

CR 84-228

CERTIFICATE

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

RECEIVED

MAY 22 1985
9:20 am
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Gary I. Gates, Secretary of the Department of Employee Trust Funds, and custodian of the official records do hereby certify that the annexed rules relating to unforeseeable emergency withdrawals from and local government participation in the deferred compensation plan were duly approved by the Teachers Retirement, Wisconsin Retirement and Employee Trust Funds Boards and adopted by this department on May 20, 1985.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand at 201 East Washington Avenue, in the City of Madison, this 20th day of May, 19 85.

Gary I. Gates
Gary I. Gates, Secretary
Department of Employee Trust Funds

7-1-85

ORDER OF THE DEPARTMENT OF EMPLOYE TRUST FUNDS

ADOPTING RULES

To create Chapter ETF 70, relating to unforeseeable emergency withdrawals from and local government participation in the deferred compensation plan established by the Employee Trust Funds Board.

Analysis Prepared by the Department of Employee Trust Funds

Subchapter 1 of this proposed rule provides for an orderly processing of requests for unforeseeable emergency withdrawals including taking preliminary steps and eliciting information required under federal law. These withdrawals can jeopardize the plan's tax status if improperly handled or documented. Federal law governing emergency withdrawals is found in 26 U.S.C.

Subchapter 2 of this proposed rule requires that local government participation in the state Deferred Compensation Plan be accomplished by passage of a formal resolution by the governing body of the local government. Formal notification to the Department and the administrative plan provider is required. A method of local governmental withdrawal from participation in the state plan is provided.

Subchapter 1 of this proposed rule interprets ss. 40.02 (18g) and 40.80 (2) (a), Stats.

Subchapter 2 of this proposed rule interprets s. 40.81 (1), Stats., as amended by section 15 of 1983 Wisconsin Act 290.

Pursuant to the authority vested in the secretary of the department of employe trust funds by s. 40.03 (2) (i), Stats., the secretary of the department of employe trust funds hereby creates rules interpreting ss. 40.02 (18g) and 40.80 (2) (a), Stats., and s. 40.81 (1), Stats., as amended by 1983 Wis. Act. 290, as follows:

Section 1. Chapter ETF 70 is created to read:

Chapter ETF 70
DEFERRED COMPENSATION PLANS
SUBCHAPTER 1
GENERAL PROVISIONS

ETF 70.01 EMERGENCY WITHDRAWALS. (1) A participant may make emergency withdrawals in the event of an unforeseeable emergency under the following conditions and limitations:

(a) As defined in 26 U.S.C. s. 457 (b) (5) and 26 C.F.R. s. 1.457-2 (h) (4), an unforeseeable emergency is one which causes severe financial hardship to the participant as a result of a sudden and unexpected illness or accident of the participant or of a dependent of the participant, loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.

NOTE: "A dependent of the participant" as used here is defined by the Secretary of the Treasury as one specified in 26 U.S.C. s. 152 (a).

(b) The need to send a participant's child to college or the desire to purchase a home are examples of what are not unforeseeable emergencies.

(c) The facts of each case shall be ascertained to determine if the circumstances constitute an unforeseeable emergency.

(d) Withdrawal payment may not be made to the extent that the hardship is or may be relieved:

1. Through reimbursement or compensation by insurance or otherwise,
2. By liquidation of the participant's assets to the extent the liquidation of these assets would not itself cause severe financial hardship, or
3. By cessation of deferrals under the plan.

(e) The withdrawal, because of an unforeseeable emergency, shall be limited to an amount reasonably needed to satisfy the emergency need.

(2) The administrative plan provider as defined in s. 40.02 (18s), Stats., which is selected by the board under s. 40.80, Stats., and which administers the deferrals which are the subject of the withdrawal request shall:

(a) Receive requests from participants for unforeseeable emergency withdrawals,

(b) Investigate and document the facts on a form prescribed by the department,

(c) Exchange relevant information with the employer's designated agent, and

(d) Within 5 working days after the receipt of the information required in subsection (3) make a recommendation to the department on a form prescribed by the department.

(3) The employer shall within one week of the receipt of the administrative plan provider's written request for information provide to the administrative plan provider any relevant information required to process an individual participant's request for an unforeseeable emergency withdrawal on a form prescribed by the department.

(4) The employer shall acknowledge, on the form prescribed by the department, that relevant unforeseeable emergency information concerning each emergency withdrawal request has been given to the administrative plan provider and has been received by the employer from the administrative plan provider.

(5) The department, within 5 working days of receipt and on the basis of the administrative plan provider's recommendation required in sub. (2) (d) and any additional information the department may receive, shall approve or deny the emergency withdrawal.

(6) The department shall prepare a report on unforeseeable emergency withdrawal activity since the last meeting of the board for presentation at the following meeting of the board.

SUBCHAPTER 2

STATE DEFERRED COMPENSATION PLAN FOR LOCAL EMPLOYEES

ETF 70.10 PARTICIPATION IN THE DEFERRED COMPENSATION PLAN. The governing body of any employer as defined under s. 40.02 (28), Stats., other than the state, may provide the state's deferred compensation plan for its employes by the adoption of a resolution in the form approved by the department. The employer shall forward a certified copy of the resolution to the department and the then current administrative plan provider as defined in s. 40.02 (18s), Stats.

ETF 70.12 EFFECTIVE DATE. Local implementation of the deferred compensation plan and enrollment of eligible employes may begin immediately upon acceptance, by the department, of the resolution under s. ETF 70.10.

ETF 70.15 TERMINATING PARTICIPATION IN THE DEFERRED COMPENSATION PLAN. The governing body of an employer, other than the state, may terminate participation in the state deferred compensation plan after a minimum of one year from the date the certified copy of the resolution required under s. ETF 70.10 was accepted by the department, by adopting a resolution in the form approved by the department and forwarding a copy of the resolution to the department and the then current administrative plan provider as defined in s. 40.02 (18s), Stats. Enrollment and payroll deferral activities shall cease 90 days after receipt by the department of the certified copy of a resolution to terminate participation in the state's deferred compensation plan. Treatment of previous individual deferral investment specifications, accounts and benefits shall continue to be governed by the plan and investment plan provider contracts, unless the employer exercises it's right of ownership under 26 C.F.R. s. 1.457-2 (j) to provide for different treatment.

NOTE: Chapter ETF 70 requires several forms which are available at no charge by contacting either the department of employe trust funds or the current administrative plan provider.

The rules contained in this order shall take effect as provided in s. 227.026 (1) (intro.), Stats.

May 20, 1985
Date

Gary I. Gates
Gary I. Gates, Secretary
Department of Employe Trust Funds

FISCAL ESTIMATE WORKSHEET

1983 Session

Detailed Estimate of Annual Fiscal Effect

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

~~XXXXXXXXXX~~, /Adm. Rule No.
 ETF 70

Amendment No.

AD-MBA-22 (Rev. 11/82)

Subject

Local government participation in the state deferred compensation plan.

I. One-time Costs or Revenue Fluctuations for State and/or Local Government (do not include in annualized fiscal effect):

None.

II. Annualized Costs: Note: Treat fiscal costs like a "checkbook": increased costs reduce available funds (-); decreased costs increase available funds (+).

Annualized fiscal impact on State funds from:

A. State Costs by Category	Increased Costs	Decreased Costs
	Salaries and Fringes	\$ -
Staff Support Costs	-	+
Other State Costs	-	+
Local Assistance	-	+
Aids to Individuals or Organizations	-	+
TOTAL State Costs by Category	\$ - 0	\$ + 0
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
	GPR	\$ -
FED	-	+
PRO/PRS	-	+
SEG/SEG-S	-	+
C. FTE Position Changes	Increased Pos.	Decreased Pos.
	+ (0)	- (0)
III. State Revenues	Decreased Rev.	Increased Rev.
	GPR Taxes	\$ -
GPR Earned	-	+
FED	-	+
PRO/PRS	-	+
SEG/SEG-S	-	+
TOTAL State Revenues	\$ - 0	\$ + 0

Net Annualized Fiscal Impact on State & Local Funds

State	Annual Increases	Annual Decreases	Local	Annual Increases	Annual Decreases
Total Costs	\$ -	\$ +	Total Costs	\$ -	\$ +
Total Revenues	+	-	Total Revenues	+	-
NET Impact on State Funds	\$ (+)	or none	NET Impact on Local Funds	\$ (+)	or none
	(-)			(-)	

Agency/Prepared by: (Name & Phone No.)

Diane M. Bass 266-5804
 Department of Employee Trust Funds

Authorized Signature/Telephone No.

Diane M. Bass 266-5804

Date

11/16/84

FISCAL ESTIMATE

1983 Session

AD-MBA-23 (Rev. 11/82)

~~REG/BIK/NL~~ /Adm. Rule No.

- ORIGINAL
- UPDATED
- CORRECTED
- SUPPLEMENTAL

ETF 70

Amendment No. if Applicable

Subject

Local government participation in the state deferred compensation plan.

Fiscal Effect

State: No State Fiscal Effect

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

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

- Increase Costs - May Be Possible to Absorb Within Agency's Budget Yes No
- Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive
 - Mandatory
- 2. Decrease Costs
 - Permissive
 - Mandatory

- 3. Increase Revenues
 - Permissive
 - Mandatory
- 4. Decrease Revenues
 - Permissive
 - Mandatory

5. Types of Local Governmental Units Affected:
- Towns
 - Villages
 - Cities
 - Counties
 - Others _____

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This proposed rule order requires that local government participation in the state deferred compensation plan be accomplished by passage of a formal resolution by the governing body of the local government. Also provided is a means to process requests for unforeseeable emergency withdrawals.

These proposed rules simply expand on the provisions of the deferred compensation plan which are outline in Chapter 40 of the Wis. Statutes. As such, it is not expected that these rules will have any significant fiscal effect.

Long-Range Fiscal Implications

None.

Agency/Prepared by: (Name & Phone No.)

Diane M. Bass 266-5804
Department of Employe Trust Funds

Authorized Signature/Telephone No.

Diane M. Bass 266-5804

Date

11/16/84



State of Wisconsin \ DEPARTMENT OF EMPLOYEE TRUST FUNDS

May 20, 1985

Gary I. Gates
Secretary

201 EAST WASHINGTON AVENUE
P.O. BOX 7931
MADISON, WISCONSIN 53707

RECEIVED

MAY 22 1985 IN REPLY REFER TO:

Gary Poulson
Assistant Revisor of Statutes
411 West State Capitol
Madison, WI 53702

Revisor of Statutes
Bureau

Dear Gary:

Re: Clearinghouse Rule No. 84-228

Enclosed is a Certificate and two copies of an Order Adopting Rules. A certified copy of this order has also been forwarded to the Secretary of State.

Sincerely,

Diane M. Bass
Policy Analyst
(608) 266-5804

DB/sb W/3
Enclosure