



STATE OF WISCONSIN *CR 95-016*

**Department of Employee Trust Funds**

**Eric Stanchfield**  
*Secretary*  
201 East Washington Avenue  
P. O. Box 7931  
Madison, Wisconsin 53707

In Reply Refer To:

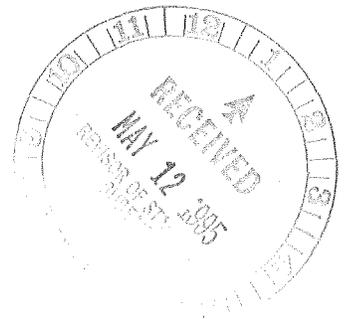
STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF EMPLOYEE TRUST FUNDS )

I, David C. Mills, Deputy Secretary of the Department of Employee Trust Funds and custodian of the official records, certify that the annexed rules, relating to purchase and crediting of service performed for governmental employers other than participating Wisconsin Retirement System employers was duly approved and adopted by the State of Wisconsin Teachers Retirement Board and Wisconsin Retirement Board on March 16, 1995 and by the State of Wisconsin Employee Trust Funds Board on March 17, 1995.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and othe 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 201 East Washington Avenue in the city of Madison, this 11th day of May 1995.

David C. Mills



Analysis Prepared by the Wisconsin Department of Employee Trust Funds

General summary of rule.

The 1992 state budget bill, 1991 Wisconsin Act 269, authorized participants in the Wisconsin Retirement System (WRS) to purchase WRS creditable service for service performed for the federal government or state or local governments in the United States by making a lump sum payment "equal to the present value of the creditable service . . . in accordance with rates actuarially determined to be sufficient to fund the full cost of the increased benefits that will result. . . ." Acceptable evidence of the service must be submitted to the Department, and service for which the participant can receive benefits from another public retirement system is not eligible.

The purchase of other governmental service is intended to be cost-neutral for the WRS. Under Act 269, the participant was required to pay the full cost of the increased benefit. However, the amount of the increased benefit depends on many factors and is extremely difficult to estimate in individual cases. The increase conceivably includes not only additional years of service added to the formula benefit calculation, but also more favorable treatment concerning insurance continuation, vesting, military service credits, and the actuarial discount for early retirement. On the other hand, if the participant retires at the formula benefit maximum, purchasing more service may not increase the benefit at all. If a money purchase benefit is payable, the purchase would increase the benefit no more than an equivalent contribution to the employee's additional account. Because these outcomes are determined by the law in effect and the employee's age, creditable service, and money purchase accumulation at the time of retirement, the full cost of purchasing other governmental service cannot be determined for an individual until retirement.

However, for groups of similarly situated participants, it is possible to determine the average cost of the increased benefit which is expected to result, based on actuarial assumptions, from a purchase of service made prior to retirement. This information would permit participants to make the purchase earlier in their careers, thus taking advantage of future interest compounding.

1993 Wisconsin Act 360 amended s. 40.25 (7), Stats., to require the Department of Employee Trust Funds to promulgate a rule establishing cost rates for different categories of participants, based on factors recommended by the actuary. Act 360 included an appropriation for the Department of Employee Trust Funds to contract with an actuarial consultant to develop a computer program to calculate the cost of a proposed service purchase for a participant of any age, salary, and service accrual. The proposed rule is required to authorize the use of this program to compute the cost of purchases of other governmental service.

The proposed rule describes the documentation that must accompany an application for purchase of other governmental service. It establishes the standards that non-WRS service must meet in order to be eligible for purchase. The Department proposes to apply minimum standards similar

to those applied to employment with a participating WRS employer. The employment must have required, or been expected to require, at least 600 hours of work. Periods of employment lasting less than 30 days and certain types of employment, e.g. as a student assistant, are not eligible. Service performed by rehired WRS annuitants is not eligible.

The actuary's calculation for valuing non-WRS service does not include the probable cost of incidental benefits associated with creditable service, and could not do so without adding much more complexity to the program. For this reason the rule specifically disallows use of purchased non-WRS service to meet service thresholds to qualify for WRS vesting, disability and insurance benefits, creditable military service, and eligibility to re-establish forfeited service or to purchase more non-WRS service.

The rule permits participants to purchase other governmental service in increments rather than all at once. This flexibility makes the purchase more feasible for the participant and allows the Department to ensure that the participant does not exceed applicable limits on contributions to a qualified pension plan as contained in section 415 of the Internal Revenue Code.

The rule also specifies how payments will be credited, how interest will be credited on refunds and deposits, and the participant's right to appeal departmental determinations.

Authority for Rule. Section 40.25 (7) (a) 5, Stats., as affected by 1993 Wisconsin Act 360; s. 40.03 (2) (i), Stats.

Statutes Interpreted. Section 40.25 (7), Stats., as affected by 1993 Wisconsin Act 360, and s. 40.25 (6) (a), Stats.

Final fiscal estimate. The Department anticipates no fiscal effect of this proposed rule on the fiscal liabilities or revenues of the state or any county, city, village, town, school district, vocational, technical and adult education district or sewer district.

Copies of Rule. Copies of this rule are available without cost upon request to the Office of the Secretary, Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707, telephone (608) 266-1071.

Contact Persons. Persons with questions about this rule may write to the above address or call Mary Anglim, Assistant Director, Retirement and Survivor Benefits, (608) 266-6611. Legal questions about this rule may be addressed to Robert Weber, Wisconsin Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707, telephone (608) 266-5804.

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

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Clearinghouse Rule #CR-95-016

AN ORDER creating ss. ETF 10.01 (7) and 20.18, Wisconsin Administrative Code, relating to purchase and crediting of service performed for governmental employers other than participating Wisconsin retirement system employers.

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

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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:

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Part 2

TEXT OF RULE

SECTION 1. ETF 10.01 (7) is created to read:

ETF 10.01(7). "Three continuous years of creditable service" for purposes of s. 40.25 (6) (a) 1 and (7) (a) 2, Stats., means an uninterrupted period of three complete annual earnings periods during each of which the participant earned some creditable current service. A period of continuous creditable service is considered interrupted if the participating employe is terminated from employment covered by the Wisconsin retirement system for a period of more than 90 calendar days. Service associated with contributions which have been debited to fund a benefit may not be applied toward continuous creditable service.

SECTION 2. ETF 20.18 is created to read:

ETF 20.18. PURCHASE AND CREDITING OF OTHER GOVERNMENTAL SERVICE. (1) PURPOSE. The purpose of this section is to interpret s. 40.25 (7), Stats., to establish procedures to implement this statute, and to establish the method of determining the purchase cost of other governmental service.

(2) DEFINITIONS. In this section: (a) "Current earnings" means the participant's earnings in the most recent complete annual earnings period provided the participant was a participating employe for the full annual earnings period, or the product of the participant's

hourly pay rate on the date of application multiplied by the number of hours the participant is expected to be employed as a participating employe during a full annual earnings period.

(b) "Date of application" means the date the department receives the participant's application to purchase other governmental service in a form approved by the department.

(c) "Military service" means active military service and active service as defined in s. ETF 10.01 (1g), active duty for training, and service in the national guard and the reserves.

(d) "Money purchase balance" means the sum of the participant's employe required contributions and accrued interest, including accumulations resulting from purchases under this section, and an amount from the employer reserve equal to the employe required accumulation less any amount resulting from purchases under this section.

(e) "Other governmental service" means one of the following: 1. Service, other than military service, performed as an employe of the federal government or of a state or local governmental entity in the United States which does not participate in the Wisconsin retirement system.

2. Service as an employe for a participating employer in the Wisconsin retirement system that was performed before the employer began to participate with respect to the employe's employment category, and that has not been recognized by the employer as creditable prior service.

(3) APPLICATION REQUIREMENTS. The department shall grant creditable service for other governmental service to participants who meet all of the following requirements: (a) The participant has at least three continuous years of creditable service on the date of application.

(b) The participant submits a complete application to the department within 90 days after terminating participating employment. An application is complete on the date the department receives all of the following: 1. An application to purchase the service, in a form approved by the department, signed and dated by the participant or the participant's authorized representative.

NOTE: An Estimate/Application to Purchase Other Governmental Service, form ET-2205, is available from the Department of Employee Trust Funds at no charge.

2. Evidence of the service which meets the requirements of sub. (4).

3. Payment of the cost of the other governmental service either in a lump sum or by transfer from the participant's additional contributions under s. 40.05 (1) (a) 5, Stats. Pursuant to sub. (9), the department may reject payments received after the end of the calendar year in which employment terminates, notwithstanding the 90-day time-limit in s. 40.25 (7) (a) 1, Stats.

4. Certification by the employer for which the service was rendered that the service will not be used to establish entitlement to, or the amount of, any other benefit from a plan regulated by ss. 401 or 403 of the internal revenue code as defined in s. 71.01 (6), Stats., to be paid by or on behalf of any federal, state, or local government entity, except for a disability or OASDHI benefit or a benefit paid for service in the national guard. If the employer's certification cannot be obtained, the department may accept the employe's affidavit.

NOTE: An Employer Certification Regarding Other Governmental Service, form ET-2206, is available from the Department of Employee Trust Funds at no charge.

(4) **REQUIRED EVIDENCE OF SERVICE.** A participant who proposes to purchase other governmental service shall provide to the department all of the following: (a) The correct name and current or latest address, and telephone number, if any, of the employer for which the service was rendered.

(b) The dates of service for the other governmental employer, including the beginning and ending dates of each period of employment.

(c) Evidence that the employment was full-time as defined in s. ETF 10.03 (2), or, if part-time, evidence of the number of hours worked in each calendar year sufficient to establish the amount of service which the participant is eligible to purchase. The department's determination as to the sufficiency of the documentation shall be conclusive.

NOTE: Examples of relevant documentation include: employer payroll records, the affidavit of the employer's authorized representative, the employee's pay stubs, records of the social security administration or the internal revenue service.

(d) Evidence that the employer was a federal, state, or local governmental entity in the United States. The department may rely on the determination of the social security administration as to whether an employer is a governmental entity.

(e) Evidence that the participant was an employe, as defined in s. 40.02 (26), Stats., of the governmental entity. Employment by a private or non-profit entity which received government moneys or which was under contract to provide services to or on behalf of a governmental entity does not constitute employment by the governmental entity.

(f) Evidence that the service required, or was expected to require, at least 600 hours of employment. If the employer's expectation cannot be established, the department may accept the employe's certification.

(g) The employe's certification that the service was not of a type that would be excluded under s. 40.22 (2) (e), (g), (gm), or (L), Stats., if the employer were a participating employer.

(5) COST TO PURCHASE OTHER GOVERNMENTAL SERVICE. (a) The cost to purchase other governmental service shall be sufficient to fund the increased benefit anticipated based on the law in effect on the date the department receives a complete application.

(b) The actuary shall recommend a method for calculating the purchase cost expressed as a percentage of the participant's current earnings. The calculation shall reflect the current benefit provisions of the Wisconsin retirement system and shall use the following factors: 1. Factors determined as of the date of application: a. The participant's current employment category as determined under s. 40.23 (2) (b), Stats. If the participant is employed in two or more categories, the computation shall be based on the current employment category in which the participant has accrued the most creditable service.

b. The participant's current earnings.

c. The number of years, in hundredths of a year, of other governmental service which the participant proposes to purchase.

2. Factors determined as of the January 1 preceding the date of application: a. The participant's attained age.

b. The participant's money-purchase balance.

- c. The interest crediting for which the participant is eligible under s. 40.04 (4) (a), Stats.
- d. The participant's final average earnings multiplied by 12.
- e. The participant's years of creditable service accrued under the Wisconsin retirement system.
- f. Economic assumptions used by the actuary to value Wisconsin retirement system liabilities.
- g. Assumptions regarding rates of mortality and withdrawal used by the actuary to value Wisconsin retirement system liabilities, modified to remove distinctions based on gender and occupation within the general employe category.

3. If the participant has terminated participating employment, the date of such termination, or otherwise the participant's assumed retirement date as determined by the actuary.

(b) The calculation may not be used as a basis for purchase of other governmental service until approved by the department.

(c) The actuary may at any time recommend changes in the factors or method of calculating the price of other governmental service if warranted by changes in the benefit structure or valuation assumptions of the Wisconsin retirement system. The calculation based on the new method or factors shall be applied in the matter and at the time prescribed by the department. However, complete applications already received by the department shall not be amended to reflect the new method or factors.

(6) CREDITABLE SERVICE BASED ON PURCHASE OF OTHER GOVERNMENTAL SERVICE; LIMITATIONS. (a) The amount of other governmental

service purchased through all purchases made under this section may not exceed the lesser of ten years or the amount of the participant's creditable service earned under the Wisconsin retirement system and credited as of the date of the last application.

(b) Other governmental service shall be credited in the general employment category regardless of the employe's current employment category or the nature of the service.

(c) Service, including teaching service, shall be granted in hundredths of a year, at the rate of one year for 1,904 hours worked in one calendar year.

(d) A participant's total creditable service in any annual earnings period from all sources may not exceed one year.

(e) Creditable service purchased under this section shall be used solely to determine a benefit amount under ss. 40.23, 40.25, 40.63, and 40.73, Stats. The department may not consider other governmental service when determining any of the following:

1. Whether the participant has met the vesting requirement under s. 40.23 (1) (a) 3, Stats.
2. Whether the participant has met the service requirements for disability benefits under s. 40.63, Stats., or s. ETF 50.50 (2) (b).
3. Whether the participant has met the service requirements to continue insurance after termination of employment under ss. 40.02 (25) (b) 6.b, 6m.b, 6r, or 40.72 (4) (b), Stats.
4. The amount of creditable service which the participant is eligible to re-establish under s. 40.25 (6) (a) 2, Stats., or to purchase under this section.
5. The amount of creditable military service for which the participant is eligible under s. 40.02 (15) (c), Stats.

(f) If service for a Wisconsin employer which has been credited under this section is subsequently recognized as creditable prior service under s. 40.21 (6), Stats., the participant's other governmental service credits shall be reduced accordingly and the associated contributions and interest shall be transferred to the employee's additional account.

(g) When the date of application precedes the decree date, service purchased under this section and the associated account value shall be included in account divisions pursuant to s. 40.08 (1m), Stats.

(7) APPLICATION PROCESS. (a) Upon the participant's request, the department shall issue an application to purchase a specified amount of other governmental service, including an estimate of the cost based on an estimated date of application.

(b) The participant may elect to make a payment which is greater or lesser than the amount estimated by the department.

(c) Upon receipt of a complete and timely application, the department shall grant creditable service in an amount based on the amount of the payment received and the calculation described in sub. (5), but not more than the department determines to be eligible for purchase. If otherwise eligible, the participant may subsequently apply to purchase all or any part of the eligible service which has not yet been purchased.

(d) If for any reason the department determines that the participant is ineligible to purchase other governmental service, it shall reject the application and return the payment.

(e) If the department determines that the payment is not sufficient to purchase all of the service applied for, or that some or all of the service is ineligible for purchase, it shall notify

the participant. The participant may remit an additional payment or provide additional evidence of service within 30 days of the notification. At the end of this 30-day period, the department shall grant service up to the maximum which is eligible and has been paid for, and refund any balance remaining.

(f) The department may reject any application which is incomplete six months after the date of application, and refund any associated payment.

(g) Except as provided in par. (8) (b), interest on refunds is limited to the amount provided under s. 40.08 (6), Stats.

(8) CREDITING OF PURCHASE PRICE. (a) The department shall deposit the payment in the participant's required contribution account under s. 40.04 (4) (a) 1, Stats. If the participant participates in the variable trust the payment shall be divided between the fixed and variable accounts in the same proportion as the participant's current contributions.

(b) The participant may request on the application form that a specific dollar amount of the payment be transferred from the participant's employee additional account under s. 40.05 (1) (a) 5, Stats. All additional contributions paid by the participant shall be applied to the payment before any interest accumulations are applied. For interest crediting purposes, the transfer shall be deemed to occur on the January 1 preceeding the date of application. If the department refunds any payment taken from additional contributions, it shall restore the refunded amount to the additional account as if the transfer had not occurred.

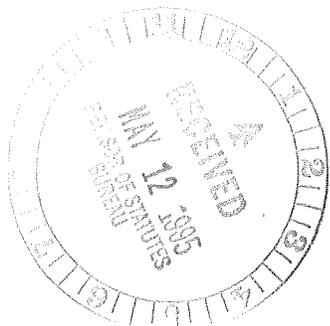
(c) The participant may not revoke or withdraw an application to purchase other governmental service once payment has been received by the department.

(d) The department shall notify the participant of the final disposition of the application, including the amount of the payment accepted, the amount of creditable service granted, and any portion of the purchase which was found to be ineligible. Any appeal regarding the purchase, including but not limited to the amount of service granted, the eligibility of the service proposed for purchase, the cost, or the participant's eligibility to make the purchase, must be received by the department within 90 days after the date of this notification. The fact that the purchase is less beneficial to the participant at retirement than anticipated is not grounds for appeal.

(9) LIMITATION ON CONTRIBUTIONS. Nothing in this section shall prohibit the department from refunding payments which are in excess of the limits on contributions to qualified retirement plans established under section 415 of the internal revenue code, as defined in s. 71.01 (6), Stats., and reducing the creditable service granted accordingly.

(END OF RULE TEXT)

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.), Wis. Stats.



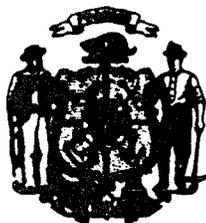
Signed at Madison, Wisconsin this 11<sup>th</sup>  
day of May, 1995.

*Eric O. Stanchfield*

Eric O. Stanchfield  
Secretary

**RULES CLEARINGHOUSE**

**Ronald Sklansky**  
 Director  
 (608) 266-1946



**David J. State, Director**  
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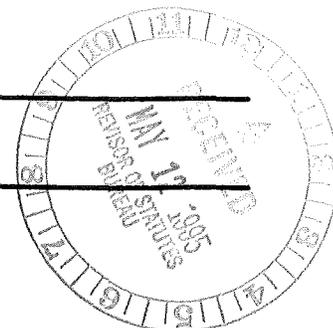
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**CLEARINGHOUSE REPORT TO AGENCY**


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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 95-016**

**AN ORDER** to create ETF 10.01 (7) and 20.18, relating to purchase and crediting of service performed for governmental employers other than participating Wisconsin retirement system employers.

Submitted by **DEPARTMENT OF EMPLOYE TRUST FUNDS**

01-31-95      RECEIVED BY LEGISLATIVE COUNCIL.  
 02-28-95      REPORT SENT TO AGENCY.

RNS:GAA:kjf:jt

## **LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE, [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

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## CLEARINGHOUSE RULE 95-016

### 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 first line of SECTION 1, "ETF 10.01" should precede "(7)" and "years" should replace "year".
- b. In s. ETF 20.18 (2) (a), "otherwise" should be deleted.
- c. In s. ETF 20.18 (3) (b) 4. and (7) (d), "at its discretion" should be deleted since "may" denotes a discretionary action.

## Part 4

### Report Required by s. 227.19 (3), Wis. Stats.

(a) Need for the Rule. Under s. 40.25 (7) (a) 5, Stats., the Department of Employee Trust Funds is required to establish rates by which the cost of other governmental service can be calculated. This rule fulfills this requirement and clarifies related administrative issues such as the minimum standards of eligible service and the method of crediting the purchase cost.

(b) Modifications to the Rule.

The rule was revised to achieve more clarity and administrative simplicity. Notable revisions are:

1. S. ETF 10.01(7): Removes requirement that the three years of continuous creditable service be served after the employee last returned to work. Under the revised language, participants who earned three continuous years of creditable service before a period of non-WRS employment but did not take a benefit need not re-serve the three years after returning to the WRS.
2. S. ETF 20.18 (2): Definitions of "date of application" and "money purchase balance" were added.
3. S. ETF 20.18 (3) (b) 3: Added clarification that IRS rules may prohibit the department from accepting payments received after the end of the last calendar year in which the employee has earnings.
4. S. ETF 20.18 (4) (f) and (g): Standards for eligible service are simplified. Employment which lasted less than 30 days is not eligible for purchase, but the requirement that employment last at least one year has been removed. The service must have required, or been expected to require, at least 600 hours. The participant will be asked to certify that he or she did not perform the service as a high-school student, a student assistant or employe-in-training, or a WRS annuitant.
5. S. ETF 20.18 (5): Reorganized to clarify dates as of which various factors will be determined.
6. S. ETF 20.18 (6) (f): Treatment of overlap between other governmental service and creditable prior service has been changed. In order to prevent double crediting of the same period of service, the initial rule draft provided that service for a Wisconsin employer which had been purchased as other governmental service was not eligible to be recognized as prior service. However, the structure of the automated systems used to calculate and credit prior service make this provision virtually impossible to enforce. The final draft provides that other governmental service which is subsequently recognized as prior service will be removed from the participant's

record, and the payment will be transferred to the participant's additional contributions account. Creditable prior service will not be affected.

7. S. ETF 20.18 (6) (g): Provision added to specify when purchased service would be included in an account division under a Qualified Domestic Relations Order.

8. S. ETF 20.18 (7) (d): Expanded to specify a period during which the participant can provide more evidence of service or make up an underpayment before the Department makes the final determination on the purchase.

9. S. ETF 20.18 (8) (a): Second sentence, regarding contributions received after the employee's account is debited, was incorrect and was deleted.

(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, and no written comments were submitted.

(d) Response to Legislative Council Staff Recommendations.

The Legislative Council Staff recommended three changes of wording. All were accepted.

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

(END OF FINAL DRAFT REPORT)

