

CR 92-59

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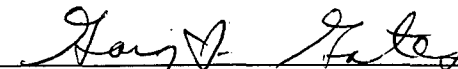
SEP 3 1992
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Revisor of Statutes
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STATE OF WISCONSIN)
)
DEPARTMENT OF EMPLOYE TRUST FUNDS)

I, Gary I. Gates, Secretary of the Department of Employee Trust Funds and custodian of the official records of this department, certify that the attached rule-making order affecting ss. ETF 10.01(3), 10.70(5), 10.80, 20.016, 20.02, 20.15(3) and (5), 20.20(3) and 20.30, Wis. Adm. Code, relating to re-establishment of forfeited service, eligibility for separation benefits, disclosure of beneficiary designations, eligibility of re-hired annuitants and students for WRS participation, definition of guardian, conditions under which a guardian may file benefit applications and other documents, and computation of interest on annuity underpayments, was issued by this department on August 28, 1992.

I further certify that I have compared this copy with the original on file in this department and that it is a true copy of the whole of the original.

Dated at Madison, Wisconsin, this 28th day of August, 1992.



Gary I. Gates
Secretary

ORDER OF THE
DEPARTMENT OF EMPLOYE TRUST FUNDS -- OFFICE OF THE SECRETARY
and
EMPLOYE TRUST FUNDS BOARD
GROUP INSURANCE BOARD
WISCONSIN RETIREMENT BOARD
TEACHER RETIREMENT BOARD
DEFERRED COMPENSATION BOARD

AMENDING, REPEALING AND RECREATING, AND CREATING A RULE

To amend ETF 20.15 (3) and 20.20 (3); to repeal and recreate ETF 10.70 (5) and 20.02; and to create ETF 10.01 (3), 10.80, 20.016, 20.15 (5), and 20.30, relating to re-establishment of forfeited service, eligibility for separation benefits, disclosure of beneficiary designations, eligibility of re-hired annuitants and students for WRS participation, definition of guardian, conditions under which a guardian may file benefit applications and other documents, and computation of interest on annuity underpayments.

ANALYSIS PREPARED BY THE DEPARTMENT OF EMPLOYE TRUST FUNDS

Authority for Rule: s. 40.03 (2) (i), Stats.

Statutes interpreted:

Section 1,3: s. 40.08 (9) and (9m), Stats.
Section 2: s. 40.07 (1), s. 40.02 (8) (a), Stats.
Section 4: s. 40.22 (2) (gm), Stats.
Section 5: s. 40.22 (2) (L), s. 40.23 (1) (a) 1, Stats.
Section 6,7: s. 40.02 (17), s. 40.25 (6), Stats.
Section 8: s. 40.25 (2m), Stats.
Section 9: s. 40.08 (7) (c), Stats.

General summary of rule.

Sections 1 and 3. Except for applications for benefits which do not exceed \$5,000, s. 40.08 (9m), Stats., requires that documents having a long-term effect on a person's rights and benefits under chapter 40, Stats., if signed by a guardian, must be accompanied by a court order approving the terms of the document. Current statutes and rules do not define the status of documents filed without the required court order. This rule clarifies that such documents have no effect. Documents required to preserve or increase a person's insurance coverages are specifically excluded from this rule because they can be revoked at any time.

ETF 10.01 (3) "Guardian" has the meaning given in s. 880.01 (3), Stats., and includes conservators appointed pursuant to s. 880.31, Stats.

SECTION 2. ETF 10.70 (5) is repealed and recreated to read:

ETF 10.70 (5). Notwithstanding sub. (3), disclosure of an individual's beneficiary designation shall only be made under any of the following circumstances:

(a) While the individual is living, to the individual or to his or her duly authorized representative, upon request in person or in writing.

(b) After the death of the individual:

1. Upon request in person or in writing, to the personal representative of the individual's estate, to a beneficiary of the individual, or to the personal representative's or the beneficiary's duly authorized representative;

2. To an insurance carrier or administrator of benefits under ch. 40, Stats., or predecessor as necessary for proper payment of benefits.

(c) To parties determined by the department to have an interest in the designation, when the information is relevant to a pending court action or to a pending appeal under s. 40.03 (1) (j), (6) (i), (7) (f), (8) (f), or 40.80 (2g), Stats.

SECTION 3. ETF 10.80 is created to read:

ETF 10.80. INVALID BENEFIT APPLICATIONS AND BENEFICIARY DESIGNATIONS.

(1) Except as provided in sub. (2), an application for a benefit, a designation of a beneficiary or any other document which is signed by a guardian as provided in s. 40.08 (9m), Stats., but is not accompanied by a certified copy of an order of a circuit court approving the specific terms of the document is invalid and is deemed not to have been filed with the

department. The department shall return any such document to the guardian as soon as administratively feasible, but failure by the department to return such a document shall not be interpreted as approval.

(2) A certified copy of an order of a circuit court approving the specific terms of the document is not required if the document:

(a) Is a benefit application subject to s. 40.08 (9), Stats., and s. ETF 10.78;

(b) Is not required by statute, administrative rule, or contract administered by the department to be signed by the person under guardianship;

(c) Is an insurance application which is required to be filed in order to initiate, increase, continue, or convert insurance coverage or to transfer coverage from one insurance carrier to another; or

(d) Can be revoked or changed in the future without restriction, or is otherwise determined by the department to be without long-term effect on the rights and benefits of the person under guardianship. This paragraph does not apply to designations of beneficiary.

SECTION 4. ETF 20.016 is created to read:

ETF 20.016. STUDENT EMPLOYEES. (1) As provided in s. 40.22 (2) (gm), Stats., a participating employer may not include under the provisions of the Wisconsin retirement system an employee first hired on or after April 23, 1992, if the employee is under the age of 20 and is regularly enrolled or expected to be enrolled as a full-time student in a public, private, or parochial elementary or high school as defined in s. 118.257 (1) (d), Stats.

(2) For purposes of this section, an employee who is not enrolled in school is expected to be regularly enrolled as a full-time student in a school included under s. 118.257 (1) (d), Stats., if all of the following apply:

(a) The employe is under age 20 and has not received a high school diploma or a general equivalency diploma;

(b) The employe was enrolled in a school included under s. 118.257 (1) (d), Stats., during the immediately prior regular semester;

(c) The employe has not notified the employer, as provided in sub. (3) (c), that he or she does not intend to enroll as a full-time student in a school included under s. 118.257 (1) (d) during the next regular semester.

(3) An employe who is excluded from participation in the Wisconsin retirement system by s. 40.22 (2) (gm), Stats., shall become eligible for participation, subject to s. 40.22 (2) and (2m), Stats., as if he or she had been initially hired on the earliest of the following dates:

(a) The date the employe attains age 20;

(b) The employe's first working day following the date the employe completes all requirements for a high school diploma;

(c) The employe's first working day following the date the employe notifies the employer that he or she has ceased to be enrolled, and does not expect to be enrolled during the next regular semester, as a full-time student in a school included under s. 118.257 (1) (d), Stats. The written statement of the employe or, if the employe is under age 18, of the employe's parent or guardian shall be sufficient to establish that the employe has left school and does not intend to return in the next semester. If the employe intends to continue as a part-time student only, he or she may establish this fact by submitting to the employer a written certification from the principal of the school in which the student is enrolled. The definition of full-time student shall be that of the school in which the student is enrolled.

SECTION 5. ETF 20.02 is repealed and recreated to read:

ETF 20.02. RE-HIRED ANNUITANTS. (1) In this section, "re-hired annuitant" means a participant to whom a retirement annuity is payable under s. 40.23, Stats., who was separated from all employment meeting the qualifications for inclusion under the Wisconsin retirement system specified in s. 40.22, Stats., on the date he or she became an annuitant, and who is employed by a participating employer after becoming an annuitant.

(2) A person is deemed to become an annuitant for purposes of s. 40.22 (2) (L), Stats., on the annuity effective date.

(3) (a) The department shall include a re-hired annuitant under the provisions of the Wisconsin retirement system as a participating employe if all of the following conditions apply:

1. The re-hired annuitant is employed in a position which meets the requirements for participation specified in s. 40.22, Stats.;

2. The re-hired annuitant exceeds the earnings limit specified in s. 40.26 (1) (a), Stats., during his or her annual earnings period;

3. The re-hired annuitant files with the department a written election to be included under the provisions of the Wisconsin retirement system as a participating employe. The election shall be on a form provided by the department and shall include employer certification of the date on which the earnings limit was exceeded.

(b) A re-hired annuitant may not file an election earlier than the date on which the earnings limit was exceeded or later than 31 days after the last day of the annual earnings period in which the earnings limit was exceeded. A re-hired annuitant who does not file an election when eligible shall subsequently qualify to file an election by meeting the requirements of par. (a) 1. and 2. in a subsequent annual earnings period.

(c) An election filed pursuant to par. (a) shall take effect on the first day of the month following its receipt by the department. The department shall terminate the annuity on the day prior to the effective date of the election, unless the department receives the re-hired annuitant's written notice revoking the election prior to the effective date of the election.

(4) The department may not consider a re-hired annuitant as a continuing participating employe for purposes of s. 40.22 (3m), Stats., unless the employe meets the requirements to become a participating employe as provided in ss. 40.22 and 40.26 (1), Stats.

(5) A re-hired annuitant whose annuity has not been terminated as provided in s. 40.26 (1), Stats., is ineligible for inclusion as a participating employe pursuant to s. 40.22 (2) (L), Stats., and is not subject to the 30-day separation requirement in s. 40.23 (1) (a) 1, Stats.

NOTE: A re-hired annuitant or employer may secure a copy of the election form required by s. ETF 20.02 at no charge by contacting the Department of Employee Trust Funds and asking for form ET-2319.

SECTION 6. ETF 20.15 (3) is amended to read:

ETF 20.15 (3) ~~Except as provided in sub (4), application~~ Application to reestablish credits under s. 40.25 (6), Stats., shall be accepted only once for a participant unless ~~the~~:

(a) The previous application has been canceled or withdrawn as provided in sub. (4);

(b) The participant receives a subsequent separation benefit, a retirement annuity under s. 40.23, Stats., or s. 40.24, Stats., or a lump sum payment under s. 40.25 (1), Stats., and reapplies under the provisions of s.

40.25 (6), Stats.; or

(c) The participant, after re-establishing forfeited service, becomes newly eligible to purchase additional forfeited service under a statute which became effective after the last application was provided by the department. However, only the newly authorized service shall be available for purchase, and the total service re-established by all purchases shall not exceed the limits specified in s. 40.25 (6) (a) 2., Stats.

SECTION 7. ETF 20.15 (5) is created to read:

ETF 20.15 (5) Payment by installments for reestablished credits shall not be available to any participant whose application is actually received by the department on or after October 1, 1992, notwithstanding the deemed application receipt date specified in sub. (1). The provisions of this section regarding installment payments shall continue to apply to those repurchases for which an installment payment was made prior to October 1, 1992, until that repurchase is completed or terminated pursuant to sub. (4).

SECTION 8. ETF 20.20 (3) (intro.) is amended to read:

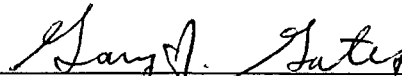
ETF 20.20 (3) An application for a separation benefit under s. 40.25 (2) or (2m), Stats., shall be canceled if:

SECTION 9. ETF 20.30 is created to read:

ETF 20.30. ANNUITY UNDERPAYMENTS. Pursuant to s. 40.08 (7) (c), Stats., if an annuity under s. 40.23, 40.24, 40.63, or 40.73, Stats., is underpaid by more than \$2 per month, and if the underpayment continues for 12 or more monthly payments, the payment to the annuitant to correct the underpayment shall include interest equal to 0.4% of the cumulative underpayment amount multiplied by the number of monthly payments in which the annuity was underpaid.

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

Signed at Madison, Wisconsin this 28th day of August, 1992.



Gary I. Gates
Secretary
Wisconsin Department of Employee Trust Funds