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Department of Employee Trust Funds

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TO: Employee Trust Funds Board
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SUBJECT: Legislative Report

End of Legislative Session Draws Near

On March 9, the Legislature concluded its winter legislative activity. The Legislature is next scheduled to convene from April 25 to May 4, 2006, for the last general business floorperiod of the 2005-2006 legislative session. This will be the last opportunity for most bills to gain legislative approval before the session ends. To date, over 1,140 Assembly Bills (AB) and over 670 Senate Bills (SB) have been introduced. The Governor has signed more than 180 of these bills into law so far, and many others are ready for his signature.

Remedial Legislation Approved

The Department of Employee Trust Funds (ETF) has been successful in having several pieces of its legislation signed into law. Very late in 2005, six remedial bills requested by ETF were introduced by the Legislature's Law Revision Committee. In general, these bills make minor substantive changes to current law and assist ETF in administering its many programs. Five of these bills were recently approved by both houses of the Legislature and were signed by the Governor on March 21.

Of these bills, the one that will likely have the most immediate public impact is **SB 490**. Signed into law as **2005 Wisconsin Act 153** and effective April 5, 2006, the bill changes the name of the Fixed Trust Fund to the Core Trust Fund. The name change will reduce confusion among participants because it better reflects the nature of the Fund in the Wisconsin Retirement System (WRS) investment mix. At its inception, the Fixed Fund was invested primarily in fixed income and bond investments. In order to maximize returns, however, the Fund's assets have, over time, been invested in other types of investments. Today, over 60 percent of the Fund's assets are held in equities. Since the fund makes up over 90 percent of the WRS assets and serves as the "core" of most participants' pensions, "Core Fund" more accurately describes the Fund's purpose and its diversified nature.

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The other four remedial bills requested by ETF that have been signed into law are briefly described below. All of them become effective on April 5, 2006.

- **SB 487 (2005 Wisconsin Act 150)** clarifies that the Deferred Compensation Board serves as trustee of any deferred compensation plan under its management. The bill conforms current statutory language to federal Internal Revenue Code requirements.
- **SB 488 (2005 Wisconsin Act 151)** clarifies that the waiver by a beneficiary of all or part of any benefit available to WRS participants or administered by ETF is considered absolute and without right of reconsideration or recovery. The bill provides that a waiver received after the date on which a beneficiary has commenced a monthly annuity applies to monthly payments payable after the effective date of the waiver.
- **SB 489 (2005 Wisconsin Act 152)** clarifies when individual medical information may be disclosed by ETF. Under current law, such information may be disclosed only when a disability application denial is appealed, under a court order when the information is relevant to a pending court action, or when information is gathered for one WRS benefit it may be used for any other WRS benefit. The bill authorizes disclosure in the following additional limited situations, when a health insurance claim denial is appealed, under an order by a hearing examiner when the information is relevant to a pending administrative action, or upon a written authorization that specifically identifies the records that may be disclosed, but only to the person who is the subject of the medical records or the person's designee, unless otherwise prohibited by law. The bill conforms current statutes to the federal Health Insurance Portability and Accountability Act (HIPAA).
- **SB 491 (2005 Wisconsin Act 154)** provides that the employer is not required to match any other governmental service purchased by a participant for purposes of receiving a WRS death benefit. Under current law, a WRS participant who had earned creditable service in a non-WRS governmental retirement plan may purchase prior service credits under the WRS under certain conditions. The purchase of prior service credits may enhance a WRS participant's retirement benefit. Under current law, upon the death of a participating employee, the death benefit calculation includes, among other things, an amount equal to twice the required employee contributions. Half of this amount is considered an "employer match". The bill provides that the employer will not have to "match" any contributions made by an employee to purchase other governmental service credits. The bill reflects current practice and conforms the calculation of WRS death benefits to the historical prohibition on using employer contributions to match any other governmental service purchased by a participant.

One remedial bill that ETF requested, **SB 486**, has not yet received approval from both houses of the Legislature. This bill makes a change to the Income Continuation Insurance program to allow an otherwise eligible participant to be covered by income continuation insurance despite an employer error in enrolling the employee. The bill has passed the Senate and is ready to be voted on by the full Assembly. ETF hopes to have that bill approved in April.

Legislation on Employee Contributions

Members may recall that during the deliberations on the 2005-2007 Biennial State Budget, a provision was inserted into the legislation that garnered considerable attention. That provision would have amended Chapter 40 of the Statutes and required non-represented state employees to pay the first 1.5 percent of their earnings towards the employee contribution under the WRS. This would have effectively prevented an employer from picking up the entire employee contribution, which is allowed by law and which is used by the majority of WRS employers. The Governor vetoed that provision.

A similar proposal was introduced in early March, but with a couple of modifications. **SB 647**, which was introduced by Senator Reynolds, takes the same 1.5 percent approach but applies the requirement only to state elected officials. At the same time, the bill would require ETF to make available for public inspection and copying ETF records concerning a participant who holds or held elective state public office, together with the amount of any retirement annuity that is paid, payable, or projected to be paid. This requirement is similar to Senator Reynolds' SB 316, introduced earlier in the session. The bill has been referred to the Joint Survey Committee on Retirement Systems, which has yet to schedule any committee action on the bill.

Transfer of Retirement Research Functions to Legislative Council Staff

SB 527, which is awaiting the Governor's signature, transfers the statutory functions of the Legislature's Retirement Research Committee to the staff of the Legislative Council and eliminates the vacant positions of Retirement Research Director and staff. The staff of the Council will be responsible for the legal and research staff services for the Joint Survey Committee on Retirement Systems and will prepare fiscal estimates on bills referred to that committee. The staff of the Council will also be responsible under the statutes for preparation of the comparative study of major public employee retirement systems in the country. In effect, the bill codifies current practice as Bill Ford of the Legislative Council has been providing these services to the Joint Survey Committee for the last several legislative sessions.

Forfeiture of Pension Benefits

With the recent felony convictions of several state legislators, a number of news stories have pointed out that those legislators do not have to forfeit their WRS pension accounts or benefits as a result of those convictions. The current laws governing the WRS do not require participants convicted of crimes during their service to give up their rights to their pension accounts or benefits. Although no legislation has been introduced this session on this issue, government watchdog groups like Common Cause in Wisconsin may seek to include such proposals in reform legislation in the wake of the so-called "Caucus Scandals."

2005 Legislative Session Update

The attached table identifies other bills introduced during the 2005 legislative session that relate to WRS retirement or disability programs and the status of those bills as of today's date.