the department from the employer may be procured by the department by action brought against the person or estate.

✓ SECTION \_\_. 40.25 (5) (b) of the statutes is amended to read:

40.25 (5) (b) The full amount of the benefit paid, plus interest at the effective rate assumed rate, unless the department sets a different rate by rule, shall be repaid to the Wisconsin retirement system by the employer of an

employee whose rights and creditable service are reestablished under par.

(a) within 60 days after the effective date of the employee's reinstatement.

The amount repaid by the employer under this paragraph shall be deducted by the employer from any payment due the employee as a result of the resolution of the appeal or, if that amount is insufficient, the balance shall be deducted from the employee's earnings except the amount deducted from each earnings payment shall be not less than 10% nor more than 25% of the earnings payment. If the employee terminates employment the employer shall notify the department of the amount not yet repaid, including any interest due, at the same time it notifies the department of the termination of employment, and the department shall repay to the employer the balance of the amount due from retentions made under s. 40.08 (4) . The employer may charge interest at a rate not in excess of the current year's assumed rate on any amount unpaid at the end of any calendar year after the year of reinstatement.

✓ 12. The following provision to require the Group Insurance Board to accept timely appeals:

40.03 (6) (l) of the statutes is amended to read:

40.03 (6) (i) ~~May~~ Shall accept timely appeals of determinations made by the department affecting any right or benefit under any group insurance plan provided for under this chapter.

- ✓ 13. The following provisions to separately identify the tax levy authority of the Department of Revenue with respect to WRS benefits and to clarify which benefits that authority applies to.

SECTION \_\_. 40.08 (1) of the statutes is amended to read:

40.08 (1) EXEMPTIONS. The benefits payable to, or other rights and interests of, any member, beneficiary or distributee of any estate under any of the benefit plans administered by the department, including insurance payments, shall be exempt from any tax levied by the state or any subdivision of the state and shall not be assignable, either in law or equity, or be subject to execution, levy, attachment, garnishment or other legal process except as specifically provided in this section; ~~except that, notwithstanding s. 40.01 (2), the department of revenue may attach benefit payments to satisfy delinquent tax obligations. The board and any member or agent thereof and the department and any employee or agent thereof are immune from civil liability for any act or omission while performing official duties relating to withholding any annuity payment under this subsection. The exemption from taxation under this section shall not apply with respect to any tax on income.~~

SECTION \_\_. 40.08 (1r) of the statutes is created to read:

40.08 (1r) DELINQUENT STATE TAX OBLIGATIONS. Notwithstanding sub. (1) and s. 40.01 (2), the department of revenue may attach any lump sum payment or monthly annuity paid under s. 40.23, 40.24, 40.25 (1) or (2), or 40.63 to satisfy delinquent state income tax obligations. The board and any member or agent thereof and the department and any employee or agent thereof are immune from civil liability for any act or omission while

*performing official duties relating to withholding from any payment under this subsection.*

14. The following provision authorizing the Wisconsin Retirement Board to require a recipient of Duty Disability benefits to submit tax returns annually, rather than requiring the Board to do so:

*40.65 (3) of the statutes is amended to read:*

*40.65 (3) The Wisconsin retirement board shall determine the amount of each monthly benefit payable under this section and its effective date. The board shall periodically review the dollar amount of each monthly benefit and adjust it to conform with the provisions of this section. The board may request any income or benefit information, or any information concerning a person's marital status, which it considers to be necessary to implement this subsection and shall may require a participant to submit a certified copy of his or her most recent state or federal income tax return. The board may terminate the monthly benefit of any person who refuses to submit information requested by the board or who submits false information to the board.*

15. The following provisions modifying the effective date of a waiver of WRS benefits from the first day of the 2<sup>nd</sup> month after the department receives it, or a later date specified by the person waiving the benefits, to 30 days after receipt by the department or an earlier date specified by the person waiving the benefit:

*SECTION \_\_. 40.08 (3) of the statutes is amended to read:*

*40.08 (3) Any participant, beneficiary or distributee of any estate may waive, absolutely and without right of reconsideration or recovery, the right to or the payment of all or any portion of any benefit payable or to become payable under this chapter. The waiver shall be effective ~~on the first day of the 2<sup>nd</sup> month commencing~~ 30 days after it is received by the department or on the date specified in the waiver if later earlier. The waiver may be cancelled by the participant, beneficiary or distributee in writing prior to the effective date.*

*SECTION \_\_. 40.74 (2) of the statutes is amended to read:*

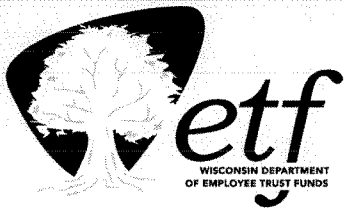
40.74 (2) A beneficiary may waive any benefit payable and the beneficiary shall then be determined as if the person had died prior to filing an application except that if the person was a beneficiary under group 2 under s. 40.02 (8) (a) 2., payment shall be made as if at least one child had survived the participant, employee or annuitant. The waiver shall be effective ~~on the first day of the 2<sup>nd</sup> month commencing~~ 30 days after it is received by the department or the date specified in the waiver, if ~~later~~ earlier. The waiver may be cancelled by the beneficiary in writing prior to the effective date.

✓ 16. The following provision to conform state law to current ETF practice and federal law regarding beneficiary annuities:

40.73 (3) (e) of the statutes is amended to read:

40.73 (3) (e) Any beneficiary who is eligible to receive a beneficiary annuity may elect to receive the annuity in any of the optional annuity forms provided for retirement annuities, other than an annuity under s. 40.24 (1) (e) or any annuity payable over the joint life expectancies of the beneficiary and another person. The number of guaranteed monthly payments available to a beneficiary shall not exceed the life expectancy of the beneficiary.

With respect to the proposed statutory language in items 10 through 16, above, feel free to use more appropriate language if you think it advisable. Should you have any questions, please let me know.



**STATE OF WISCONSIN**  
**Department of Employee Trust Funds**  
**Eric O. Stanchfield**  
SECRETARY

801 W Badger Road  
PO Box 7931  
Madison WI 53707-7931

1-877-533-5020 (toll free)  
Fax (608) 267-4549  
TTY (608) 267-0676  
<http://etf.wi.gov>

***CORRESPONDENCE MEMORANDUM***

**DATE:** October 25, 2006

**TO:** Laura Rose, Deputy Director, and Don Dyke, Chief of Legal Services,  
Wisconsin Legislative Council Staff

**FROM:** Bob Conlin, Director of Legislation, Communication, and Planning

**SUBJECT:** Proposals for Consideration by the Law Revision Committee

On behalf of the Department of Employee Trust Funds (Department), I am submitting for your review seven legislative proposals for consideration by the Law Revision Committee (LRC) for the upcoming 2007-2008 legislative session. At your request, I have identified the following for each proposal: (1) the specific statutory change requested; (2) the administrative or substantive problem being addressed; (3) the need for the change; (4) an indication of the fiscal effect of the change; and (5) proposed legislative language to accomplish the change. Where applicable, I have noted if the same proposal was submitted to the LRC last session.

The remainder of this memo is organized as follows:

<u>Topic</u>	<u>Page</u>
Summary of Proposals	2
Detailed Proposals	3
A. Internal Revenue Code Reference	3
B. Unfunded Liability Amortization Period	4
C. Interest on Receivables	5
D. Appeals to Group Insurance Board	7
E. State Tax Levy of WRS Benefits	8
F. Duty Disability Income Verification	10
G. Date of Death for Death Benefit Purposes	11

Should you have any questions about this submission, please contact me at 261-7940.

### **Summary of Proposals**

- A. Change the definition of "Internal Revenue Code" for purposes of the Wisconsin Retirement System (WRS) to refer to federal law rather than to the state law used for Wisconsin Income Tax purposes.
- B. Change from 40 years to 30 years the amortization period for unfunded liabilities for prior service granted by WRS employers in order to correspond to Governmental Accounting Standards Board (GASB) standards. This change will only apply to new employers joining the system or new liabilities created by legislative enactment. It would not affect current WRS employers.
- C. Change the rate of interest charged by the Department for benefit overpayments and similar receivables from the statutorily required effective rate to the more practical and administratively feasible assumed rate.
- D. Clarify that the Group Insurance Board must accept appeals from Departmental determinations.
- E. Modify the law regarding Department of Revenue tax levies of WRS benefits to clarify that only retirement annuities, lump sum payments, and disability annuities are subject to state income tax levies.
- F. Modify the law to give the Wisconsin Retirement Board the discretion to require that income tax returns be submitted for the purposes of verifying continued eligibility for Duty Disability benefits in appropriate cases.
- G. Modify the law to make clear that the date of termination, and not the date the employer files a termination report with the Department, will determine whether a deceased participant was an active employee at the time of his or her death.

## Detailed Proposals

### **A. Internal Revenue Code Reference.**

1. Specific Statutory Change Requested: Amend s. 40.02 (39m), Stats., which defines "Internal Revenue Code" for purposes of the Wisconsin Retirement System (WRS), so that the definition specifically references federal law (Title 26 of the United States Code) and federal regulations adopted by the federal Department of the Treasury. This proposal was submitted to the LRC last session (2005 LRB 0867) but the LRC did not act upon it.
2. Administrative or Substantive Problem Addressed: Current s. 40.02 (39m) relies on a definition of the "Internal Revenue Code" used in the Wisconsin Tax Code (ch. 71, Stats.). The Wisconsin Tax Code definition is used for determining tax liabilities under the Wisconsin Tax Code. Due to tax policy considerations, Wisconsin has adopted most, but not all, of the current provisions of the federal Internal Revenue Code. To be considered a "qualified plan" under federal tax law, the WRS must comply with the Internal Revenue Code. Compliance with only the provisions of the Internal Revenue Code adopted by Wisconsin for state income tax purposes is irrelevant.
3. Need for the Change: This change will ensure that s. 40.02 (39m) references the entirety of the federal Internal Revenue Code rather than just those portions adopted by Wisconsin for Wisconsin income tax purposes.
4. Fiscal Effect: This change will have no fiscal effect.
5. Proposed language:

40.02 (39m) of the statutes is amended to read:

40.02 (39m) "Internal revenue code" means the federal internal revenue code under Title 26, USC, as defined for the ~~current taxable year under s. 71.01 (6)~~ amended, and applicable federal regulations adopted ~~under the internal revenue code~~ by the federal department of the treasury, including temporary regulations.



**B. Unfunded Accrued Actuarial Liability Amortization Period.**

1. Specific Statutory Change Requested: Amend s. 40.05 (2) (b), Stats., which establishes a 40-year amortization period for repayment of an employer's Unfunded Accrued Actuarial Liability when new employers elect to recognize prior service for their employees, to provide instead for a 30-year amortization period. This change will only apply to new employers joining the system or new liabilities created by legislative enactment. It would not affect current WRS employers. [Corresponding technical changes in s. 40.05 (2) (bu), (bv), (bw), and (bz), Stats., will be required to retain reference to a 40-year amortization period under those provisions.]
2. Administrative or Substantive Problem Addressed: Current s. 40.05 (2) (b), Stats., requires prior service liabilities owed by employers participating in the WRS to be amortized and paid off over a 40-year period. The Governmental Accounting Standards Board (GASB) has adopted GASB Statement 27, which establishes a maximum amortization period of 30 years for prior service liabilities.
3. Need for the Change: This change will bring the WRS into conformity with the GASB standard. Failure to conform to this standard could result in audit qualifications for both the WRS and for WRS-participating employers.
4. Fiscal Effect: This change would only affect new employers entering the WRS. Their annual cost for prior service would be higher under the 30-year amortization, but would be fully paid 10 years sooner. There would be no affect for the more than 1,400 employers that currently participate in the WRS.
5. Proposed language:

40.05 (2) (b) of the statutes is amended to read:

40.05 (2) (b) Contributions shall be made by each participating employer for unfunded prior service liability in a percentage of the earnings of each participating employee. A separate percentage rate shall be determined for the employee occupational categories under s. 40.23 (2m) as of the employer's effective date of participation. The rates shall be sufficient to amortize as a level percent of payroll over a period of ~~40~~ 30 years from the later of that date or January 1, 1986, the unfunded prior service liability for the categories of employees of each employer determined under s. 40.05 (2) (b), 1981 stats., increased to reflect any creditable prior service granted on or after January 1, 1986, increased to reflect the effect of 1983 Wisconsin Act 141, increased at the end of each calendar year after January 1, 1986, by interest at the assumed rate on the unpaid balance at the end of the year and adjusted under pars. (bu) , (bv) and (bw).

### C. Interest Charged on Receivables.

1. Specific Statutory Change Requested: Amend ss. 40.08 (4) (a) and 40.25 (5) (b), Stats., to allow the Department to charge interest on certain payments owed to the Department at the "assumed rate" rather than the "effective rate." This proposal was submitted to the LRC last session (2005 LRB 0873). However, the LRC did not recommend it for introduction. The Department believes that this is a minor substantive change needed to conform a law that is difficult to administer to a current administrative practice that is more feasible.
2. Administrative or Substantive Problem Addressed: Current ss. 40.08 (4) (a) and 40.25 (5) (b) require the Department to charge interest at the core effective rate on certain payments owed to the Department. Examples of these payments include benefit payments to which the recipient was not entitled and benefit payments made in excess of amounts actually owed. Generally, the core effective rate, the rate the core trust fund actually earns, isn't known until several months after the year has ended. It is not possible to assess interest in a timely manner if the appropriate interest rate isn't known until after the year ends. In addition, the effective rate can fluctuate substantially.

Since the Department began using the state's WiSMART accounts receivable information system in the mid-1990's, it is required to insert the interest rate applicable to the receivable at the time the receivable is billed. Because the applicable effective rate is usually not known when the account is entered on WiSMART, the Department has been using the "assumed rate", that is the average investment rate of return that is expected to be earned and credited to the WRS reserves over a long period of time. Use of the assumed rate provides participants with a stable, known interest rate on their debts to the trust fund.

3. Need for the Change: This change will conform the statutes with the Department's current administrative practice of applying the assumed rate to receivables. Applying the effective rate is not a feasible alternative.
4. Fiscal Effect: There is no fiscal effect associated with this practice since the Department has been using the assumed rate and since the assumed rate, by definition, approximates the effective rate over time.
5. Proposed language:

SECTION \_\_. 40.08 (4) of the statutes is amended to read:

40.08 (4) Retention of payments. Unless voluntarily repaid and except as limited by sub. (10), the department may retain out of any annuity or benefit an amount as the department in its discretion may determine, for the purpose of reimbursing the appropriate benefit plan accounts for a balance due under s. 40.25 (5) or for any money paid, plus interest at the ~~effective rate of the~~

~~core annuity division assumed rate~~, unless the department sets a different rate by rule, to any person or estate, through misrepresentation, fraud, or error. Upon the request of the department any employer shall withhold from any sum payable by the employer to any person or estate and remit to the department any amount, plus interest at the ~~effective rate of the core annuity division assumed rate~~, unless the department sets a different rate by rule, which the department paid to the person or estate through misrepresentation, fraud, or error. Any amount, plus interest at the ~~effective rate~~ assumed rate, unless the department sets a different rate by rule, not recovered by the department from the employer may be procured by the department by action brought against the person or estate.

SECTION \_\_. 40.25 (5) (b) of the statutes is amended to read:

40.25 (5) (b) The full amount of the benefit paid, plus interest at the ~~effective rate~~ assumed rate, unless the department sets a different rate by rule, shall be repaid to the Wisconsin retirement system by the employer of an employee whose rights and creditable service are reestablished under par. (a) within 60 days after the effective date of the employee's reinstatement. The amount repaid by the employer under this paragraph shall be deducted by the employer from any payment due the employee as a result of the resolution of the appeal or, if that amount is insufficient, the balance shall be deducted from the employee's earnings except the amount deducted from each earnings payment shall be not less than 10% nor more than 25% of the earnings payment. If the employee terminates employment the employer shall notify the department of the amount not yet repaid, including any interest due, at the same time it notifies the department of the termination of employment, and the department shall repay to the employer the balance of the amount due from retentions made under s. 40.08 (4) . The employer may charge interest at a rate not in excess of the current year's assumed rate on any amount unpaid at the end of any calendar year after the year of reinstatement.

#### **D. Appeals to Group Insurance Board**

1. Specific Statutory Change Requested: Amend s. 40.03 (6) (i), Stats., to require the Group Insurance Board (GIB) to accept timely appeals.
2. Administrative or Substantive Problem Addressed: Current s. 40.03 (6) (i), Stats., allows the GIB to accept timely appeals of certain determinations made by the Department. In contrast, the statutes require the other boards affiliated with the Department to accept timely appeals. The discretionary nature of the GIB's duty to accept appeals implies that those appealing from relevant determinations of the Department can bypass the GIB and go straight to circuit court.
3. Need for the Change: As a practical matter, the GIB has accepted all appeals filed with it. The change will ensure that all of the boards affiliated with the Department will be required to accept appeals and will prevent appellants from bypassing the GIB, reducing the likelihood that the Department will need to engage in costly court litigation before all administrative avenues have been exhausted.
4. Fiscal Effect: There is no fiscal effect associated with this change since the GIB has been accepting all appeals filed with it. The Department is not aware of appeals that have bypassed the GIB in favor of circuit court.
5. Proposed language:

40.03 (6) (I) of the statutes is amended to read:

40.03 (6) (i) May Shall accept timely appeals of determinations made by the department affecting any right or benefit under any group insurance plan provided for under this chapter.

### E. State Tax Levy of Wisconsin Retirement System Benefits

1. Specific Statutory Change Requested: Amend s. 40.08 (1), Stats., to separately identify the tax levy authority of the Department of Revenue (DOR) with respect to Wisconsin Retirement System benefits and to clarify which benefits that authority applies to.
2. Administrative or Substantive Problem Addressed: Current s. 40.08 (1) provides, generally, that WRS benefits are exempt from tax levies, are not assignable, and are not subject to execution, levy, attachment, garnishment or other legal process. It also provides an exception to this general rule for the DOR to attach benefit payments to satisfy delinquent state income tax obligations. Other exceptions are provided in subsequent subsections (e.g., withholding for delinquent child support, division under a Qualified Domestic Relations Order, and withholding for group health insurance premiums).
3. Need for Change: The readability of the statute would be enhanced if the exception for state income tax obligations were relocated to a separate subsection, like the other exceptions. Better clarity can also be achieved by specifically identifying which benefits are subject to levy by DOR. In 2000, DOR indicated to the Department that DOR's authority to attach benefits under this provision is limited solely to WRS benefits. The requested change would clarify that only WRS benefits (retirement annuities under ss. 40.23 and 40.24; lump sum payments under s. 40.25 (1) and (2); and disability annuities under s. 40.63) are subject to DOR attachment.
4. Fiscal Effect: There is no fiscal effect associated with this change.
5. Proposed language:

SECTION \_\_. 40.08 (1) of the statutes is amended to read:

40.08 (1) EXEMPTIONS. The benefits payable to, or other rights and interests of, any member, beneficiary or distributee of any estate under any of the benefit plans administered by the department, including insurance payments, shall be exempt from any tax levied by the state or any subdivision of the state and shall not be assignable, either in law or equity, or be subject to execution, levy, attachment, garnishment or other legal process except as specifically provided in this section; ~~except that, notwithstanding s. 40.01 (2), the department of revenue may attach benefit payments to satisfy delinquent tax obligations. The board and any member or agent thereof and the department and any employee or agent thereof are immune from civil liability for any act or omission while performing official duties relating to withholding~~

~~any annuity payment under this subsection.~~ The exemption from taxation under this section shall not apply with respect to any tax on income.

SECTION \_\_. 40.08 (1r) of the statutes is created to read:

40.08 (1r) DELINQUENT STATE TAX OBLIGATIONS. Notwithstanding sub. (1) and s. 40.01 (2), the department of revenue may attach any lump sum payment or monthly annuity paid under s. 40.23, 40.24, 40.25 (1) or (2), or 40.63 to satisfy delinquent state income tax obligations. The board and any member or agent thereof and the department and any employee or agent thereof are immune from civil liability for any act or omission while performing official duties relating to withholding from any payment under this subsection.

## F. Duty Disability Income Verification

1. Specific Statutory Change Requested: Amend s. 40.65 (3), Stats., relating to income verification for the purpose of determining continuing eligibility for the Duty Disability Program, to delete the requirement that recipients of Duty Disability benefits submit certified copies of their most recent state or federal income tax return. Instead, authorize the Wisconsin Retirement Board to require submission when appropriate.
2. Administrative or Substantive Problem Addressed: Current s. 40.65 (3), Stats., authorizes the Wisconsin Retirement Board to request any income or benefit information, or any information about the marital status of a recipient of Duty Disability benefits under s. 40.65. In addition, the provision requires the Board to require a participant receiving such benefits to submit a certified copy of his or her most recent state or federal income tax return. The Board may terminate the benefit of anyone who refuses to submit information requested by the Board. The requirement to submit an annual tax return imposes an unnecessary burden on many recipients of Duty Disability who otherwise would not be required to file state or federal taxes due to insufficient income and imposes an administrative burden on the Department which must collect and review these returns.
3. Need for Change: The Department believes that eliminating the mandatory submission of tax returns will have no material effect on the Department's ability to review recipients' continued eligibility for the Duty Disability Program and will remove an administrative burden from the Department. Because this change would still give the Board the authority to request this information and because benefits may still be terminated if requested information is not submitted, the Board and the Department will retain the ability to seek appropriate financial information in appropriate cases.
4. Fiscal Effect: There is no fiscal effect associated with this change.
5. Proposed language:

40.65 (3) of the statutes is amended to read:

40.65 (3) The Wisconsin retirement board shall determine the amount of each monthly benefit payable under this section and its effective date. The board shall periodically review the dollar amount of each monthly benefit and adjust it to conform with the provisions of this section. The board may request any income or benefit information, or any information concerning a person's marital status, which it considers to be necessary to implement this subsection and shall may require a participant to submit a certified copy of his or her most recent state or federal income tax return. The board may terminate the monthly benefit of any person who refuses to submit information requested by the board or who submits false information to the board.

**G. Date of Death for Death Benefit Purposes.**

1. Specific Statutory Change Requested: Amend s. 40.71 (1) (b), Stats., to clarify that to be deemed a participating employee on the date of death, and therefore eligible for WRS death benefits, the employer may not report a termination date for the deceased participant that was prior to the participant's death.
2. Administrative or Substantive Problem Addressed: Under current law, certain death benefits are payable to the survivors of an employee who dies while currently employed by a WRS employer. Current s. 40.71 (1) (b), Stats., provides that if a participant dies less than 1 year after the last day for which earnings were paid, the participant will be considered on a leave of absence, thereby triggering the payment of these death benefits, if the employer has not filed notice of the termination of employment prior to the employee's death. This provision is ambiguous. The determination of whether a participant died before terminating service with an employer should depend upon the actual date of termination and not on whether the employer actually files the termination report before the date of death.
3. Need for Change: This change will clarify that the relevant date to be considered by the Department in determining whether a deceased employee was participating at the time of death is the date of the actual termination and not the date that the termination notice was filed.
4. Fiscal Effect: There is no fiscal effect associated with this change.
5. Proposed language:

40.71 (1) (b) of the statutes is amended to read:

40.71 (1) (b) If the date of death is less than one year after the last day for which earnings were paid, a participant is deemed a participating employee on leave of absence, notwithstanding the fact that no formal leave of absence is in effect, if the participating employer for which the participant last performed services as a participating employee ~~has~~ does not file a notice with the department that ~~of the participant's~~ termination of employment occurred prior to the employee's participant's death.



## Champagne, Rick

---

**From:** Conlin, Bob - ETF  
**Sent:** Friday, September 21, 2007 9:28 AM  
**To:** Champagne, Rick  
**Subject:** ETF Ch. 40 drafting request: Technical and Minor Substantive Changes

**Attachments:** LegDraftingRequest.doc; RemedialLegtSubmittal.doc



LegDraftingRequestRemedialLegtSubmittal.doc (136 KB... tal.doc (161...

Rick:

Per our discussion, attached is a drafting request from the Department. We want them all in one bill. You'll note that most of the items are things you have already drafted and most of the others are very minor technical adjustments.

<<LegDraftingRequest.doc>>

You have already provided bill drafts of items 1 through 9. I have also attached a memo we did to the Law Revision Committee staff (Dyke and Rose) which will provide more background, if you need it, on items 9 through 14.

<<RemedialLegtSubmittal.doc>>

I believe item 15 is self-explanatory.

As to item 16, the following few paragraphs help explain the need for the change:

The problem goes back to 1995 Wisconsin Act 302.

Prior to Act 302, the statutes stated that a beneficiary (of a non-annuitized account) was eligible for all of the annuity options for which the participant would have been eligible. This meant that we offered all of the annuity options to beneficiaries, including guarantee period options, accelerated payments and joint and survivor annuities.

Act 302 was proposed and enacted to bring the WRS into compliance with the Internal Revenue Code, including the minimum distribution requirements. Two of the changes needed were to discontinue offering joint and survivor options to beneficiaries, and to only offer guarantee period options to participants and beneficiaries that would not exceed the annuitant's life expectancy (based on federal mortality tables). This last change resulted in the "slider" guarantee period option, in which we offer a life annuity with a guarantee period that ends at the end of the annuitant's life expectancy. For example, a participant or beneficiary for whom a 180-payment guarantee period would exceed that person's life expectancy would instead be offered a life annuity with a lesser number of guaranteed payments that would extend to the end of that individual's actual life expectancy.

There was apparently an oversight in Act 302 that was not identified until after it became law, and which still remains in the statutes. § 40.73 (3) (e) was correctly amended to prohibit joint and survivor options for beneficiaries. However, instead of limiting the number of guaranteed payments available to beneficiaries to the number that would extend to that beneficiary's life expectancy, it simply prohibits the life annuity with 180 payments guaranteed for beneficiaries, period. The proposed change would limit the number of payments to the beneficiary's life expectancy.

Bob Conlin, Director  
Legislation, Communications, and Planning Wisconsin Dept. of Employee Trust Funds  
(608) 261-7940

This email message and any attachments may contain information that is confidential, privileged, proprietary, or otherwise protected by law. This information is intended solely for the named addressee (or a person responsible for delivering it to the addressee). If you have received this message in error, please notify the sender immediately and delete it from your computer. Unauthorized disclosure, copying, printing, or distribution of this message is prohibited.