

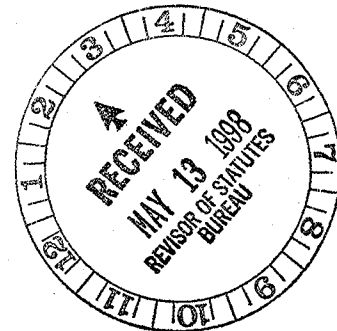
STATE OF WISCONSIN)
) SS
DEPARTMENT OF EMPLOYE TRUST FUNDS)

I, Eric O. Stanchfield, Secretary of the Department of Employee Trust Funds and custodian of the official records, certify that this copy of the annexed rule, relating to withdrawal of funds invested in the Public Employee Trust Fund by a separate retirement system as permitted by s. 40.03 (1) and (2) (q), Wis. Stats., has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

(no seal) IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Employee Trust Funds at 801 West Badger Road in the city of Madison, this

13th day of May 1998

Eric O. Stanchfield
Eric O. Stanchfield



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

Clearinghouse Rule #CR 96-145

AN ORDER repealing s. ETF 10.12 (4) (d) and amending s. ETF 10.12 (4) (b) and (c), Wisconsin Administrative Code, relating to withdrawal of funds invested in the Public Employee Trust Fund by a separate retirement system as permitted by s. 40.03 (1) and (2) (q), Wis. Stats.

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

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

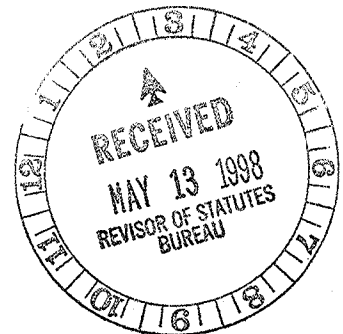
Part 1 - Analysis prepared by the Department of Employee Trust Funds;

Part 2 - Rule text in Final Draft Form;

Part 3 - Recommendations of the Legislative Council Staff;

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

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



Submitted by:

Robert Weber
Chief Legal Counsel
Wisconsin Department of Employee Trust Funds
801 East Badger Road
P.O. Box 7931
Madison, Wisconsin 53703-7931
Telephone: (608) 266-5804

Part 1: Analysis Prepared by the Wisconsin Department of Employee Trust Funds

General Summary of Rule.

The City of Milwaukee is one of only two separate retirement systems which has invested its funds in the Public Employee Trust Fund, as permitted under s. 40.03 (1)(n) and (2)(q), Wis. Stats. and s. ETF 10.12 (4), Wis. Admin. Code. The City of Milwaukee retirement system desires to withdraw its funds and has begun doing so. The proposed rule would permit the City of Milwaukee to withdraw its funds more rapidly from the Public Employee Trust Fund than is currently permitted, provided the Secretary of the Department of Employee Trust Funds (DETF) determines that no harm would result. The proposed rule is not limited in its application to the City of Milwaukee and would apply to any separate retirement system investing in the Public Employee Trust Fund as permitted under s. 40.03 (1)(n) and (2)(q), Wis. Stats.

The present policy is set out in s. ETF 10.12 (4)(c), Wis. Admin. Code, which limits withdrawals as follows:

Withdrawals by a separate retirement system shall be limited in any calendar month to the greater of 5% of the system's balance on deposit or \$2 million.

This means that if an account balance exceeds \$40 million, the maximum withdrawal is 5% of the balance. As each withdrawal is made, the balance falls and the 5% limit decreases, too. Once the balance on deposit reaches \$40 million, withdrawals at a steady \$2,000,000 per month may be made. Thus, under the present rule, it would take over five years for a separate retirement system with \$374 million on deposit (as the City of Milwaukee had in December 1995 when it began making withdrawals) to fully withdraw its investment from the Trust Fund if it acts as quickly as possible. This time estimate is actually overly optimistic, since it ignores interest earned on the remaining balance which would be credited to the account during the five years, thereby prolonging the time needed to close the account.

Protection against extraordinarily large withdrawals is necessary, to avoid imprudently draining the Trust Fund's cash on hand or interfering with long-range investment plans by forcing the premature sale of investments. However, there is no reason to enforce the present 5% or \$2 million limit if larger withdrawals could safely be made without harm to the Public Employee Trust Fund.

The proposed rule allows the DETF Secretary to permit more money to be withdrawn by a separate retirement system each month, provided the Secretary consults prior to each monthly withdrawal with the Executive Director of the State of Wisconsin Investment Board and is satisfied that no harm would result to the Public Employee Trust Fund (i.e. no imprudent reduction of cash on hand and no premature liquidation of investments) and or to Wisconsin Retirement System participants who have a beneficial interest in the Trust Fund and its earnings.

The proposed rule also establishes the minimum period of advance notice required for any withdrawal at 21 days (instead of the current requirement for 60 days notice of withdrawals in excess of \$10 million). Withdrawals are expressly limited to one per month, paid on the first working day of a month, which codifies present practices.

Authority for Rule.

S. 40.03 (2) (q), Wis. Stats.

Statutes Interpreted:

S. 40.03 (1) (n) and (2) (q), Wis. Stats.

Initial Fiscal Estimate. The Department estimates that there will be no direct fiscal impact from this rule making upon the state and anticipates no effect upon the fiscal liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education school district or sewerage district.

Initial Regulatory Flexibility Analysis. The Department anticipates that the provisions of this proposed rule will have no direct adverse effect on small businesses.

Copies of Rule and Contact Persons. Copies of this rule are available without cost by making a request to the Department of Employee Trust Funds, Office of the Secretary, P.O. Box 7931, Madison, Wisconsin 53703-7931, telephone (608) 266-1071. For questions about this rule making, please call Robert Weber, Chief Legal Counsel, (608) 266-5804.

Part 2: TEXT OF RULE

SECTION 1. ETF 10.12 (4) (b) and (c) of the Wisconsin Administrative Code are amended to read:

ETF 10.12 (4) (b) The separate retirement system shall provide the ~~department secretary~~ no less than ~~60~~ 21 days advance notice of any withdrawal ~~in excess of \$10 million.~~

(c) Withdrawals by a separate retirement system shall be limited in any calendar month to one withdrawal paid on the first working day of the month of the greater of:

1. 5% of the system's balance on deposit ~~or~~ as was last calculated by the department.
2. \$2 million, or

3. Such other amount as the secretary, after consulting with respect to each withdrawal with the executive director of the state of Wisconsin investment board, determines may be withdrawn without necessitating the premature liquidation of any investment or imprudently reducing cash holdings of the trust fund or otherwise causing actual harm to the participants of the Wisconsin retirement system who have a beneficial interest in the trust fund and its earnings.

SECTION 2. ETF 10.12 (4)(d) is repealed.

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



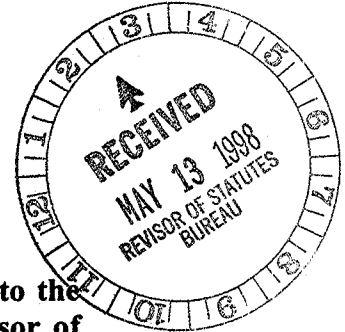
David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 96-145

Comments

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



2. Form, Style and Placement in Administrative Code

- a. In the introductory clause, the notation "(4)" should be inserted before the phrase "(b) and (c)."
- b. In the analysis to the rule, not only should the statutory authority for the rule be cited, but also a list of statutes interpreted by the rule should be included, even if the citations of the latter merely repeat the citations of the former.
- c. In s. ETF 10.12 (4) (c) 1., the word "or" should precede, rather than follow, the underscored material.

Part 4: Report Required by s. 227.19 (3), Wis. Stats.

(a) Need for the Rule.

This rule amendment is needed to permit separate retirement systems which have invested funds in the Public Employe Trust Fund to withdraw their funds more rapidly than is permitted under the current rule. Under the amended rule such accelerated withdrawals would only be permitted if they do not result in imprudent reduction of cash on hand or premature liquidation of investments, nor have any harmful effect on individuals who have a beneficial interest in the Trust Fund.

(b) Modifications to the Rule.

There were no modifications to the rule other than those recommended by the Legislative Council Staff.

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

No one appeared at the public hearing or offered written testimony.

(d) Response to Legislative Council Staff Recommendations.

The proposed rule was received by the Legislative Council on 8/30/96. The Legislative Council report was received by the Department of Employee Trust Funds on 9/27/96. All recommendations of the Legislative Council Staff were implemented.

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

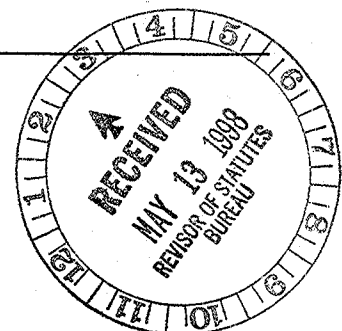
Effective Date: This rule shall take effect on the first day of the month commencing after publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Wis. Stats.

Signed at Madison, Wisconsin this 27th day of August, 1996.

WISCONSIN DEPARTMENT OF EMPLOYE TRUST FUNDS

/s/ Eric Stanchfield

Eric Stanchfield, Secretary





STATE OF WISCONSIN

Department of Employee Trust Funds

May 12, 1998

Eric Stanchfield
Secretary
801 West Badger Road
P.O. Box 7931
Madison, Wisconsin 53707-7931

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

RE: Clearinghouse Rule No. 96-145

Dear Mr. Poulson:

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

I request that the rule be published in the June 30 issue of the administrative register. I also enclose a copy of the rule on disk, in Wordperfect format.

Please contact me if you have any questions.

Sincerely,

David Stella, Administrator
Division of Retirement Services
(608) 267-9038
FAX # (608) 261-4549
TDD # (608) 267-0676

