

**State of Wisconsin
Department of Employee Trust Funds
Employee Trust Funds Board
Wisconsin Retirement Board
Teachers Retirement Board
Group Insurance Board
Deferred Compensation Board**

The Wisconsin department of employee trust funds proposes an order to amend ETF 11.15 (4), relating to the agent for service of process upon the boards that are attached to the department.

Notice of Public Hearing

A public hearing on this proposed rule will be held on August 13, 2009 at 1:00 p.m. in Conference Room GB at the offices of the Department of Employee Trust Funds, 801 West Badger Road, Madison, Wisconsin. Persons wishing to attend should come to the reception desk up the stairs (or by elevator) from the main entrance to the building.

Analysis Prepared by the Department of Employee Trust Funds

1. Statute interpreted:
Section 40.03, Wis. Stats.
2. Statutory authority:
Sections 40.03 (2) (i), (ig), (ir) and 227.11 (2) (a), Wis. Stats.
3. Explanation of agency authority:
By statute, the DETF Secretary is expressly authorized, with appropriate board approval, to promulgate rules required for the efficient administration of any benefit plan established in ch. 40 of the Wisconsin statutes. Also, each state agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.
4. Related statute or rule:
Ch. ETF 11, Wis. Admin. Code, establishes a procedure for the review of appealable department determinations by the board responsible for the subject matter. There are no other related administrative rules or statutes.
5. Plain language analysis:
The purpose of this rule is to improve the procedure for receipt of service of process upon the boards attached to the department by increasing the number of persons who are authorized to accept such service. The rule eliminates the reference to a chief counsel and changes that position to

general counsel, and adds to other positions to the list of persons designated to accept service for the board.

6. Summary of, and comparison with, existing or proposed federal regulations:
There are no existing or proposed federal regulations that directly pertain to this proposed rule.
7. Comparison with rules in adjacent states:

The department did not locate any comparable rule or statute in any adjacent states.
8. Summary of factual data and analytical methodologies:
Currently only three positions are designated by rule to receive service on behalf of the board: the chief counsel of the department and the division administrator or program director administering the program which pertains to the underlying appeal to the board.

This rule will improve the procedure for receipt of service of process upon the boards attached to the department by increasing the number of persons who are authorized to accept such service.
9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report.
The rule does not have an effect on small businesses because private employers and their employees do not participate in, and are not covered by, the Wisconsin Retirement System.
10. Effect on small business:
There is no effect on small business.
11. Agency contact person (including email and telephone):
Please direct any questions about the proposed rule to David Nispel, General Counsel, department of employee trust funds, P. O. Box 7931, Madison, WI 53707. The email address: david.nispel@etf.state.wi.us. The telephone number is: (608) 264-6936.
12. Place where comments are to be submitted and deadline for submissions:
Written comments on the proposed rule may be submitted to David Nispel, General Counsel, department of employee trust funds, 801 W. Badger Road, P. O. Box 7931, Madison, WI 53707. Written comments must be received at the department of employee trust funds no later than 4:30 p.m. on August 13, 2009.

Text of Proposed Rule

ETF 11.15 (4) is amended to read:

(4) AGENT FOR SERVICE UPON BOARD. Except as provided in this subsection, no person or employee of the department is authorized to accept service for the board. From time to time the board may by motion designate a person, either by name or position, as agent to accept personal service for the board. Persons holding the following positions, whose names shall be disclosed by the department upon request, are designated as agents to accept personal service on behalf of the board:

- (a) The ~~chief counsel~~ general counsel of the department.
- (b) The division administrator or program director administering the particular program which is the subject matter of the underlying appeal to the board.
- (c) The deputy secretary of the department
- (d) The secretary of the department, or his or her designees.

Proposed Effective Date:

This rule shall take effect on the first day of the month commencing after the date of publication in the Wisconsin administrative register as provided by s. 227.22 (2) (intro.), Stats.

Fiscal Estimates:

The rule will have no effect on county, city, village, town, school district, technical college district or sewerage district fiscal liabilities or revenues. The rule will have no effect on state funds.

Free Copies of Proposed Rule:

Copies of the proposed rule are available without cost from the Office of the Secretary, Department of Employee Trust Funds, P. O. Box 7931, Madison, WI 53707-7931. The telephone number is: (608) 266-1071.

Approved for publication:

This proposed rule is approved for publication in the Wisconsin Administrative Register.

Date this _____ day of July, 2009.

David Stella, Secretary
Department of Employee Trust Funds