

CR 86-26

CERTIFICATE

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

RECEIVED  
AUG 5 1986  
8:46am  
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 creation of rules relating to guardianship requirements and acceptance of durable power of attorney for the release of information and payment of benefits from the Wisconsin Retirement System were duly approved by the Employee Trust Funds, Teachers Retirement and Wisconsin Retirement Boards and adopted by this department on August 4, 1986. I further certify that this copy has been compared by me with the original on file in this department and the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have  
hereunto set by hand at  
201 East Washington Avenue,  
in the City of Madison, this  
4<sup>th</sup> day of August,  
19 86.

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

ORDER OF THE DEPARTMENT OF EMPLOYE TRUST FUNDS  
ADOPTING RULES

To create ETF 10.75 and ETF 10.78, relating to guardianship requirements and acceptance of durable power of attorney for the release of information and payment of benefits from the Wisconsin Retirement System.

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Analysis Prepared by the Department of Employee Trust Funds

The Department of Employee Trust Funds has many instances when a signed authorization is required to perform administrative functions such as change of address, repurchase of creditable service, purchase of qualifying service, cancellation of variable participation, request for account information, etc. ETF 10.75 sets forth when the department will accept durable power of attorney in lieu of a participant's or guardian's signature.

ETF 10.78 defines the conditions under which a guardianship is required for the payment of benefits to a person defined in the statutes as a minor or incompetent. When an annuity or a single sum benefit in excess of \$5,000 is payable, the rule requires that payment be made to a court appointed guardian. The secretary may, however, authorize payment of a benefit of \$5,000 or less to a person responsible for the minor or incompetent.

Small businesses are not affected by these rules.

These rules interpret ss. 40.07 (1) (a), 40.08 (9), 40.74 (3) and 243.07, Stats.

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Pursuant to the authority vested in the secretary of the department of employe trust funds by s. 40.03 (2) (i), Stats., the department of employe trust funds hereby creates rules interpreting ss. 40.07 (1) (a), 40.08 (9), 40.74 (3) and 243.07, Stats., as follows:

SECTION 1. ETF 10.75 is created to read:

ETF 10.75 DURABLE POWER OF ATTORNEY. (1) The department shall accept durable power of attorney, as defined under and containing the language required in s. 243.07, Stats., in lieu of a participant's or guardian's signature in all situations except the filing of a benefit application or beneficiary designation.

(2) The durable power of attorney shall be acceptable if it satisfies the following requirements:

(a) It is in writing.

(b) It is dated.

(c) The expiration date, if specified, has not passed.

(d) It is signed by the participant.

(e) It does not exclude all property nor specifically the benefit programs administered by the department.

(3) The attorney-in-fact shall, at the request of the department, submit proof of continuance of durable power of attorney by affidavit as set forth under s. 243.07 (5), Stats.

SECTION 2. ETF 10.78 is created to read:

ETF 10.78 GUARDIANSHIP REQUIREMENTS. (1) When the amount of a single sum benefit payment to a minor, as defined under s. 880.01 (7), Stats., or incompetent, as defined under s. 880.01 (4), Stats., exceeds \$5,000, or when an annuity or disability annuity is payable, payment shall be made by the department to the court appointed guardian, for the benefit of the minor or incompetent, upon receipt of a certified copy of the letters of appointment. Letters of appointment shall be certified within the past 6 months. If the

minor is married and has not been adjudged to be incompetent, the department shall make the payment to the minor.

(2) When a single sum benefit of \$5,000 or less is payable, the secretary may authorize payment, for the benefit of the minor or incompetent, to the person providing for or caring for the minor, or to the spouse, parent or blood relative providing for or caring for the incompetent person.

(3) Notwithstanding sub. (2), if a guardianship is identified prior to payment, payment shall be made to the guardian, for the benefit of the minor or incompetent, upon receipt of a certified copy of the letters of appointment.

(4) If there is a guardian of the estate and another guardian of the person, payment shall be made to the guardian of the estate.

The rules contained in this order shall take effect on the first day of the month following publication as provided in s. 227.026 (1) (intro.), Stats.

August 4, 1986  
Date

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

**FISCAL ESTIMATE**  
AD-MBA-23 (Rev. 11/84)

ORIGINAL       UPDATED  
 CORRECTED     SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
ETF 10.75 & 10.78  
Amendment No. if Applicable

**Subject**

Guardianship and power of attorney for the Wisconsin Retirement System

**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     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  
     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 sets forth when the Department of Employee Trust Funds will accept a durable power of attorney to perform certain administrative functions. In addition, it defines the conditions under which a guardianship is required for payment of benefits to a minor or incompetent.

We do not expect these rules to have any fiscal effect.

**Long-Range Fiscal Implications**

None

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

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

**Authorized Signature/Telephone No.**

*Diane M. Bass*

**Date**

12/13/85

**FISCAL ESTIMATE WORKSHEET**

1985 Session

Detailed Estimate of Annual Fiscal Effect  
AD-MBA-22 (Rev. 11/84)

ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

Chf. or Bill No./Adm. Rule No. <b>ETF 10.75 &amp; 10.78</b>	Amendment No.
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Subject

Guardianship and power of attorney for the Wis. Ret. System

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:	Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>		
Salaries and Fringes	\$ -	\$ +
Staff Support Costs	-	+
Other State Costs	-	+
Local Assistance	-	+
Aids to Individuals or Organizations	-	+
<b>TOTAL State Costs by Category</b>	\$ - 0	\$ + 0

Annualized fiscal impact on State funds from:	Increased Costs	Decreased Costs
<b>B. State Costs by Source of Funds</b>		
GPR	\$ -	\$ +
FED	-	+
PRO PRS	-	+
SEG SEG S	-	+

Annualized fiscal impact on State funds from:	Increased Pos.	Decreased Pos.
	+ ( 0 )	- ( 0 )

Annualized fiscal impact on State funds from:	Decreased Rev.	Increased Rev.
<b>III. State Revenues--Complete this only when proposal will increase or decrease state revenues, such as taxes, license fees, etc.</b>		
GPR Taxes	\$ -	\$ +
GPR Earned	-	+
FED	-	+
PRO PRS	-	+
SEG SEG S	-	+
<b>TOTAL State Revenues</b>	\$ - 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	+	-
<b>NET Impact on State Funds</b>	\$ (+)	None	<b>NET Impact on Local Funds</b>	\$ (+)	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

12/13/85



State of Wisconsin \ DEPARTMENT OF EMPLOYEE TRUST FUNDS

Gary I. Gates  
Secretary

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

July 31, 1986

IN REPLY REFER TO:

Gary Poulson  
Assistant Revisor of Statutes  
Suite 904, 30 West Mifflin  
Madison, WI 53703

RECEIVED

AUG 5 1986

Revisor of Statutes  
Bureau

Dear Gary:

Re: Clearinghouse Rule No. 86-26

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

Sincerely,

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

DMB/sb TH/10  
Enclosure