



CR 92-196

STATE OF WISCONSIN

Department of Employee Trust Funds

Eric Stanchfield  
Secretary

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In Reply Refer To:

STATE OF WISCONSIN )  
DEPARTMENT OF EMPLOYEE TRUST FUNDS)

FEB 24 1993  
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I, Eric Stanchfield, 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 10.10 (title), (1) to (4), (6), (7) (a) and (c), (8) to (10), (11) (a), (b) and (d), (12) to (17), Wis. Adm. Code, relating to establishing procedures that apply to elections of participants to the employe trust funds board or the teachers retirement board, was issued by this department on February 22, 1993.

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 22<sup>nd</sup> day of February.

Eric O. Stanchfield  
Eric Stanchfield  
Secretary

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DOUGLAS J. HARRIS  
STATISTICAL

ORDER OF THE DEPARTMENT OF EMPLOYE TRUST FUNDS  
THE EMPLOYE TRUST FUNDS BOARD  
AND THE TEACHERS RETIREMENT BOARD  
AMENDING, REPEALING AND CREATING A RULE

To repeal s. ETF 10.10 (14); to amend s. ETF 10.10 (title), (1), (2), (3), (4), (6), (7) (a) and (c), (8), (9), (10), (11) (a), (b), and (d), (12), (13), (15), (16) and (17); and to create s. ETF 10.10 (1m)<sub>7</sub> relating to establishing procedures that apply to elections of participants to the employe trust funds board or the teachers retirement board.

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ANALYSIS PREPARED BY THE DEPARTMENT OF EMPLOYE TRUST FUNDS

Statutory Authority: ss. 40.03 (1) (m), (2) (i) and (p), and (7) (d) and 227.11 (2) (a)<sub>7</sub> Stats.

Statutes Interpreted: s. 40.03 (2) (p), Stats.

This rule revises and simplifies procedures that apply to electing members to the teachers retirement board and applies those same procedures to elections of annuitants to the employe trust funds board.

Until the enactment of 1991 Wisconsin Act 116, the only board affiliated with the Wisconsin retirement system to which members were elected was the teachers retirement board. 1991 Wisconsin Act 116 created one position on the employe trust funds board that is to be filled by the election of an annuitant. Section 40.03 (2) (p), Stats., as amended by the act, requires the department of employe trust funds (department) to establish procedures and conduct the elections of elective members to both boards.

The rule: applies to both elections to the employe trust funds board and the teachers retirement board; clarifies who is eligible to vote for a given board vacancy; reduces the number of signatures that a candidate must file in order to be on the ballot; gives the candidate flexibility to provide either biographical data or other information that he or she wants the department to

provide with the ballot to eligible voters; requires the department to keep the ballots 45 days rather than 30 days before they are destroyed in order to give time to request a recount; and simplifies the election procedures.

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SECTION 1. ETF 10.10 (title) and (1) are amended to read:

ETF 10.10 (title) EMPLOYE TRUST FUNDS BOARD AND TEACHERS RETIREMENT BOARD ELECTIONS. (1) The purpose of this section is to set forth procedures for all elections of participating employes and annuitants to the employe trust funds board or the teachers retirement board, pursuant to ss. 15.16 (1) (d), 15.165 (1) and (3) (a) 1, 2, 6 and 7, and 40.03 (2) (p), Stats. ~~An election shall be scheduled whenever a term is due to expire.~~ Except where noted otherwise, the procedures established in this section shall apply for elections to either the employe trust funds board or the teachers retirement board.

SECTION 2. ETF 10.10 (1m) is created to read:

ETF 10.10 (1m) In this section: (a) "Annuitant" has the meaning given in s. 40.02 (4), Stats.

(b) "Election category" means the class of participating employes or annuitants who are eligible under s. 15.16 (1) (d) or 15.165 (3) (a) 1, 2, 6 or 7, Stats., to vote to elect a member to the employe trust funds board or the teachers retirement board.

(c) "Participating employe" has the meaning given in s. 40.02 (46), Stats.

(d) "Teacher" has the meaning given in s. 40.02 (55), Stats.

SECTION 3. ETF 10.10 (2), (3), (4), (5), (6), (7) (a) and (c), (8), (9), (10) and (11) (a), (b) and (d) are amended to read:

ETF 10.10 (2) ~~When~~ The secretary shall schedule an election when the term for an elective board position on the employe trust funds board or the teachers retirement board is due to expire or is vacated due to resignation, death or for any other reason, a successor shall be elected for the remainder of the unexpired term. When a term is due to expire, the secretary shall schedule the election to assure that the election is completed and the new board member announced prior to the date the new term commences. If an elective board position is vacant for any reason other than the term expiring, the secretary shall schedule an election at a time determined by the secretary, but no later than the next election specified in sub. (1). The annuitant or participating employe elected in an election to fill a position vacated prior to the end of a term shall serve the remainder of the unexpired term.

(3) ~~Persons~~ Annuitants or participating employes shall be ~~considered~~ eligible to vote if they are ~~in the department's participant file~~ an annuitant or participating employe in the election category for which the election is being held and meet the other voting eligibility requirements set forth in this section at the time ballots are ~~addressed~~ printed for distribution to employers or annuitants and the department has record of their eligibility.

(4) A For a teacher employed in more than one employment location within an election category specified under s. 15.165 (3) (a) 1 or 2, Stats., the department shall be sent ~~send~~ a ballot ~~at~~ to only one location as determined by the department. A For a teacher concurrently employed by both a public school and a vocational, technical and adult education district, the

department shall ~~be sent~~ send a ballot ~~at~~ to both locations, and the teacher shall be eligible to vote in both categories specified under s. 15.165 (3) (a) 1 and 2, Stats.

(6) ~~Employees~~ Participating employes of the state department of public instruction; state department of health and social services; state board of vocational, technical and adult education; and the ~~education~~ state educational communications board, who are classified as teachers under the Wisconsin retirement system, are not employed by a public school or a ~~vocation~~ vocational, technical and adult education district and ~~shall be ineligible to~~ may not vote in any election ~~category~~ to elect a teacher to serve on the teachers' retirement board.

(7) ~~Any participant~~ participating employe or annuitant satisfying the eligibility requirements of s. 15.165 (3) 1, 2, 6 or 7, Stats., on the date he or she files nomination papers with the department and who plans to continue meeting the eligibility requirements when assuming office, if elected, may be nominated for election to the teachers retirement board or any annuitant meeting the eligibility requirements of s. 15.16 (1) (d), Stats., on the date he or she files nomination papers with the department and who plans to continue meeting the eligibility requirements when assuming office, if elected, may be nominated for election to the employe trust funds board by satisfying the requirements of pars. (a) to (c) within the calendar dates established by the department. The department shall publish notice of the election, the nomination timetable and instructions for prospective candidates in the ~~department~~ department's newsletter. Prospective candidates may obtain nominating petition forms from the department. ~~The~~ A candidate shall do all of the following:

(a) Submit to the department a nominating petition, which shall contain at least ~~50~~ 25 but no more than ~~100~~ 50 valid signatures of participating employees or annuitants eligible to vote in that election, shall indicate indicating the name and address of the signer's employer, or last Wisconsin teaching employer for annuitants, the signer's social security number and the date signed. For annuitants, the name and address of the signer's employer shall be that of the signer's last participating employer in the Wisconsin retirement system, if the candidate is seeking election to the employe trust funds board, or the signer's last public school or vocational, technical and adult education school employer, if the candidate is seeking election to the teachers retirement board. If more than ~~100~~ 50 signatures are submitted, the department shall, ~~based upon the date signed,~~ review for validity only the first ~~100~~ 50 signatures for validity based on the earliest date signed and disregard the balance shall be disregarded.

(c) Submit to the department biographical or other information containing no more than 100 words. ~~If the biographical information submitted exceeds this maximum, the~~ The department shall print no more than the first 100 words shall be printed and the balance shall be dropped. The department shall print and send candidates' biographical of the candidate's information and send it to eligible voters with the ballots.

(8) The department shall print ballots with the candidates' names in alphabetical order and shall include, when the ballots are distributed, instructions for marking the ballot and the deadline for its return. ~~Each~~ For elections in which participating employes may vote, the department shall send each employer shall be sent one ballot individually labeled with the participant participating employe's name for each active participant

participating employe in the election category for which the election is being held who is employed by the employer and whose position is known to the department. A distribution list, prepared by the department and containing the names of participating employes for whom ballots are included, shall accompany the ballots. ~~Employers shall be required~~ The department shall require employers to verify, by signing the distribution list, that ~~ballots have been the employer distributed the ballots~~ within 30 days of the date they were mailed by the department. The employer shall indicate on the distribution list which ballots could not be distributed and shall return the undistributed ballots. ~~For the annuitant election, ballots shall be sent elections, the department shall send a ballot directly to teacher annuitants each annuitant who is eligible to vote in that election~~ at the last home address the department has on file.

(9) All voters shall certify their eligibility to vote in the appropriate election category by signing the ~~signature stub provided with the ballot and returning it with the sealed ballot~~ in an envelope.

(10) ~~An~~ The teachers retirement board shall appoint an election committee ~~shall be appointed by the teachers retirement board and that~~ shall consist of the secretary of the department or the secretary's designee and 2 teachers retirement board members not running for ~~re-election~~ reelection to determine the election results. The employe trust funds board shall appoint an election committee which shall consist of the secretary of the department or the secretary's designee and two employe trust funds board members who are not running for reelection to determine the election results. A majority of the election committee appointed by the respective boards shall determine the

validity of ~~questionable~~ ballots set aside by the department and certify the election results.

(11) ~~Ballot validation shall be accomplished~~ The department shall review each ballot by checking the signature stub accompanying the sealed against the name on the ballot. ~~Questionable items shall be~~ The department shall set aside ballots that it believes may be invalid under pars. (a) to (d) for review by the election committee. ~~If there is a question about the validity of a ballot after it is opened it shall also be set aside for review by the election committee.~~ A The election committee shall deem a ballot shall be deemed invalid by the election committee if any of the following apply:

(a) ~~The signature stub accompanies the ballot~~ is not the same as the name on the ballot.

(b) ~~The signature stub accompanying the sealed ballot~~ is not signed.

(d) ~~The election committee finds that a~~ A ballot is so defective that it the committee cannot be determined determine with reasonable certainty for whom the ballot was cast.

SECTION 4. ETF 10.10 (11) (e) is created to read:

ETF 10.10 11 (e) The ballot contains the name of a write-in candidate.

SECTION 5. ETF 10.10 (12) and (13) are amended to read:

ETF 10.10 (12) If the number of candidates who file nomination papers is equal to or less than the number of positions to be filled within an election category, ~~no~~ the department shall not schedule an election shall be held and the election committee shall declare all candidates ~~shall be declared~~ to be elected.



(13) If there is more than one teachers retirement board position to be filled in an election category and an election is held, voters may vote for as many candidates, in the appropriate election category, as there are positions to be filled.

SECTION 6. ETF 10.10 (14) is repealed.

SECTION 7. ETF 10.10 (15), (16) and (17) are amended to read:

ETF 10.10 (15) Candidates receiving the largest number of votes shall be elected. ~~A The election committee shall break a tie shall be broken~~ by the drawing of lots. The counting of ballots shall be conducted under the direction of the secretary or his or her designee.

(16) ~~The For elections scheduled because a term is due to expire, the~~ department shall notify all candidates of the results ~~by the~~ before May 1 following the close of the election. If the department calls an election for any reason other than the expiration of a term, the department shall notify all candidates of the results of the election within 15 days of the close of the election.

(17) The department shall retain nominating petitions and ballots for ~~30~~ 45 days from the date the candidates are notified in sub. (16). If a candidate wishes to request a recount, the candidate shall submit the request to the department within 30 days of the date the candidates are notified of the election results. A recount shall be conducted under the direction of the secretary or his or her designee.

SECTION 8. INITIAL APPLICABILITY. This rule shall apply to all board elections called by the secretary on or after the effective date of this rule.

SECTION 9. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin, this 15<sup>th</sup> day of February, 1993.

Eric O. Stanchfield  
Eric O. Stanchfield  
Secretary