pto2b

continue to render volunteer service toward a new length of service award under a new account but, for IRS rule purposes, contributions must be paid in the same year that service is rendered and cannot accumulate. Section VFF-EMT 1.07(3) provides for partial vesting after 10 years' service. Should the individual perform more than 10 but less than 20 years' service, upon reaching age 60, he or she will receive only 50% of the net asset value of the benefit account for the first 10 years of service rendered, and an additional 5% for each year thereafter, up to 19 years. Section VFF-EMT 1.07(7) allows an individual to provide simultaneous service to two or more separate municipalities but, in such cases, only one year of service credit may be earned.

Section VFF-EMT 1.09 details the notice requirements and procedures to follow when a VFF-EMT ceases performing service for one participating municipality and begins performing service for another municipality that utilizes a different program administrator or vendor. Such a transfer is allowed, but the account will be frozen and a new one started with the new program administrator. However, any accumulated years of credited service will continue to count toward the individual's vesting requirements.

Section VFF-EMT 1.10 allows for benefits to be received both upon disability, or to the beneficiaries upon death of the VFF-EMT.

Section VFF-EMT 1.12 establishes minimum program administrator qualifications. These include five years of experience providing a length of service award program, adequate marketing and enrollment services capabilities, various accounting and record keeping procedures and abilities, membership in good standing in various organizations customary in the program administrator's or investment manager's industry that provides protection against loss, and overall financial strength.

Section VFF-EMT 1.13 provides for the administration of plans offered by a program administrator under a contract with the Board, and standard provisions to be included in those plans. These include compliance with all pertinent state and federal statutes, rules and regulations, mandatory full disclosure to the Board of all fees and commissions earned directly and indirectly on the operations of the program, program and financial audits, and data processing system failure and administrative service interruption contingency plans. Also important are the required annual statements to participating municipalities and the individuals they sponsor, detailing all contributions made and the fees commissions, and charges paid that affect the individual's account.

Section VFF-EMT 1.16 establishes a two-step appeals process by which a VFF-EMT may first protest service credit issues to the participating municipality, which, in turn, may consult with the program administrator. Any decision of the municipality may be reviewed at the Board's discretion. An individual who has a substantial interest affected by a Board decision may appeal directly in writing to the Board. All Board decisions are final.

Final Regulatory Flexibility Analysis:

Pursuant to section 227.114, Stats., the rule herein is not expected to negatively impact small businesses.

TEXT OF RULE:

SECTION 1: VFF-EMT 1 is created to read.

VFF-EMT 1

VOLUNTEER FIRE FIGHTER-EMERGENCY MEDICAL TECHNICIAN SERVICE AWARD BOARD

VFF-EMT 1.01 Authority. Sections 16.004 (1), and 16.25(2), (3), (4) and (5), Stats., authorize the Board to promulgate rules for establishing a length of service award program for volunteer fire fighters and emergency medical technicians.

VFF-EMT 1.02 Purpose. The purpose of this chapter is to establish a program for length of service awards to VFF-EMT participants who provide services to municipalities that operate volunteer fire departments or volunteer fire companies, or authorize emergency medical and technical services, and to establish qualifications and requirements for private sector individuals and organizations eligible to provide administrative and investment services for length of service award programs.

VFF-EMT 1.03 Definitions. In this chapter:

(1) "Account" means a statement or record of all state and municipal length of service award contributions, including all applicable earnings, redistributions and deductions made on behalf of a VFF-EMT maintained by a program administrator.

(2) "Beneficiary" means a person, trust or entity designated by a VFF-EMT to receive benefits under a program.

(3) "Board" has the meaning specified in s. 16.25(1)(a), Stats.

(4) "Credit" means the recognition of the fulfillment of the requirements for performing service toward a length of service award under the program.

(5) "Emergency medical services" means medical care that is rendered to a sick, disabled or injured individual based on signs, symptoms or complaints, prior to the individual's hospitalization or while transporting the individual between health care facilities and that is limited to the use of the knowledge,

skills and techniques received from training required under s. 146.50, Stats., and chs. HFS 110, 111, 112 or 113, as a condition for being issued an emergency medical technician license.

(6) "Fire fighting services" means the organized suppression and prevention of fires.

(7) "Fiscal year" means the period beginning on July 1 and ending on June 30.

(8) "Length of service award program" or "program" means a program as described in section 457 of the internal revenue code that is implemented and administered by a program administrator approved by the board, and that to the extent allowed by federal law, provides a tax-deferred benefit to a VFF-EMT consistent with the internal revenue code, s.16.25 Stats., and this chapter.

(9) "Municipality" has the meaning specified in s. 16.25(1)(c), Stats.

(10) "Net asset value" means the value of an individual length of service award determined by adding the municipal contributions and the state matching contributions, all earnings thereon, and any redistributions as provided in s. VFF-EMT 1.08, less investment expenses.

(11) "Participating municipality" means a municipality that meets the program eligibility requirements of s. VFF-EMT 1.04 and elects to participate in a program.

(12) "Prior service" means the service performed by a VFF-EMT for a participating municipality before that municipality began participation in a program.

(13) "Program administrator" means a non-governmental individual or organization in the private sector that provides and administers a program or a designee.

(14) "Service" includes fire fighting, emergency medical, or rescue services provided to a participating municipality by a volunteer fire fighter or volunteer emergency medical technician.

(15) "State" means the state of Wisconsin.

(16) "Volunteer emergency medical technician" or "EMT" means all emergency medical service personnel, including first responders, licensed or certified under s. 146.50, Stats.

(17) "Volunteer fire company" means one that is organized under s. 213.05, Stats.

(18) "Volunteer fire department" has the meaning specified in s. 213.08, Stats.

(19) "Volunteer fire fighter" or "VFF" means a person that renders fire fighting or rescue services to a participating municipality and does not receive compensation under a contract of employment as a fire fighter.

(20) "VFF-EMT" means a volunteer fire fighter or emergency medical technician.

VFF-EMT 1.04 Participating municipalities. (1) A municipality that operates a volunteer fire department or that contracts with a volunteer fire company organized under Ch. 181 or 213, or that authorizes volunteer emergency medical technicians to provide emergency medical services, is eligible to become a participating municipality.

(2) An eligible municipality may participate in a program by adopting a resolution or ordinance stating that it shall abide by all statutes, administrative rules, regulations and procedures pertaining to a length of service award program. The adopted resolution or ordinance shall be on a form approved by the board and provided to the program administrator or the board upon request.

Note: To request approval of a form for a resolution or ordinance, contact the Length of Service Award Program, c/o Department of Administration, Office of Legal Counsel, P.O. Box 7864, Madison, Wisconsin 53707-7864 or (608) 266-9810.

(3) Each participating municipality shall develop standards for determining the service required of the volunteer fire fighters and emergency medical technicians it sponsors under the program in order to qualify for an annual contribution.

(4) Municipalities that jointly operate or contract with a volunteer fire department or a volunteer fire company or that jointly authorize volunteer emergency medical technicians, may operate as a single participating municipality under the program, and may be required to do so by the program administrator.

(5)(a) A VFF-EMT may perform service for credit toward a length of service award to more than one volunteer fire department, volunteer fire company or entity authorized to provide volunteer emergency medical services.

(b) A VFF-EMT may have only one account for each volunteer fire department, volunteer fire company or entity authorized to provide volunteer emergency medical services to which the VFF-EMT provides service.

VFF-EMT 1.05 Contributions to a program. (1) MUNICIPAL CONTRIBUTIONS. A participating municipality shall determine the amount it will contribute on behalf of each VFF-EMT it sponsors under a program. A participating municipality shall cause an account to be opened with the program administrator for each sponsored VFF-EMT. A participating municipality's contributions shall be paid at least annually to the program administrator.

(2) MATCHING CONTRIBUTIONS. (a) On a calendar year basis, the board shall match a participating municipality's annual contributions made on behalf of its VFF-EMT participants during that calendar year up to a maximum of $250 per VFF-EMT, subject to any annual adjustment under sub. (3). The board shall pay all amounts matched under this section directly to the program administrator, up to the maximum appropriated under s. 20.505 (4) (er), Stats.

(b) Subject to the time period for a protest or appeal under s. VFF-EMT 1.16, a participating municipality shall pay all contributions for a calendar year to the program administrator on or before January 31 of the following year in order to receive a matching contribution from the board.

(c) The board may not match contributions made by a participating municipality for prior service.

(3) ANNUAL ADJUSTMENT. Annually on July 1, the board shall make any adjustments necessary to the matched funds to be paid in the subsequent calendar year to reflect changes in U.S. consumer price index for all urban consumers, using the method set forth in s. 16.25 (3)(d), Stats.

VFF-EMT 1.06 Contributions for prior service. (1)(a) A participating municipality may make contributions for prior service provided that the VFF-EMT has performed at least five years of service to that municipality, which may include a combination of prior service and service performed after the municipality began participating in a program. The number of years of prior service for which the participating municipality may contribute shall not exceed the number of years of total prior service performed by the VFF-EMT to that municipality. A participating municipality may impose additional eligibility requirements for accepting prior service.

(b) Subject to applicable internal revenue code restrictions as determined by the program administrator, the minimum contribution payable by a participating municipality for each year of prior service credited to a VFF-EMT shall be $100. A participating municipality may pay a different amount for prior service than the amount paid for service performed after the municipality began participating in a program.

(c) Subject to applicable internal revenue code restrictions as determined by the program administrator, a participating municipality that makes contributions for prior service may pay those contributions over a number of years not to exceed 20, and may include interest on such payments to reflect the fact that they are being added for prior service over a number of years in lieu of a lump sum payment.

(d) For purposes of determining the board's matching contribution under s. VFF-EMT 1.05 (2), any contributions made by a participating municipality for prior service shall be accounted for separately from contributions for service performed after the municipality began participating in a program.

(e) If a participating municipality ceases to exist or ceases its participation in a program, it shall pay the balance owed on any account for contributions made for prior service no later than under the schedule of payments set forth in its agreement with the program administrator.

(2) If a municipality's records are insufficient to establish eligibility for the purchase of prior service for a VFF-EMT, the municipality shall conduct a thorough investigation and, using the standards for determining the service required to qualify for annual contributions under s. VFF-EMT 1.04(3), shall make a decision based upon good faith belief and the best information available as to the prior service claimed.

VFF-EMT 1.07 Vesting and receipt of length of service award. A VFF-EMT is required to provide 10 years of service for which credit has been given before the VFF-EMT may receive any benefits under the program.

(1) FULL VESTING. (a) A VFF-EMT that has provided 20 years of service for credit to a participating municipality shall be fully vested and paid a length of service award upon reaching age 60.

(b) A fully vested VFF-EMT age 60 or older shall notify the program administrator and the participating municipality of the VFF-EMT's request to receive their length of service award within the time period required by the program administrator or the applicable program.

(c) Upon receiving payment of a length of service award, a fully vested VFF-EMT age 60 or older may continue to provide service for credit toward a length of service award under a new account, but shall be paid any subsequent contributions made on the VFF-EMT's behalf by the participating municipality or the board immediately after they are received by the program administrator.

(2) PARTIAL VESTING. (a) Upon reaching age 60, a VFF-EMT may request and receive their length of service award at any time after performing a minimum of 10 years of service for credit and discontinue providing eligible service.

(b) Upon reaching the age of 60, a VFF-EMT requesting to receive their length of service award after performing 10 years, but less than 20, of service for credit shall receive 50% of the net asset value of their account at the time of the request for the first 10 years of service for credit is provided. For each year of service for credit more than 10, but less than 20, performed by the VFF-EMT, five percent of the net asset value of the account at the date of the request shall be added. The amounts not paid to a VFF-EMT under this subsection shall be forfeited and equally distributed among all other open VFF-EMT accounts sponsored by that municipality at the time of the forfeiture.

(c) A VFF-EMT who has reached age 60 but is not fully vested may continue to perform service for credit toward a length of service award.

(3) NEW ACCOUNTS. At any time a VFF-EMT receives a length of service award associated with an account, they may discontinue providing eligible service and accruing service credit under that account, and begin providing eligible service under a new account.

(4) PRIOR SERVICE CREDIT. For vesting purposes under this section and s. 16.25, Stats., credit for service performed by a VFF-EMT may include prior service for credit under s. VFF-EMT 1.06(1)(a).

(5) FORM OF BENEFIT DISTRIBUTION. A VFF-EMT may receive their length of service award payment either in a lump sum or by any other method offered by the program administrator and approved by the board. The form of benefit distribution shall be determined by the program administrator and approved by the board. The chosen form shall be stated in the specific plan documents provided by the program administrator.

(6) SIMULTANEOUS SERVICE. For purposes of determining vesting under this section and s. 16.25, Stats., if a VFF-EMT simultaneously renders service to two or more separate and distinct municipalities, only one year of service may be credited toward any length of service award in any calendar year the VFF-EMT provided multiple service.

VFF-EMT 1.08 Forfeiture and leaves of absence. (1) NON-VESTED FORFEITURE. A VFF-EMT that has performed less than 10 years of service under a program shall forfeit any accumulated years of service if they cease to perform creditable service for more than six months in any calendar year, unless a supervisor has granted the VFF-EMT a leave of absence for that period.

(2) LEAVES OF ABSENCE. A participating municipality may determine the conditions under which a leave of absence shall be granted. A participating municipality shall grant a leave of absence in writing on or before December 31 of the calendar year in which it is to take effect.

(3) FORFEITED ACCOUNT DISTRIBUTION. A forfeited account shall be equally distributed among all other open VFF-EMT accounts sponsored by a participating municipality at the time of the forfeiture. Forfeitures may not be distributed to an account frozen under s. VFF-EMT 1.09(1).

(4) NOTICE UPON TRANSFER OF SERVICE. For vesting purposes under s. VFF-EMT 1.07, upon joining or exiting a program, a VFF-EMT shall notify the new program administrator and any previous program administrator before forfeiture is to occur in order to qualify for transfer of their service years.

VFF-EMT 1.09 Transfer of service to a different program administrator. (1) FROZEN ACCOUNTS. When a VFF-EMT ceases performing service for one participating municipality and begins performing service for another that utilizes a different program administrator, their account shall be frozen. No contributions or forfeiture distributions may be made to a frozen account, but a frozen account shall continue to accrue earnings.

(2) SERVICE TRANSFER. Any service credited to a VFF-EMT associated with a frozen account shall count toward vesting under s. VFF-EMT 1.07, provided the VFF-EMT meets the notice requirements of this section, and either of the following occurs:

(a) If the VFF-EMT has accumulated less than 10 years of service, the participating municipality, for which the service was provided and the account opened, has granted the VFF-EMT a leave of absence, or

(b) The VFF-EMT begins performing creditable service for a subsequent participating municipality within 6 months of ceasing to perform creditable service for the VFF-EMT's former participating municipality.

(3) VFF-EMT NOTICE. (a) A VFF-EMT shall provide a copy of the leave of absence granted under s. VFF-EMT 1.08(2) to the current participating municipality's program administrator within 6 months of beginning their new service.

(b) A VFF-EMT wishing to transfer service under this section shall provide the current program administrator with the most recent annual statement of service issued under s. VFF-EMT 1.11(2) by their former participating municipality.

(c) Payment of a length of service award may only occur upon reaching age 60, and must be made under the provisions of either s. VFF-EMT 1.07(1) or (2), as individual circumstances require. In order to receive payment of a length of service award from a frozen account, a VFF-EMT shall notify their former program administrator of any service credited by a subsequent program administrator.

(4) PROGRAM ADMINISTRATOR NOTICE. (a) A program administrator shall accept a statement of service provided by a VFF-EMT under this section, and record the number of whole years stated and the associated account identifier on the new account opened for the VFF-EMT.

(b) For purposes of vesting and payment of a length of service award under s. VFF-EMT 1.07, a program administrator shall accept all service credited to a VFF-EMT by any prior or subsequent program administrator, provided it has received notice from the VFF-EMT as required by sub. (3)(c).

VFF-EMT 1.10 Disability and death benefits. (1) DISABILITY. If a VFF-EMT becomes permanently disabled as determined by the Wisconsin worker's compensation program under ch. 102 Stats., while actively on duty performing service, the VFF-EMT may apply to the program administrator for payment of the net asset value of each of the disabled VFF-EMT participant's accounts. Upon request, the program administrator shall make payment as soon as administratively possible.

(2) DEATH. If a VFF-EMT dies while actively on the rolls of a volunteer fire department, volunteer fire company, or an emergency medical service that provides services to a participating municipality under a program, the VFF-EMT's designated beneficiary shall be paid an amount equal to the net asset value of each account held by the VFF-EMT designating that beneficiary. Upon request, the program administrator shall make payment as soon as administratively possible.

VFF-EMT 1.11 Records and certification of service. (1) Each participating municipality shall maintain and submit to the program administrator as required under a program, detailed and accurate records of every VFF-EMT providing fire fighting or emergency medical services to that municipality

(2) Annually, on or before January 31, a participating municipality shall submit under oath a statement of service to the program administrator listing all VFF-EMT members that have performed service for that municipality for the preceding calendar year, and post the statement of service in a conspicuous place for a minimum of 30 days thereafter.

VFF-EMT 1.12 Program administrator qualifications. (1) Pursuant to a fair and equitable procurement process adopted by the board, and based upon the provisions of s. 16.75, Stats., the board shall contract with one or more program administrators to offer a length of service award program. A program administrator awarded a contract shall comply with all of the following:

(a) Have at least 5 years experience administering a length of service award program as described in section 457 of the internal revenue code, or a deferred compensation program as provided for therein. The program administrator's experience shall include administering at least one program that has a participation level of 1,000 or more individual members, multiple participating jurisdictions, and consolidated record keeping for all investment options offered.

(b) Have marketing and enrollment services that include the following:

1. At least annual contacts to each participating municipality and VFF-EMT describing the program and the investment options offered by the program administrator.

2. Presentations to all participating municipalities and VFF-EMT participants that include full disclosure of all direct and indirect fees and costs

of the program as well as advantages and disadvantages of participating investment options offered by the program administrator.

3. Literature and forms regarding the program and the investment options offered by the program administrator to be distributed to all participating municipalities and VFF-EMT participants that are in a format approved by the board.

(c) Have services that provide unlimited opportunities to increase or decrease contributions and to redirect contributions to other investment options offered by the program administrator.

(d) Have accounting procedures and consolidated record keeping for account transactions that maintain all participating municipalities' and VFF-EMT participants' records and submits deposits, transfers and withdrawals to the investment companies offering investment options under the program.

(e) Have membership in good standing by the program administrator or the manager of any investment options offered in an organization customary in the program administrator's or investment manager's industry that provides protection against loss.

(f) Have no litigation risks or involvement in pending regulatory action deemed by the board or the department to be material to the continued operations of the program administrator.

(2) The board shall consider the financial strength of a program administrator or an entity affiliated with the program administrator for purposes of operating a program, on the basis of its net worth and the ratio of net worth to present or projected assets under management.

VFF-EMT 1.13 Program administration. (1) A program administrator awarded a contract to provide a length of service award program shall sign a contract with the board in which the program administrator agrees to do all of the following:

(a) Comply with all statutes, rules and regulations governing the program and share pertinent information, such as municipal contributions and state matching funds, with the board and any other program administrator under contract with the board to ensure compliance with the state and federal law and regulations.

(b) Provide the services set forth in s. VFF-EMT 1.12(1)(b) and (c).

(c) Obtain pre-approval by the board of the mandatory disclosures to participating municipalities set forth in s. VFF-EMT 1.12(1)(b)2.

(d) At least annually, provide full disclosure to the board of all fees and commissions earned directly or indirectly on operations of the program by the program administrator, and other financial information relative to a VFF-EMT account maintained by a program administrator, including municipal and state contributions, forfeitures, and disbursements.

(e) Provide, at the program administrator's expense, an annual independently audited financial statement of the affiliated entity providing the investment or insurance plan to a participating municipality under the program to the board within 120 days following the end of each calendar year.

(f) Submit to the board an acceptable contingency plan to address both data processing systems failures and administrative service interruptions.

(g) Upon request, provide a copy of the fund prospectus and annual report for each investment option offered by the program administrator to participating municipalities and enrolled VFF-EMT participants.

(h) Cooperate with other program administrators to provide for service credit portability between program administrators under s. VFF-EMT 1.09.

(i) At least annually, provide statements to participating municipalities and enrolled VFF-EMT participants detailing contributions made on behalf of a VFF-EMT by a participating municipality, account balance information, and disclosure of all fees, commissions and charges affecting that account's earnings or balances.

(j) Provide an annual report to all participating municipalities, VFF-EMT participants and the board illustrating the investment performance of all investment options offered.

(k) Cooperate with any successor program administrator, including extending the term of the contract for a reasonable period of time as may be necessary, to ensure a smooth transition of program administrators.

(l) Provide opinions of tax counsel or other legal counsel to the board as necessary.

(m) Provide a set of procedures to the board and participating municipalities under contract with the program administrator, detailing the steps that a participating municipality must take when terminating its participation in the program.

(2) The program administrator, its agents, and the investment options offered, shall meet all applicable state and federal laws, rules and regulations including the internal revenue code, security and exchange commission regulations, and state and federal insurance laws and regulations.

VFF-EMT 1.14 Participating municipality obligations. (1) In fulfillment of its responsibility as a fiduciary of the program, a participating municipality shall review information provided by the program administrator including the mandatory disclosures described in s. VFF-EMT 1.12(1)(b)2.

(2) A participating municipality shall sign a contract with the program administrator for program services provided under s.16.25, Stats., and ch. VFF-EMT 1.

(3) A participating municipality shall sign a memorandum of understanding with the program administrator prior to selecting any investment option offered stating that all requirements and regulations pertinent to that option have been clearly explained by that program administrator and that the participating municipality has received an explanation by the program administrator or its representatives of the mandatory disclosures described in s. VFF-EMT 1.12(1)(b)2.

VFF-EMT 1.15 Program termination. A participating municipality may terminate a program by adopting and filing a resolution to that effect with the board. The board shall promptly submit a copy of the resolution to the program administrator. A termination shall comply with all applicable statutes and rules, and the requirements of the program administrator and the board. All accounts of VFF-EMT participants in a terminated program shall be treated in the same manner as accounts in a program in which the sponsoring participating municipality ceased to exist as set forth in s. VFF-EMT 1.06 (1)(e).

VFF-EMT 1.16 Appeals. (1) PROTEST TO MUNICIPALITY. A VFF-EMT may protest an issue of service credit or other matter affecting the VFF-EMT's substantial interest under the program in writing to the sponsoring participating municipality. The participating municipality shall review the documentation and other submissions and make a determination in writing and return it to the protesting party within 30 days of the receipt of the written protest. The participating municipality may consult with the program administrator as required. Upon request, the board may review a participating municipality's decision.

(2) APPEAL TO THE BOARD. An individual who has a substantial interest affected by a board decision may appeal in writing to the board within 30 days of the receipt of the participating municipality's written determination. The board shall review the documentation and other submissions and make a determination in writing and return it to the appealing party within 90 days of the receipt of the written appeal. All decisions of the board shall be final.

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

Robert H. Seitz, Chairperson
Volunteer Fire Fighter and Emergency
Medical Technician Service Award Board

3/20/02
Date

FISCAL ESTIMATE FORM

Session

X ORIGINAL ☐ UPDATED ☐ CORRECTED ☐ SUPPLEMENTAL

LRB #

INTRODUCTION #

Admin. Rule # VFF-EMT 1

Subject **Volunteer Fire Fighter-Emergency Medical Technician Service Award Board Admn Rule**

Fiscal Effect

State: X No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

☐ Increase Existing Appropriation ☐ Increase Existing Revenues
☐ Decrease Existing Appropriation ☐ Decrease Existing Revenues
☐ Create New Appropriation

☐ Increase Costs - May be possible to Absorb Within Agency's Budget ☐ Yes ☐ No

☐ Decrease Costs

Local: ☐ No local government costs

1. ☐ Increase Costs
   X Permissive ☐ Mandatory
2. ☐ Decrease Costs
   ☐ Permissive ☐ Mandatory
3. ☐ Increase Revenues
   ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenues
   ☐ Permissive ☐ Mandatory
5. Types of Local Governmental Units Affected:
   X Towns X Villages X Cities
   ☐ Counties ☐ Others ____
   ☐ School Districts ☐ WTCS Districts

Fund Sources Affected

X GPR ☐ FED ☐ PRO ☐PRS ☐ SEG ☐ SEG-S

Affected Ch. 20 Appropriations

20.505 (4)(ec) and (er)

Assumptions Used in Arriving at Fiscal Estimate:

The rule establishes procedures for operation of the volunteer fire fighter EMT length of service award program. The program has been budgeted based on estimates of participation. The procedures permit the program to proceed and do not change the basis for participation in the program.

Long-Range Fiscal Implications:

None known at this time.

Prepared By: / Phone # / Agency Name	**Authorized Signature / Telephone No.**	**Date**
R. Wagner DOA 608-266-0653	Paul McMahon 608-266-1359	9-13-01

WISCONSIN DEPARTMENT OF ADMINISTRATION
PUBLIC HEARING

On

CHAPTER VFF-EMT 1
Volunteer Fire Fighter-Emergency Medical Technician
Service Award Board

REGISTRATION

NAME: David Bloom

ADDRESS: 2120 Fish Hatchery Rd.
Madison, WI 53713

PHONE: 608-210-7218

REPRESENTING: WI State Fire Chiefs Assoc.

Please check applicable statement(s):

( ) Appearing in favor.

( ) Appearing in opposition.

( ) Appearing for informational purposes.

(X) I wish to testify.

WISCONSIN DEPARTMENT OF ADMINISTRATION
PUBLIC HEARING

On

CHAPTER VFF-EMT 1
Volunteer Fire Fighter-Emergency Medical Technician
Service Award Board

REGISTRATION

NAME: JOHN SCHMITZ

ADDRESS: 2937 MAPLE TERRACE
GERMANTOWN WI 53022

PHONE: (262) 628-1995

REPRESENTING: RICHFIELD VOLUNTEER FIRE CO.

Please check applicable statement(s):

( ) Appearing in favor.

( ) Appearing in opposition.

(X) Appearing for informational purposes.

( ) I wish to testify.

WISCONSIN DEPARTMENT OF ADMINISTRATION
PUBLIC HEARING

On

CHAPTER VFF-EMT 1
Volunteer Fire Fighter-Emergency Medical Technician Service Award Board

REGISTRATION

NAME: RANDALL J. SELLNOW

ADDRESS: 187 RIDGE VIEW LANE
OREGON WI 53575

PHONE: 608-835-2574

REPRESENTING: OREGON AREA FIRE-EMS DISTRICT

Please check applicable statement(s):

( ) Appearing in favor.

( ) Appearing in opposition.

( ) Appearing for informational purposes.

(X) I wish to testify.

WISCONSIN DEPARTMENT OF ADMINISTRATION
PUBLIC HEARING

On

CHAPTER VFF-EMT 1
Volunteer Fire Fighter-Emergency Medical Technician
Service Award Board

REGISTRATION

NAME: Jerry Kohl

ADDRESS: 2008 Hy 175
Richfield, WI 53076

PHONE: 262-628-1601

REPRESENTING: Richfield Vol Fire Co.

Please check applicable statement(s):

( ) Appearing in favor.

( ) Appearing in opposition.

(X) Appearing for informational purposes.

( ) I wish to testify.

WISCONSIN DEPARTMENT OF ADMINISTRATION
PUBLIC HEARING

On

CHAPTER VFF-EMT 1
Volunteer Fire Fighter-Emergency Medical Technician
Service Award Board

REGISTRATION

NAME: JOHN HAMER

ADDRESS: 1555 N. RIVERCENTER DR. SUITE 203
MILWAUKEE, WI 53212

PHONE: (800) 242-9028

REPRESENTING: VFIS / LAUB + HORTON, INC.

Please check applicable statement(s):

( ) Appearing in favor.

( ) Appearing in opposition.

(X) Appearing for informational purposes.

( ) I wish to testify.

WISCONSIN DEPARTMENT OF ADMINISTRATION
PUBLIC HEARING

On

CHAPTER VFF-EMT 1
Volunteer Fire Fighter-Emergency Medical Technician
Service Award Board

REGISTRATION

NAME: Jeffrey Diehl

ADDRESS: 3962 N. Richmond St.
Appleton, WI 54913

PHONE: 920-730-3400

REPRESENTING: The Advisory Group, Inc

Please check applicable statement(s):

( ) Appearing in favor.

( ) Appearing in opposition.

(✓) Appearing for informational purposes.

( ) I wish to testify.

HEARING TRANSCRIPT FOR VFF-EMT 1 ADMINISTRATIVE RULE HEARING
THURSDAY, DECEMBER 27, 2001

SAUNDERS: Good morning everybody. I'm going to call this public hearing to order. I have a prepared statement that I'm going to read into the record so bear with me and then we'll discuss how we're going to proceed. The Department of Administration has set at this time and place a public hearing pursuant to sections 16.004(1) and 16.25(2) through (5) of the Wisconsin Statutes to consider promulgating a rule relating to the creation of a length of service award program for volunteer fire fighters and emergency medical technicians. My name is Mark Saunders and I'm Deputy Legal Counsel for the Department of Administration and I also act as legal counsel to the Volunteer Firefighter and Emergency Medical Technician service award Board, that's a mouthful, from now on I'll call it the Board. I also have with me Robert H. Seitz, he's the chairperson of the Board. Tony Konkel is here, also a Board member. And Donna Sorenson is a paralegal with the Department of Administration. In the mid-December, 2001 issue of the Wisconsin Administrative Register, notice was given that a public hearing would be held on the proposed permanent rule and the emergency rule, and that emergency rule is now in effect, it's a temporary rule. And that was adopted on September 21, 2001. Copies of the proposed permanent rules have been provided to interested parties. There are copies over here on the table if you want an extra set. In addition, copies of the hearing notice were hand-delivered to the press boxes located in Room 235 Southwest in the State Capitol Building on December 14, 2001, as required by law. The purpose of today's hearing is to give all interested persons or their representatives, an opportunity to present facts, views or arguments regarding the proposed permanent rule. In addition to today's testimony, the Department will accept written comments or questions that are received by January 7, 2002, so a week from this coming Monday. Those written comments should be directed to Donna Sorenson, Department of Administration, 101 East Wilson Street, P.O. Box 7864, Madison, Wisconsin 53707. Anyone who wants that address again, I'll give it to you later. The statutes require that all persons present at this hearing have an opportunity to present their arguments and comments to a quorum of the Board responsible for promulgating the rules and that's the Volunteer Firefighters and Emergency Medical Technician Service Award Board. The full Board is not here obviously so they have determined that arguments should be made in writing rather than orally, so therefore, we're making a transcript of this hearing and along with your written comments, it will be provided to the full Board and, therefore, your arguments and comments can be considered by them prior to promulgating the permanent rule. Pursuant to section 16.25(2) through (5) of the Statutes, the Board is required to establish by rule, a length of service award program to provide service awards based on length of service as described in 26 USC, section 457(e)(11), that is the Internal Revenue Code. These length of service awards are to be provided to Volunteer Firefighters and municipalities that operate volunteer fire departments or that contract for volunteer fire companies and to volunteer emergency medical technicians. To the extent permitted by federal law, the program is to be designed to treat length of service awards as a tax-deferred benefit under the Internal Revenue Code. The rules are to include design features for the program, the requirements for and the qualifications of private sector entities that are eligible to provide administrative services in investment plans under the program and to provide for an appeal process. The emergency rules, by the way, do provide for all of those things as well as the proposed permanent rule. The proposed permanent rule was submitted to the Wisconsin Legislative Council Clearinghouse on October 25, 2001 for its review, analysis and recommendations. The Legislative Council issued its report on the proposed permanent rule on November 21, 2001. The Department has already amended the rule to address many of the comments suggested by the Legislative Council. The copy that was sent out for notice purposes had some of those changes already made to them so the rule version that's on the corner of the table there and that you received as part of the notice is slightly different already than the emergency rule that is in effect right now. Okay, now I'm going to go through the appearance slips and see who wants to testify and anyone who does, just please come on up and have a seat here at the table. If you have written comments or whatever, you can read them or just speak. If you do have written comments, we would like a copy of them for the record. I've got four appearance slips here and I notice all of them have checked "appearing for informational purposes" or "appearing in favor" and I don't know if that means you actually wanted to testify or not. So I'll just go down and call your name and you can tell me whether or not you wanted to actually testify. Larry Plumer? Do you want to testify?

PLUMER: Yes, I have a couple of questions.

SAUNDERS: Great. And Larry, you're the president of Wisconsin State Firefighters Association?

PLUMER: Yes, I am. Good morning. I'm also the fire chief for the City of Durand in the Durand rural fire department. I've been a fire fighter for approximately 36 years now. Some of the questions, I've been around the state speaking on behalf of this award and I've had a lot of questions and especially to the people my age, what are we going to get out of it? But after you explain to them what the meaning of the program was retention/recruitment, everybody understands we had to start somewhere. But one of the main questions I'm getting at this time, I've talked to Bob and Tony here, is about the availability of the award to the--if a person is an EMT and a volunteer fire fighter, can he receive double dipping out of it? My question, as I read through here, that as long as he is--he can only have one account, that's my understanding?

SAUNDERS: One account per municipality that he or she is contracted with.

PLUMER: I'll just pick my own crew, my ambulance service is run and our fire department are separate entities but are kind of run by the City of Durand so actually they only can receive one, correct?

SAUNDERS: Yes, that would be true.

PLUMER: What if we had--

SAUNDERS: Go ahead.

PLUMER: What if we had a department that was, say the City of Durand but in Pepin County ambulance service, does that lead into two separate entities.

SEITZ: If they're separate entities.

SAUNDERS: It depends on who--what's called the participating municipality in the statues and rules. That's the municipality that or the entity that is the sponsor, if you will, of the program or of the award program. And if they, depending on if the single individual is a volunteer for one entity or firefighter for one entity and an EMT for another, or for that matter a volunteer firefighter for both, they can receive--it would be two separate accounts because the individual accounts are determined by the municipality. The municipality will sign up it, for want of better words, its firefighters or EMT's and hence there will be one account per individual per municipality. But if there are two municipalities, like I said, there's a county and a town or something and they both have separate accounts with this individual, then that individual would be receiving--would have two accounts and it'd be treated separately. Now one thing, in a situation like that, an individual, if they are providing service to two separate entities in a single year, they can still only get one year of vesting for each, in other words, just because they put in two or have given service to two entities, they only get one year of credit, they don't get two years credit on each account.

PLUMER: I guess that's the question.

SAUNDERS: I hope that explains it. It gets a little complicated.

PLUMER: Yes. I guess in some ways I'd like to see the committee get us some clarification on that so that we could hand it out. Because that seems to be one of the main things that I'm finding throughout the State, can they get a double--I call it double dipping? You know, two times the total? And I guess that would help us in clarifying it out. I have nothing but high praise for the committee that put this together for us. This is the fifth one I've sat through and we finally got through. But I think it's something great for firefighters and EMT's in the State of Wisconsin.

SAUNDERS: Chief, can I ask you a question? One of the comments we had from the Legislative Rules Clearinghouse, and they're basically a bunch of attorneys and policy people that go through these rules and pick them apart pretty thoroughly, one question they had is, should there or shouldn't there be a time limit or a minimum time period for granting a leave of absence. In other words, you know, because under the rules or in the statute, if you don't provide service for more than six months and you haven't been given a leave of absence, then you're out of the program and your account dies. But if you've been granted a leave of absence, you can continue in the program even though you're not providing service.

PLUMER: I believe most departments have their own leave of absence guidelines set into--

SAUNDERS: Okay--

PLUMER: --their leave of absence guidelines set into their bylaws already. I think that had to be a municipality decision if they want to pay that person out for that length of time. We have, in my own department, we have a one-year leave.

SAUNDERS: Okay.

PLUMER: And after that, you're time put off, and the one year time, as soon as a there's an opening you're allowed back in the department. But you just can't come back on there, there has to be an opening. So you have to take all that into consideration if there was an opening. The officers or the City might have to extend his leave of absence for months to get him back on the department. You've got to look at why was the leave administered? Was it medical or family problems or something like that. And I believe you're going to find most fire departments in the state have that provision in their bylaws.

SAUNDERS: I think that's the same with the service requirements, we decided not to determine or not to set a minimum standard of types of service credit or types of service that would equal credit because we understood each municipality or each fire department had its own rules.

PLUMER: That's my interpretation.

SEITZ: So your advice would be to leave it as broad as possible and allow the local--

PLUMER: Yes, the local department, I think, is going to handle it to their own. They're not going to keep paying the money, I don't believe there's somebody that's not going to fulfill their service in a certain time and my personal feeling is one year is very adequate, you know, unless there's a traumatic injury or something.

SAUNDERS: Alright, thank you.

PLUMER: Thanks for your time.

SAUNDERS: Next up is John Schmitz, Richfield Volunteer Fire Company.

SCHMITZ: I have a couple of questions, I guess, mostly concerns. One of them I don't believe is actually going to be addressed but I'd like to bring it up anyway and that is the length of period of time, the 20 year vesting schedule, I think, is part of the law as I understand it. It's not something that can be changed at this time. Realizing that, this program was put together to keep people in the service and to keep people volunteering. The 20 years seems a little extreme to most of my colleagues and a little lengthy, especially since we have 3 vendors to choose from, we don't know the length of time that the program is going to be put together for, how long will it continue, how long will the funds be available? I've interviewed most, in fact, I've interviewed all 3 of the vendors and all of them have penalties if we happen to withdraw or change, yet, we're supposed to invest into a program that's out there for a 20 year vesting schedule with no guarantee that it's going to be around in a year or 5 years or 10 years.

SAUNDERS: You're right about the fact that it statutorily requires it to be a 20 year vesting period and so the Board itself has no authority to change that by rule. Something else that I should clarify, the rules themselves are to interpret the statute and to clarify. We can't go counter to it.

SCHMITZ: And I understand that, but I'm just expressing our concerns and realizing we can't change it but perhaps at some point you understand the concerns and may be--

SEITZ: If the vendor's change, then they would have to, under their contract, transfer the funds. You would not be penalized for a vendor--

SAUNDERS: Yes, if a vendor were to go under or get out of the program--

SEITZ: If a vendor loses their contract--

SCHMITZ: Right, if a vendor is withdrawn or if they drop, then we wouldn't be penalized, understandable. But, if for instance, again, with any program that's a 20 year vesting schedule, and in 5 years from now the state doesn't have the funds to do the matching funds, I'm investing in a program that might not be the best one for my people. And I have to wait 15 additional years in a program that's--

SAUNDERS: Yes, we understand--

SCHMITZ: --not necessarily the best.

SAUNDERS: --and I don't know what to tell you. The Board will be making some recommendations on statutory changes I'm not exactly sure when, in the coming year, I'm not sure which session. But that one, I think that one's pretty fundamental and I don't know what the Board would want to do--

SCHMITZ: Again, just wanted to express our concern on that part of it. Again, currently, there's 3 vendors and we have to choose from one of those 3 vendors if we want to continue or take advantage of this and quite honestly I do want to take advantage of this but it just seems so new and so many rules and the 20 year vesting, that we're not certain if we're going to and that's one of the reasons why we're appearing here today to try and get more information on the whole thing. Additionally, we currently have two full-time employees. We're a private company. We have two full-time employees that we actually hired from within understandably, they're not eligible for this program. I understand that. What happens if we need to, for whatever reason, we can't maintain our volunteerism and we have to go to a completely full-time fire department? Or, may be we need to even hire 2 additional people in the future, five years from now. What happens to--and typically what we've done is we've hired from within. So we've got volunteers that are out there right now, they want to get into this full-time, we hire them. What happens to their years of service that they've already put into that company, or let's say we had to go completely to a full-time department, what happens to those years of service to those people and the funds that are in that account?

SAUNDERS: Yes, again under the statute, if it's less than 10, those years of service, they are lost. If they've already--I'm not sure where you are if you can buy back provisions where you buy back prior years of service given before the program started, if the municipality decides to adopt it. So they can buy back and so if you've got some people that have been around for 10 years or 5 years and then you've got another 5 years before they become employees, once they get 10 years of service in and invested, you don't continue to grow, but you do have basically half the value of that account. You've got to wait another 10 years because you can't get a pay out until you've hit 20 years of service, that's just by statute. But, they don't lose it all if they've got 10 years, that's a threshold vesting time period. But yes, if they have less than 10 years of service in, it is lost and it's not unlike, I think, most benefit--

SEITZ: It's lost to the individual, not lost to the department.

SAUNDERS: Right. Good point.

SCHMITZ: Understandably, but again, it's almost a penalty, not they're not going to make a ton of money on this program anyway, but it is some money that is due them but because they're now going to a full-time position within, even within their own organization, they're basically penalized for that.

SAUNDERS: And I can't speak for the legislature because I wasn't even--the Department of Administration wasn't even involved in any of this. It was given to us after the legislation was passed and basically told to deal with it. But I'm assuming, and Bob might have some background on that, but the time period, it's a 20-year full vesting and 10-year partial vesting. I always assumed that it was based on other types of benefit programs. I know, for example, working for the State I'm not sure how many years it is but there's a minimum vesting period. If you're working and leave before that time, you just--

SCHMITZ: Yes, but it's probably not 20 years.

SAUNDERS: No, it's not.

SEITZ: On the issue of the guys going to full-time. I don't think that's really a problem. But that's not--I understand your issue, but it's not a problem created in our rules because I believe under our rules, I'm on your department and I go full-time, there's nothing in our rules that says I can't work at my full-time job which happens to be being a firefighter in Richfield and then also volunteer outside of that for your department and then accrue my credit and make my points to get in. There may be some other problems some place else with that, but it's more a problem outside of our area, for instance, if the person was a full-time fire fighter in another community, then was allowed to volunteer, some are and some aren't, but was allowed to volunteer in Richfield. So he's a firefighter in Milwaukee and he's volunteering in Richfield, he could still accrue his credit. And I don't know that--we obviously don't prevent that. And I don't know--

SCHMITZ: Well, I think there's some verbiage in there about being under contract with the community and I'd have to look through it to find where it's at, but if you're under--

SEITZ: That's the definition of--

SCHMITZ: --contract--

SAUNDERS: Yes, it's the definition of volunteer so--

SEITZ: That's IRS Code?

SAUNDERS: We have a lot of rules and statutes that we don't have control over but I understand your point.

SCHMITZ: What if the municipality then, six years from now, decides we need to go full-time or 9 years, whatever, under the 10-year period and just can't find enough volunteers to man our department, what happens at that point? I mean the municipality pulls out.

SAUNDERS: They can transfer that to--

SEITZ: I think they can--well, they could continue to accrue--they can transfer themselves to a different entity and continue to accrue credit and their account would remain open if they were still serving. And there are some issues like that that we've talked about in the past, there are some issues like that going forward that are going to have to be dealt with down the road.

SAUNDERS: Right, and some of those, again, by statutory amendment.

SEITZ: As far as what happens if a municipality goes away or those kinds of issues--

SAUNDERS: Because nothing does prevent that, at this point, nothing under the statute provides for what happens in that eventuality. So there are problems that need to be addressed--

SCHMITZ: I guess the only other concern or issue I would have is the availability of funds. And currently, I don't know how many departments have their resolutions passed and filed with the State, I understand not a lot yet. But there's somewhere over 800 volunteer departments within the state and as there's more and more that do decide to take advantage of this offering, will the fund value go up, the dollar value, will it at some point go away? And again, because it goes back to the 20-year vesting schedule. Today as it stands, it may not be a bad thing to go into, but is it the best for tomorrow because of the fact that I'm only going to get $25 per employee or per volunteer because of the fact that that's what the funds are that are available, you know, the state matching funds hit the glass ceiling if you will and we can't put anymore into it. And with a 20-year vesting schedule, it might not be the best for our people.

SAUNDERS: And that's a potential problem because the Legislature sets that amount. I do think the events of September 11th, that it's more favorable that they'll make sure that doesn't go away. But you're right, you're at the mercy of the Legislature as far as increasing that amount, $2.5 million.

SCHMITZ: $2.5 million?

SEITZ: Two million.

SAUNDERS: Two million, I'm sorry. Wrong program.

SCHMITZ: I thought we were growing--

SAUNDERS: No.

SCHMITZ: You can change it by rule?

SAUNDERS: I wish. No, that's again, the Legislature has control of that and presumably if we do bump up against that, then they will increase that amount.

SEITZ: I will say politically, it is a program that passed virtually unanimously in the Legislature. They did pass a sum sufficient appropriation for it which means the funding is whatever the funding is required. Then they put a cap of $2 million on it, which I believe covers, if a third of the departments got in fully into the program, we would still be able to fund it fully. And that's quite a range. We've got some time before we get up to a third and I think, I see that the chiefs and the fire fighter's associations are both represented here, I think, both will tell you that it's in the front of their mind to try and get that addressed and the more departments get in, the more impetus you have to lift that cap.

SCHMITZ: Understandable. If people don't take advantage of it, then there'd be no reason to raise the cap. Okay.

SAUNDERS: Thank you. Terry Kohl, Richfield Volunteer Fire Department?

KOHL: (inaudible).

SAUNDERS: Okay. John Hamer?

HAMER: Here for informational purposes.

SAUNDERS: Okay, so you don't need to--

HAMER: Although I can make an offer if you'd like. Although we, as a vendor, have forwarded to the Board's attention questions as we've gone along, as I sit here I'm thinking that if it would be useful to you, what we could do is sort of a cumulative report to you by the January 7th cutoff that would maybe put some emphasis on frequency of questions if you think that would be helpful. I don't know that there's may be questions we've fielded that have not been brought to your attention or frankly that weren't covered previously so that we could address it, but if you'd like, we could do a summary report based on the contacts.

SAUNDERS: Yes, I think that would be good. I think Bernie Mrazik, who's not here today and who won't be, he's our staff person, who will be replaced soon, because the program is shifting to another area in DOA, but we talked about frequently asked questions put out to everybody, so, yes, if you want to do that. And Jeff, I know, you've given some feedback, that would be helpful because we do seem to get the same questions. And those questions obviously help us to the extent we can make changes, proposed changes, in the rules. Obviously to find what the sticking points are, so that's very helpful. We appreciate that. And just for the record, John Hamer was representing VFIS, Lamb and Horton. Jeff Diehl?

DIEHL: Informational purposes.

SAUNDERS: And Jeff is from The Advisory Group. Chief Bloom, Dave Bloom, from Wisconsin State Fire Chiefs Association.

BLOOM: First of all, I'd like to just thank Bob and Mark and the entire Board for all of your hard work this year for the Wisconsin State Fire Chiefs Association. We appreciate you and from what I understand Mark canceled a vacation to get this thing ready.

SAUNDERS: I'm making up for it next week.

BLOOM: But we appreciate all the hard work the Board's put in this year and this has been a long time coming. I've got a couple of comments or questions. Comments, I guess, not questions that I received from different departments. The first one, and it may have been covered when Mr. Plumer was here, I'm sorry I wasn't here earlier. But in the language where a municipality has to sign or enact a resolution, there's I think, three things that we need to add to that language and that's counties, districts and sovereign nations. I've received input from all three, in fact, we had a county here in Wisconsin that was ready to enact a sales tax, I think it was a half percent in sales tax, and fund the program for the entire county and found out that the county couldn't enact that or couldn't be the municipality and backed off at that point. We would have had a county involved. And from what I understand, the district's sovereign nations can't be involved either.

SAUNDERS: Yes, they're not listed in the statute. Again, that's a statutory suggestion that we need to expand.

SEITZ: There is a senator working on a draft to take care of that.

BLOOM: Great.

SAUNDERS: Yes, and--

SEITZ: Sovereign nation we haven't quite bitten off yet. But the counties in particular--

BLOOM: I believe there are several county EMS Associations or EMS organizations run by counties that would have to go to municipalities for a resolution to be passed. From what I've heard from districts, they've been able to get one of the townships to enact that but it would be much simpler for a district that oversees 7 different townships to just be able to do it by their district board rather than having to single out one of those townships. The other point that I'd like to be considered, and I'm not sure I don't have a lot of information to provide you, but for existing LOSA programs not involved in the State program, DFIS was one that had one in place for many years, and I'm not promoting their previous program, but to be able to convert the existing programs into the state matching program would be very beneficial to many departments. I know of, there's at least 3 or 4 just here in Dane County that had existing programs and I know are waiting for, from what I understand, there's a letter in from one of the vendors that has asked how they can do that conversion. There's several existing programs out there that would like to be able to convert that over and start getting the matching funds. That would be helpful.

SAUNDERS: I think the rules don't address that per se--but basically, other than conforming to the rules and statutes, I'm not sure how or what the effect would be of the IRS Code. Jeff you're nodding.

DIEHL: As we've discussed with some of our clients who have an existing LOSA program and in discussions I've had with both you and Bernie, is that what it comes down to is you've got to comply with the state rules and regulations. You know, they've got to make a decision if they're willing to change their vesting schedule and the other things to comply with the state regs.

SAUNDERS: And does that have any, or could that have an effect on the IRS Code?

DIEHL: On the 457 codes, no. No, it's just a matter of writing an adoption to the employment agreement, amending the adopting agreement to reflect that you're going under the state's vesting schedule.

SAUNDERS: So it's basically between the municipality and the program administrator or the vendor?

DIEHL: As we see it, yes.

SAUNDERS: That's kind of what, you know, the question was posed to me, that's the way I saw it too. It might be cumbersome or difficult to do, but I don't think it's prohibitive by any means. Chief Bloom can I ask you a question?

BLOOM: Sure.

SAUNDERS: First responders, we put in the rule to include first responders in addition to fire fighters and EMT's. One of the comments from the rules clearinghouse was that there is no authority for that. We have arguments, and I think strong arguments, that they essentially should have been included and were perhaps overlooked. And we'll, I think, make that argument when we submit this to the full legislature for consideration, but I'd like your opinion on that.

BLOOM: From what I understood, the first responders were included and I believe they should be included. There is and I don't know whether it has anything to do with recognizing first responders, but there is a plan to certify and train first responders.

SEITZ: They were trained.

BLOOM: There is no program in DHFS right now so it's kind of an unfunded mandate.

SAUNDERS: Yes, the statutes, H&FS statutes were very clear about certification for first responders and it was specifically put in, I think, Act 56, 1999 Act 56, so it seems like they should have been included but they specifically weren't mentioned in the LOSA program but we put it in the rules anyway. We figured--we believe that there's authority for it. And I know you've been around in the process, the legislative process, so I wanted to get your opinion.

BLOOM: And we have had inquiries from first responders were they included and we responded yes, you are included. They just need to be associated and have a resolution passed by the municipality--

SAUNDERS: Because in the present emergency rule, which is the law now and they are included, I think we might need to continue it.

BLOOM: They're definitely interested. I don't know whether any of them have applied for this year's funding but there's definitely interest--

SAUNDERS: Okay, thank you.

BLOOM: Thank you.

SAUNDERS: And Randall Sellnow?

SELLNOW: Chief Bloom pretty much covered what I wanted to mention. My main concern was coming from a fire district that has a village and townships is that we wanted to get into this program, you know, before the end of December and as soon as we got each individual municipality involved and they had to get it to their attorneys, when the attorneys got a hold of it, it entered lawyerville which meant that the brakes were on and we weren't able to get anything done. And my concern, and my district's concern, is that fire districts that set their own budget and with representatives from each participating municipality and entity should be allowed to be administrator to these programs. And I, again, would like to echo Chief Bloom's comments on thanking you guys for putting this together for the volunteers.

SEITZ: Just in explanation, when the legislation went through, the reason that we did key it to municipalities was so that something wouldn't happen like the Legislative Council is talking about with first responders, that we end up missing somebody because it appeared in talking with people from across the state that there are basically as many ways to organize a fire department as there are fire departments. As you know, some of them incorporated, some of them are municipal entities, some of them are different kinds of fire boards and each of them has a different contractual relationship with the municipalities it serves. And we started to go through in the drafting process trying to list all of them to make sure that we included everybody that should be included and we quickly got to the point that we decided well, no matter what we did, we were going to miss or exclude people who had some different means of organizing. So we decided, well, what they had in common is, they all serve municipalities in one way or another and really that provision may make another step that has to be met, but it also keeps this program from interfering in the organizational structure of local fire districts and EMS associations. So that--we didn't want to throw a wrench into the way that local communities organized themselves. And really, that was a way to keep the freedom, keep the independence locally and we really couldn't come up with a different way to do that. The other issue was in attracting vendors to offer the program and speak to people in the business, they were much more likely to pursue the program if they could work--if their contract was with a municipality rather than with a district that didn't have taxing authority, you know, had revenue just in terms of what the communities were willing to give it. And so those, I think, were the two reasons that the legislation went that direction. If it went back that way, we would end up having to figure out every means that every municipality in the State has--every relationship that they have between a municipality and a fire department. I don't know if we're any better able to do that today than we were then.

BLOOM: There might be something else legislatively--I believe districts are recognized as--State of Wisconsin. I think that was--(inaudible)

SEITZ: Yes, that was one of the--

BLOOM: --Wisconsin--(inaudible)

SEITZ: Yes, I think somewhere informal, probably on purpose.

BLOOM: --say you've got 5 districts I think only one had to meet the criteria--

SEITZ: So that's kind of--the problem is probably 120 years or something of patchwork organization.

PLUMER: I have one question here. I hope this committee is going to stay together for some time. I mean just sitting here, I think we've had minor things come up and I do feel, I just asked Tony, I think down the road there is going to have be some changes here, somehow to meet the criteria because this is the first time through and I don't think we've got all the curves out of it. I'd really like to see this committee not dropped in so many months because I do think there's going to have be some things addressed with the fire departments, you know, have at least a say in a body that hears from us.

SAUNDERS: And that's the Board, the Volunteer Firefighter Service Award Board is a permanent board.

SEITZ: We're created in the statutes.

SAUNDERS: And the appointments come through the Governor's Office and as their various terms come up, new people will be appointed. But the Board is in by statute, so it's going to be an ongoing thing. The question is staffing it. It's attached to the Department of Administration, that's why I'm involved. We have one staff person, Bernie Mrazik, who, as I say, will be replaced by somebody else soon. But that's really the problem, is staffing. So it's one of my many duties to deal with this Board. I have a lot of other Boards that are attached to the Department that I deal with and other duties so it's kind of hard to--there's not one individual or group of individuals that day-to-day deal with it.

SEITZ: The program has start-up staffing basically to get the program running. But doesn't really have--

SAUNDERS: The way the statutes were--I mean the way this program was developed, I think, that's why there's a heavy reliance on the vendors. The Board oversees, they put the general rules in place and the general concepts and then primarily the program administrators will then work, presumably, and work closely with their customers, you, to develop the program and, you know, there's kind of a minimal oversight eventually, with minimal oversight by the Board.

PLUMER: --with you. The vendors are going to see the problems. And I think it's just like any of your other jobs, they see a problem that has to be addressed and eventually I hope that they do come forward to make this program--

SEITZ: That's one of the other frequently asked questions, I think, is about, you know, why we don't just open it up to everybody to offer the program locally and why we went through this six month RFP process and put these guys through hoops for months.

PLUMER: I guess that's one of the comments I've heard why they can't stay with one--but I said we can't please everybody out there.

SEITZ: And that's the reason, is that we have to be able to rely on these guys to run the program. We don't, the state does not run this program. The state oversees it and the State cuts a check once a year, and that's about it. The program is run privately and that's why we need to be able to rely on the vendors that are offering it. More could have applied and gotten in. Anyone locally who says they would have liked to have been in the program had their opportunity to get in, it was noticed statewide and all that.

SAUNDERS: We contacted quite a few entities nationwide but only 4 or 5, I think, applied.

SEITZ: Five.

SAUNDERS: And there are certain requirements that they had to meet so as Bob says they weren't just a fly by night or they had some experience in these kinds of programs. They are relatively new nationwide. They are 5, 6 or 7 years old.

SEITZ: And they've made a commitment to developing the program that meets the statute and the rules and so our commitment to them is that they'll have the opportunity to operate it in a known environment for their contract.

HAMER: One of the things I'm telling--if they're into it for 10 or 20 years already, they've got to evaluate whether to leave that one to come to ours. They've got to do the evaluation and I recommend that they sit down and talk to these people. We can't tell them what to do, if someone's been in for 10 years or 15 years already, pull their funds out--

DIEHL: I think, you know, VFIS has been doing programs in Wisconsin going back to about 1986. I mean there's probably no reason that we can think of why those plans, if they're willing to amend their documents to comply with the state statute, why they couldn't do that.

PLUMER: That's why I've told them, they have to talk to you to evaluate whether they can do that.

SEITZ: We're finding that there are some that are not set up through you guys, VFIS, or any of the national programs. But the other thing we always said from the beginning of the program, this is one--and it may not fit everybody.

SAUNDERS: We have no more people to testify. I have a couple of comments I'd like to make and then I guess we'll adjourn the hearing. We get a lot of questions. I have had, in the last couple of weeks, because we're coming up to the deadlines, a lot of questions about December 31st deadline and January 31st deadlines. And I just wanted to clarify that, by rule, the two things that need to be done before December 31st. One is that leaves, if anybody is going to be granted a leave, they have to be granted for this year by, there has to be a piece of paper or however the local municipality or fire department does it, the leave has to be granted before December 31st, that's one deadline. The other deadline is essentially a contract with the vendor has to be signed by the end of the year in order to get this year's credit. It doesn't necessarily mean that the resolution has to be in to us. I would assume that you, the municipality, would have to pass a resolution in order to enter into a contract but I just wanted to clarify because I've had a couple of questions from people whether the resolution has to be in by December 31st. Technically, there's no requirement that has to be into the Board by that time, but the contract would need to be entered into. Jeff?

DIEHL: When I talked to Bernie, Bernie indicated that the resolution had to be passed by 12/31, but the contract, contributions and all that could be done by January 31st.

SAUNDERS: Well the contributions, that's the next part I'm getting to. The contributions themselves, they don't have to be in until January 31st.

DIEHL: You want them to have a signed administrative contract by December 31st?

SAUNDERS: Well--

SEITZ: You have to be in the program in 2001 to get credit for 2001 and what we left open in the rule was the grandfathering, sort of, that you can get credit for all of 2001, for all of the year that you enter, I guess, you can get credit for the entire year that you enter if you--based on when you enter. So if you enter after 2001, you get credit for all of 2002 if you go January, but you don't get credit for 2001.

SAUNDERS: So, well, let me ask the two vendors here. What's the normal situation that you've encountered when you signed up a municipality? Do you have them provide you with the resolution or anything like that or do you just enter into contract negotiations and then sign the contract.

HAMER: Well, the rule says that with respect to the resolution that the Board can have it on request. It doesn't say the Board must receive it.

SAUNDERS: Right, and that was my point.

HAMER: --receiving a copy of that. But more critical to our engaging into a relationship are forms of our own--specific to our investments. But the rule is silent on the 12/31 deadline although it's a good practical way to assure yourself that there's an intent to contract for 2001 but the rule only specifies the contribution being made by January 31 would act as the intent--so there we have certainly in recent weeks, in year one particularly, I have a lot of questions about that. And if you ask me the norm and I'm sure we'd say normally we'd be normally far advanced in a year and so this is a one time--

SAUNDERS: Right, it's right now.

DIEHL: And I think we're under such a time crunch because what we've been telling the communities is that the resolution must be passed by your town or village or city council prior to 12/31 and--

SAUNDERS: Right. It doesn't have to be here.

DIEHL: No, it's got to be passed. They've got to have it passed.

SAUNDERS: That's what I wanted to clarify.

DIEHL: And then the contracting, that we've got to have that all done and the checks must be processed through us by 1/31.

SAUNDERS: And I think that's--it's required by rule that the money gets here by then so we can--it's as much for the state's accounting system as anything so we can cut the check.

DIEHL: And then Bernie, in discussions I had with Bernie, then what he wants us to do is to provide proof they had cut the checks by 1/31 and a letter from us stating what each department is eligible to receive from the State of Wisconsin. He indicated that they don't necessarily need an individual breakdown of more of an accounting--there's 35 members, 34 are eligible, the eligible matching funds contribution from the State should be X amount of dollars.

SAUNDERS: Right, he's right on that. There are only 3 places in the rule that state--that those dates are mentioned, one on December 31st is simply that the leaves have to be granted and the January 31st deadlines that are mentioned in the rules are the statement of service and the payment of the contributions to the program administrators. Sorry if I misspoke or misled. But I think, obviously, you have to be concerned, obviously, there's no problem with the IRS, the tax treatment or anything and I don't think there would be by those deadlines.

DIEHL: Well, the bottom line is that in my discussions with--in the last couple of months as I indicated to you, there's not a whole lot of consulting but they are seeking opinions to looking at additional but there is not a whole lot of guidance out there, there's not a lot of black and white presently.

SAUNDERS: Exactly. We looked a lot for that when we were drafting the rule.

SCHMITZ: I have a question now, a lot has happened in the last 5 minutes with those dates and I want clarification. We do not have to have a vendor selected by the end of December. We need to have that vendor selected--by the end of January?

SAUNDERS: Yes.

SCHMITZ: Okay, that's what we've been told all along.

SEITZ: You need the resolution passed.

SAUNDERS: Yes, you need--

SCHMITZ: The resolution is passed.

SAUNDERS: Okay.

SCHMITZ: But we don't have to have it filed with anybody?

SAUNDERS: No, I mean you need to file with the Board eventually, but I mean, there's been some, at least I've gotten a lot of questions as to whether the resolution had to be to the Board by December 31st and it doesn't.

SCHMITZ: That was my understanding too, it does not?

SAUNDERS: No.

SCHMITZ: Okay.

SAUNDERS: But we do want proof of it.

SCHMITZ: Alright.

SEITZ: Basically, the Board is mainly going to go through the vendor to ensure that, you know, they're under contract to make sure that you've passed a resolution and filed it appropriately with them.

SCHMITZ: And who should they that get filed with, should that go to Donna or to Bernie or whom?

SAUNDERS: Actually, if you have Bernie's address, the address that Bernie has been putting out, which I don't know if I have it, to tell you the truth. But that's the one.

SCHMITZ: It goes to Bernie?

SAUNDERS: Yes, for the time being. The other one is, I will be associated with the program for the, I don't know how long, for the very far future, I think. So it can also be sent to me. I'll just give you my fax number right now if you want it. You can just fax those. It's (608) 267-3842. And I've got cards here too, if you want to pick one up after the hearing.

SCHMITZ: I'm sorry, I've forgot your name now.

SAUNDERS: Mark Saunders. I've got cards here.

SCHMITZ: And a second question that I had, you talked about having the, by December 31st, having the leave of absences filed. Again, for the first year, what difference does that make. It's my understanding, if you're on a leave of absence, there's no contribution and the leave of absence is only so that you don't lose your contribution and you don't even get another year of vesting, so--for the first year what would that be?

SAUNDERS: Correct me if I'm wrong, but if you had--if you wanted to have your volunteers get credit for the whole year this 2001, and somebody had worked from January until June but then went on a leave of absence--

SCHMITZ: Oh, okay.

SAUNDERS: You don't want to lose that--those six months. So, it probably won't come up a lot.

SEITZ: It's a first year issue as far as the timing, I think.

SCHMITZ: How do you think--normally that would make sense, yes, to have that deadline, but I just didn't see the--

SEITZ: I think it's a matter that the leave of absence has to be filed in the year that it's taken in, and in this case, we're sitting at the 27th and, you know, it's here, this year's about done. That again, gets back to the sort of retroactivity of the program which we kind of read. The other way to go would have been to say that you get credit from the time that you contracted for the program and then this year issue wouldn't come into play, but our read of the statute is that we can allow you to sign up and get credit for the entire year so it's a good problem.

SCHMITZ: I just didn't understand the leave of absence for this year. That clarifies it.

SAUNDERS: Okay, with that I'll formally close the hearing. And I would also encourage you to call, to write in with questions and comments as they occur because this is an ongoing--a living document it seems like. It keeps growing. Thank you very much.

cc: Bob Seitz 1/29/02

Joint Municipal Fire Commission

Eagle River Area Fire Department
820 East Pine Street
Eagle River, Wisconsin 54521
(715) 479-8835 Fax (715) 477-8835

Chief Patrick Weber

January 4, 2002

Donna Sorenson
Department of Administration
P O Box 7964
Madison WI 53707-7864

JAN - 7 2002
DEPT. OF ADMINISTRATION

Dear Ms. Sorenson:

I am writing to you in regards to the State Pension Program with regards to the vesting portion of this program.

As currently written it provides 50% vesting after 10 years and 100% vesting after 20 years. This vesting schedule is not attractive to hiring new members especially if they are over 40 years old or retaining current members.

The problems foreseen are that we have hired members over 40 to help in areas of the fire department as in fire inspections and fire prevention programs. These members are available at times when younger members are working.

As your schedule is written these older members would never be able to qualify for vesting unless they remain in the fire service until over 65 years of age. Realistically this is not going to happen.

Our recommendation would be to have full vesting available to fire members after being on a department for five years. This would be attractive to obtaining new members and at the same time retain our current members.

As we have talked with other departments in the area, the feeling is mutual in that the vesting period as proposed will create hard feelings on members that have been on the department for many years with the idea of retiring around 60 years of age, but due to the proposed schedule they would never qualify.

If you have any further questions please feel free to contact me.

Sincerely,

Patrick Weber

Patrick Weber, Fire Chief
Eagle River Area Fire Department

Summary of rule revisions based on comments from the Legislative Rules Clearinghouse, hearing testimony and written comments received by the Volunteer Fire Fighter and Emergency Medical Technician Service Award Board ("Board"):

CLEARINGHOUSE RULE 01-123

CHAPTER VFF-EMT 1

BOARD RESPONSE TO RULES CLEARINGHOUSE RECOMMENDATIONS

1. STATUTORY AUTHORITY

The statutory authority concerns of the Rules Clearinghouse were met by amending or modifying the proposed permanent rules except in regard to two areas. First, the proposed rule retains the reference to first responders under s. VFF-EMT 1.03 (16), allowing first responders to participate in the program. First responders, unlike volunteer firefighters, must be certified by the state just as EMTs are. Furthermore, many firefighters and EMTs are certified as first responders. The Board believes that to include them in the program is a reasonable inference to be drawn from the statute, based on apparent legislative intent, in turn evidenced by 1999 Wisconsin Act 56. Act 56 amended nearly 30 statutory sections to include first responders wherever emergency medical technicians were mentioned in the statutes, and to clarify that they are to be treated consistently with emergency medical technicians (EMTs). Because 1999 Wisconsin Act 105 (the length of service award statute) was not enacted at the time Act 56 was passed, the Board believes that the failure to include first responders in Act 105 was an oversight simply because there was no obvious reason for the legislature not to do so. Because Act 105 is intended to provide a length of service award to induce continued volunteer service for those persons that actually respond to emergency fire, medical, hazmat, and similar situations, the Board did not eliminate s. VFF-EMT 1.03 (16).

As a further note, after discussing this matter with representatives from the Board at a rule extension hearing held on February 6, 2002, the Joint Committee for Review of Administrative Rules agreed to introduce legislation to include first responders in the length of service award statute. This measure, 2001 Assembly Bill 825, passed the Assembly on March 7, 2002.

The Rules Clearinghouse also questioned s. VFF-EMT 1.07 (1). This provision allows a fully vested volunteer firefighter or EMT, who has already received a length of service award upon reaching age 60, to continue receiving service award benefits under a new account as long as they continue to provide creditable service. The board believes this to be in concert with the legislative intent of the service award program to promote continued volunteer service. This provision provides an incentive to those firefighters and EMTs who reach age 60, become fully vested, and receive their LOSA benefits, to continue to volunteer their services. To not provide this incentive would surely discourage the very behavior the legislation was meant to foster. The three program administrators (vendors) that provide length of service plans in the State suggested this idea to the Board. It ensures that there is no negative tax effect through the annual payout under a new account, so that it is consistent with statutory requirement of section 16.25 (2), Stats. Because this treatment was an extenuation of the program plans offered by the vendors and a logical extension of the statutory scheme, and in the absence of a specific statutory prohibition, the Board strongly believes this provision implements the Legislature's original intent.

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE

All of the Rules Clearinghouse suggestions were addressed and implemented.

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS.

All of the Rules Clearinghouse suggestions were addressed and implemented.

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE

All of the Rules Clearinghouse suggestions were addressed and implemented with the following exceptions.

In regard to 5(i), there was no limit put on the length of a leave of absence under s. VFF-EMT 1.09 (2) for several reasons. First, it is basically a self-policing provision, in that municipalities generally would not want to grant extensive or indefinite leaves of absence. If they did, they would face the difficulty of finding openings for those returning from lengthy leaves of absence. Also, allowing municipalities to set their own leave of absence policies provides flexibility to cover various absences ranging from family or medical leave to performing military service duties.

In 5(s), the Rules Clearinghouse stated that s. VFF-EMT 1.16 [in conjunction with s. VFF-EMT 106 (1)(e)] provided meager guidance for participating municipalities when terminating a program, and felt that it should set forth in detail the steps a municipality should follow when terminating a program. The Board did not directly address this issue. Rather, the board will rely upon the program administrators to provide the participating municipalities with the minutiae of procedures required under the plans they offer. The Board's contracts with the program administrators require those administrators to provide this kind of detailed information under their plans to the municipalities they, in turn, have under contract.

BOARD'S RESPONSE TO ISSUES RAISED AT PUBLIC HEARING

Although four of the seven people who appeared at the public hearing indicated that they wished to testify, only two of them actually suggested changes to the proposed rules.

<u>JOHN SCHMITZ, RICHFIELD VOLUNTEER FIRE COMPANY</u>

Mr. Schmitz felt that the 20-year vesting schedule was too extreme and thought it should be shortened. However, it was pointed out to him that the vesting period was set by statute and the Board had no authority to alter that by administrative rule.

<u>CHIEF DAVID BLOOM, PRESIDENT, WISCONSIN STATE FIRECHIEFS ASSOCIATION</u>

Chief Bloom requested that the Board change the proposed administrative rule to allow counties, districts and sovereign nations to act as participating municipalities under the program. He was informed that the definition of "municipality" was provided in the statute and the Board had no authority to expand that definition in the rule.

BOARD'S RESPONSE TO WRITTEN COMMENTS

The Board received one written comment from Patrick Weber, Fire Chief, Eagle River Area Fire Department. Chief Weber wrote to request that full vesting under the program should be available after 5 years of service rather than the 20 years provided at statute. The Board has no authority to change that statutory provision.