

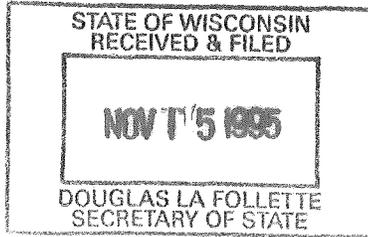


CR 95-088

STATE OF WISCONSIN

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 deadlines for requesting cancellation of applications for retirement annuities, disability annuities, beneficiary annuities, and lump sum payments and to disclosure of beneficiary designations and other individual personal information, was duly approved and adopted by the State of Wisconsin Teachers Retirement Board and Wisconsin Retirement Board on June 22, 1995 and by the State of Wisconsin Employee Trust Funds Board on June 23, 1995.

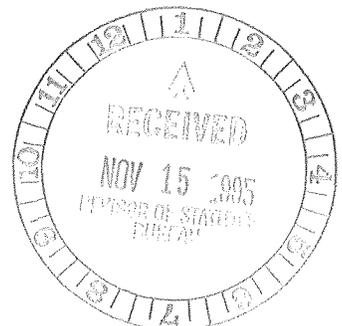
I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

(no seal)

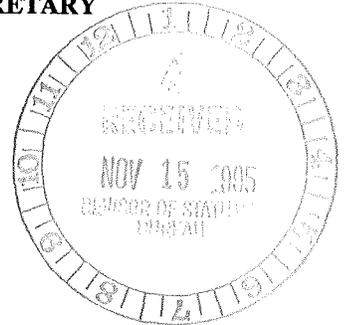
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Employee Trust Funds at 201 East Washington Avenue in the city of Madison, this 14th day of November 1995.

Handwritten signature of David C. Mills

David C. Mills



State of Wisconsin
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



Clearinghouse Rule #CR 95-088

RULE amending ss. ETF 10.70 (5), 10.82 (2) (b) 27, 28, and 29, 20.20 (1), (2), (3) intro. and (a), and (4), 50.31 and 60.51 and creating ss. ETF 10.633 and 10.70 (5) (d) and (6), Wisconsin Administrative Code, relating to deadlines for requesting cancellation of applications for retirement annuities, disability annuities, beneficiary annuities, and lump sum payments and to disclosure of beneficiary designations and other individual personal information.

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:

David A. Stella, Division Administrator
Division of Retirement Services
Department of Employee Trust Funds
P.O. Box 7931
Madison, Wisconsin 53707
(608) 267-9038

Analysis Prepared by the Wisconsin Department of Employee Trust Funds

General summary of rule.

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 Mary Anglim, Assistant Director, Retirement and Survivor Benefits, at the above address, or call her at (608) 266-6611.

Part 2

TEXT OF RULE

The proposed rule has two purposes.

First, the proposed rule attempts to conform existing administrative rules concerning the deadline for requesting cancellation of applications for retirement annuities, disability annuities, and lump sum payments with the interpretation of s. 40.04 (4) (a) 3, Stats., announced by the Employee Trust Funds Board. In a decision of an administrative appeal of a Department of Employee Trust Funds' determination, the Board ruled that the Department erred in interpreting s. ETF 20.20 (4), Wis. Admin. Code, as limiting the time period in which an applicant could cancel an application for a retirement annuity to 30 days from the date the application was received by the department or the effective date of the annuity, whichever was later. The Board interpreted s. 40.04 (4) (a) 3, Stats., to permit an applicant to cancel an application until such time as the participant's account in the employe accumulation reserve was actually debited to fund the benefit, notwithstanding the 30 day provision of s. ETF 20.20 (4), Wis. Admin. Code.

The purpose of this proposed rule is to define the date on which the debit under s. 40.04 (4) (a) 3, Stats., will occur, in order to provide some guidance for an applicant as to the deadline for requesting cancellation. Under this proposed rule, the debit connected with an

annuity, including a disability annuity, shall always be made on the twenty-first day of the month, after the first payment of the benefit. That will be 20 days after the first payment of an annuity or disability annuity, which are always dated the first of the month. When any lump sum payment is made, the debit shall occur on the date of the check. When these debit dates would otherwise fall on a day the department is closed, the debit will occur on the next working day. Participants will have until the close of the last working day before the debit occurs to file a cancellation.

It is possible a participant account might need to be recalculated or updated to correct errors or incorporate new amounts, such as contributions not reported by the employer until after benefits have already been paid. The rule permits the department to make such corrections without affecting the original debit date.

This proposed rule also would amend a provision permitting cancellations to be sent via facsimile machine. The department's so-called "fax rule" (s. ETF 10.82, Wis. Admin. Code) allows a fax to serve as a placeholder to preserve a filing date while the original document is being delivered. The department is prohibited from acting on a facsimile alone. Therefore, under present rules, both the fax and original would need to be received prior to the deadline to cancel an application. The amendment to s. ETF 10.82 (2) (b) permits the department to cancel a benefit application upon receipt by facsimile of a valid and timely request to cancel.

The second purpose of the proposed rule is to make minor changes in the department's policies regarding release of the individual personal information contained in its records. Currently, the department does not accept telephone requests for information regarding a person's beneficiary designation. All such requests must be made in person or in writing. The proposed amendment removes this limitation. However, the department will continue to verify the identity and proper authorization of any person who requests disclosure of a beneficiary designation. Section ETF 10.70 (5) (d) clarifies that the department may alert individuals to possible problems in their beneficiary designation even if the information was not requested. Section ETF 10.70 (6) specifies that the department may refuse to disclose information when the identity or authority of the requestor is not established to the satisfaction of the department.

Authority for Rule. Sections 40.03 (1) (m), (2) (i), (7) (d), and (8) (d), and 40.04 (4) (a) 3, Stats.

Statutes Interpreted. Sections 40.04 (4) (a) 3, 40.25 (3), and 40.07 (1), 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, technical college 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 contacting Mary Anglim, Department of Employee Trust Funds, P.O. Box 7931, Madison, Wisconsin 53707, telephone (608) 266-6611.

TEXT OF RULE

SECTION 1. ETF 10.633 is created to read:

ETF 10.633 DEBITING PARTICIPANT ACCOUNT TO FUND BENEFIT. (1) Except as provided in sub. (2), the date on which a participant's account in the employe accumulation reserve shall be debited to fund the benefit, as provided in s. 40.04 (4) (a) 3, Stats., shall be as follows: (a) For a retirement annuity under s. 40.23 or 40.24, Stats., or s. ETF 20.04, and for a beneficiary annuity under s. 40.73 (3), Stats., the debit date shall be the twenty-first day of the same month as the date of the first annuity check or other transfer of funds.

(b) For a disability annuity under s. 40.63, Stats., the debit date shall be the twenty-first day of the same month as the date of the first disability annuity check or other transfer of funds.

(c) For a lump sum payment of any kind, including a separation benefit under s. 40.25 (2) or (2m), or lump sum payments under s. 40.25 (1) or (4) or s. 40.73 (1) or (2), the debit date shall be the date of the benefit check.

(2) If the date specified under sub. (1) falls on a Saturday, Sunday or a holiday under s. 230.35 (4) (a), Stats., then the debit shall be made on the next working day.

(3) The department may correct its accounting of the participant's former account in the employe reserve after debiting the account. No corrections to the amount of the debit may affect

the date of the debit provided in sub (1) or (2) for other purposes, including those of ss. ETF 20.20 (2), (3) and (4), 50.31, and 60.51.

SECTION 2. ETF 10.70 (5) is amended 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;

SECTION 3. ETF 10.70 (5) (d) and (6) are created to read:

ETF 10.70 (5) (d). Nothing in this subsection shall be construed to prohibit the department from communicating with the individual or the individual's guardian about the individual's beneficiary designation at the department's initiative as necessary for the proper administration of the department.

(6) Nothing in this section shall require the department to disclose individual personal information if in the judgement of the department the requestor has not provided adequate evidence of identity or proper authorization to receive the information.

SECTION 4. ETF 10.82 (2) (b) 27, 28, and 29 are amended to read:

ETF 10.82 (2) (b) 27. Written request from the participant to cancel an application for a separation, retirement or lump sum benefit as provided by s. ETF 20.20. Subpar. (a) 5 and par. (e) do not apply to this request.

28. Written request from the participant to cancel a disability annuity application as provided by s. ETF 50.31. Subpar. (a) 5 and par. (e) do not apply to this request.

29. Written request from the beneficiary to cancel an application for a death benefit or beneficiary annuity as provided by s. ETF 60.51. Subpar. (a) 5 and par. (e) do not apply to this request.

SECTION 5. ETF 20.20 (1), (2) and (3) (intro.) and (a) are amended to read:

ETF 20.20 CANCELLATION OF APPLICATION FOR RETIREMENT ANNUITY, SEPARATION OR LUMP SUM BENEFIT. (1) Any separation, retirement or lump sum benefit payment application canceled pursuant to this section shall have no force or effect, and any subsequent application shall be treated as a new application. ~~A written request to cancel an application under sub. (3) or (4) shall be accompanied by repayment of any check issued pursuant to the application.~~ Repayment in full of any sum paid under the application for which cancellation is sought shall be required. The employer may not make this payment on behalf of the recipient of the benefit.

(2) ~~A written request to cancel an application under this section which is due~~ shall be in writing. The request to cancel shall be rejected unless received by the department by the close of regular office hours on the last working day prior to the applicable deadline under sub. (3) or

~~(4). If the deadline specified under sub. (3) or (4) falls on a Saturday, Sunday or holiday when the state offices are closed under s. 230.35 (4)(a), Stats., the request to cancel shall be timely only if received in the department on the next by the close of regular office hours on the last working day preceding the Saturday, Sunday or holiday.~~

EXAMPLE: If the date the account will be debited in response to the application falls on a Monday which is not a holiday, then the request to cancel must be received by the department no later than 4:30 p.m. on the preceding Friday, the last working day prior to the debiting date. If that Monday were a holiday, the debiting date would be Tuesday, the next working day as provided by s. ETF.633 (3), but the deadline for cancelling the application would remain Friday, the last working day preceding the debiting date.

(3) An application for a separation benefit under s. 40.25 (2) or (2m), Stats., shall be canceled if: (a) The applicant's written request for cancellation is received by the department ~~within 30 days after the application was received by the department~~ no later than the close of the department's regular office hours on the last working day before the participant's account in the employe accumulation reserve is debited for funding the benefit as provided by s.ETF 10.633 (1) (c).

SECTION 6. ETF 20.20 (4) is amended to read:

ETF 20.20 (4) An application for a retirement annuity under s. 40.23 or 40.24, Stats., or s. ETF 20.04, or a lump sum payment under s. 40.25 (1) or (4), Stats., shall be canceled if the participant's written request for cancellation is received by the department ~~within 30 days after the application was received by the department or within 30 days after the annuity effective date,~~

~~whichever is later~~ no later than the close of the department's regular office hours on the last day before the participant's account in the employe accumulation reserve is debited for funding the benefit as provided by s. ETF 10.633 (1) (a) or (c) for retirement annuities or lump-sum payments, respectively.

SECTION 7. ETF 50.31 is amended to read:

ETF 50.31 CANCELLATION OF A DISABILITY ANNUITY APPLICATION. An application for a disability annuity under s. 40.63, Stats., shall be canceled upon request of the applicant if the applicant's written request for cancellation is received by the department no later than ~~30 days after the date the report required under s. 40.63 (5), Stats., was mailed to the applicant by the department~~ the close of the department's regular office hours on the day before the participant's account in the employe accumulation reserve is debited for funding the benefit as provided by s. ETF 10.633 (1) (b). If the day before the debiting date falls on a Saturday, Sunday or holiday under s.230.35 (4) (a), Stats., the request to cancel shall be considered timely only if received in the department by the close of regular office hours on the last working day preceding the Saturday, Sunday or holiday. Repayment in full of any sum paid under the application for which cancellation is sought shall be required. The employer may not make this payment on behalf of the recipient of the benefit.

SECTION 8. ETF 60.51 is amended to read:

ETF 60.51. CANCELLATION OF DEATH BENEFIT AND BENEFICIARY ANNUITY APPLICATIONS. (1) Any lump sum death benefit or beneficiary annuity application canceled

pursuant to this section shall have no force or effect, and any subsequent application shall be treated as a new application. ~~A written request to cancel an application under sub. (2) or (3) shall be accompanied by repayment of any check issued pursuant to the application. Repayment in full of any sum paid under the application for which cancellation is sought shall be required. The employer may not make this payment on behalf of the recipient of the benefit.~~

(2) ~~An A request to cancel an application for a lump sum death benefit payment under s. 40.73 (1) or (2), Stats., must be in writing. The request to cancel shall be rejected unless received by the department by the close of regular office hours on the last working day preceding the date specified in s. ETF 10.633 (c) shall be canceled if the applicant's written request for cancellation is received by the department within 30 days after the application was received by the department.~~

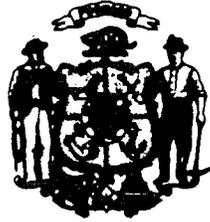
(3) ~~An A request to cancel an application for a beneficiary annuity under s. 40.73 (3), Stats., must be in writing. The request to cancel the application and any beneficiary designation filed by the applicant as a beneficiary, shall be rejected unless received by the department by the close of regular office hours on the last working day preceding the date specified in s. ETF 10.633 (a) canceled if the applicant's written request for cancellation is received by the department within 30 days after the annuity application was received by the department or within 30 days after the annuity effective date, whichever is later.~~

(END OF RULE TEXT)

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
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CLEARINGHOUSE REPORT TO AGENCY

[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 95-088

AN ORDER to repeal ETF 10.82 (2) (b) 27.; to amend ETF 10.70 (5), 20.20 (1), (2), (3) (intro.) and (a) and (4) and 50.31; and to create ETF 10.633 and 10.70 (5) (d) and (6), relating to deadlines for requesting cancellation of applications for retirement annuities, disability annuities and lump sum payments other than separation benefits and to disclosure of beneficiary designations and other individual personal information.

Submitted by **DEPARTMENT OF EMPLOYE TRUST FUNDS**

05-11-95 RECEIVED BY LEGISLATIVE COUNCIL.

06-07-95 REPORT SENT TO AGENCY.

RNS:RJC:kjf;lah

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)]

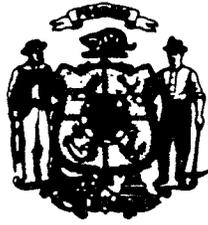
Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 95-088

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.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the last sentence of the first partial paragraph on page 3 of the analysis to the rule, the word "the" should be inserted between the words "until" and "close." Also, in the first sentence of the second full paragraph on page 3 of the analysis to the rule, the word "send" should be replaced by the word "sent." In the sections entitled "Authority for Rule" and "Statutes Interpreted" on page 3 of the analysis, the term "Ss." should be replaced by the word "Sections." Finally, in the initial fiscal estimate in the analysis to the rule on page 3, the term "vocational, technical and adult education school district" should be replaced by the phrase "technical college district."

b. In s. ETF 10.633 (1) (intro.), the word "or" appearing between subs. (2) and (3) should be replaced by the word "and."

c. In s. ETF 10.633 (3), the second sentence should be rewritten: "No corrections to the amount of the debit may affect the date of the debit provided in sub. (1) or (2) for other purposes, including those of ss. ETF 20.20 (2), (3) and (4) and 50.31."

d. In s. ETF 10.70 (5) (d), should the phrase "or with his or her duly authorized representative" be inserted between the word "individual" and the word "about"? This would appear to make the paragraph more consistent with s. ETF 10.70 (5) (a).

e. In s. ETF 20.20 (1), the word "benefit" in the first sentence should be deleted because it does not appear in the current section. In the alternative, the word should be underscored to

indicate that it is an amendment to the subsection. The second sentence of the subsection should be rewritten: "Repayment in full of any sum paid under the application for which cancellation is sought shall be required as a condition of cancellation." Finally, the word "Such" in the last sentence of the subsection should be deleted and the word "repayment" capitalized.

f. In the second sentence of s. ETF 20.20 (2), it would appear that, in light of the example provided, the phrase "during regular office hours and prior to" should be replaced by the phrase "by the close of regular office hours on the last working day preceding." Also, in the first sentence, "shall" should replace "must."

g. In s. ETF 20.20 (3) (intro.), the phrase "a lump sum payment" should be inserted between the word "including" and the word "under."

h. In s. ETF 20.20 (4), the term "Stats." should be inserted after the citation to s. 40.24.

i. In s. ETF 50.31, the phrase "timely made" in the last sentence should be replaced by "considered timely."

Part 4

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

(a) Need for the Rule.

As authorized under s. 40.03 (2) (i), Stats., this rule is required for the efficient administration of the fund. To provide reliable guidance to participants, the department must be able to determine when and whether a participant may cancel a benefit application. This rule amends existing administrative rules on this subject to conform with the interpretation of s. 40.04 (4) (a) 3, Stats., announced by the Employe Trust Funds Board. In addition, Sections 2 and 3 reflect modifications in the department's procedures for disclosing individual personal information. These sections of the rule also are required for the efficient administration of the fund.

(b) Modifications to the Rule.

1. Section 1. The reference to sub. (3) in s. ETF 10.633 (1) intro. was incorrect and has been deleted. References to death benefits and beneficiary annuities under s. 40.73 were added for consistency.
2. Section 4. The draft rule repealed s. ETF 10.82 (2) (b) 27 to prohibit submission of certain cancellations via fax. The final draft instead amends s. ETF 10.82 (2) (b) 27, 28 and 29 to permit the department to take action on all benefit cancellations submitted via fax.
3. Section 5. The draft rule provided that repayment of the benefit is required as a condition of cancellation. This requirement was removed from the final draft on the recommendation of David Stella. The last sentence of s. 20.20 (1) was reworded to specify that employers may not repay benefits on behalf of benefit recipients. The reference to benefits under s. 40.25 (1) and (4) was removed from s. ETF 20.20 (3) intro. Benefits under both of these sections are now covered under s. ETF 20.20 (4).
4. Section 7. A provision requiring repayment of the benefit was added to this section.
5. Section 8. Amendments to the existing rule governing cancellation of applications for death benefits and beneficiary annuities were added for consistency with other cancellation provisions.

(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. Written recommendations (attached) were submitted by David Stella, Administrator, Division of Retirement Services of the Department of Employe Trust Funds. These recommendations have been largely implemented.

(d) Response to Legislative Council Staff Recommendations.

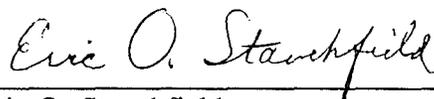
The Legislative Council Staff made nine recommendations relative to clarity, grammar, punctuation and use of plain language. Most have been implemented. Recommendation (a) is unnecessary because the reference to sub. (3) has been deleted. In response to recommendation (d), the department added a reference to guardians rather than to authorized representatives of the participant. Only a guardian would be permitted to file a beneficiary designation on behalf of a participant. Therefore the department does not intend to notify anyone other than the participant or the participant's guardian when a problem is identified in a beneficiary designation.

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

(END OF FINAL DRAFT REPORT)

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 27th
day of September, 1995.



Eric O. Stanchfield
Secretary
Wisconsin Department of Employee Trust
Funds



STATE OF WISCONSIN

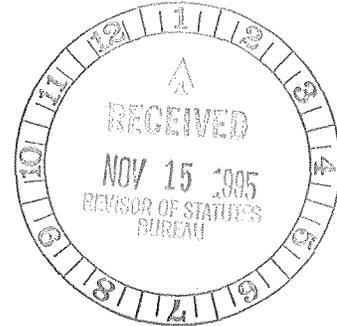
Department of Employee Trust Funds

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

November 14, 1995

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

In Reply Refer To:



Dear Mr. Poulson:

RE: Clearinghouse Rule No. 95-088

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 December 31 issue of the administrative register.

I also enclose a copy of the rule on disk, in Wordperfect 5.1 format.

Please contact me if you have any questions.

Sincerely,

David Stella /ma

David Stella, Administrator
Division of Retirement Services
(608) 267-9038
FAX # (608) 267-0633
TDD # (608) 267-0676