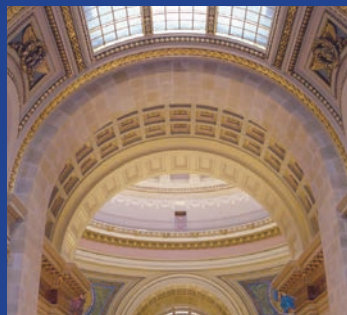


**Report 12-17
December 2012**

Wisconsin Retirement System (WRS) Annuitants Hired by Employers Participating in the WRS

STATE OF WISCONSIN



Legislative Audit Bureau ■

Wisconsin Retirement System (WRS) Annuitants Hired by Employers Participating in the WRS

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Joe Chrisman
State Auditor

December 14, 2012

Senator Kathleen Vinehout and
Representative Samantha Kerkman, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Vinehout and Representative Kerkman:

As requested by the Joint Legislative Audit Committee, we have completed a review of the extent to which state and local governments employ individuals receiving annuities from the Wisconsin Retirement System (WRS). If individuals have good-faith terminations from employment, statutes allow them to receive annuities and return to work for employers participating in the WRS.

From January 2007 through March 2012, the University of Wisconsin System and state agencies on Central Payroll hired 2,783 annuitants who had terminated employment from 2007 through 2011. Because some of these annuitants were not working in positions eligible to participate in the WRS, not all are considered to be rehired annuitants. Most annuitants we identified were hired by the agencies that had employed them before retirement, worked part-time for less than one year, and were paid an hourly wage that was the same or lower than they had been paid at retirement. However, a small number of annuitants we identified worked for several years or were paid an hourly wage more than they had been paid at retirement.

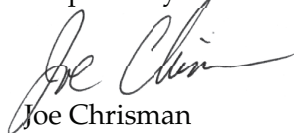
A total of 1,169 respondents to our survey of all school districts and local governments indicated that they had hired 2,599 annuitants from January 2011 through March 2012. Most annuitants were paid hourly wages less than the wages they had been paid at retirement.

The Department of Employee Trust Funds (ETF) administers the WRS. It may choose to investigate allegations that good-faith terminations from employment may not have occurred. Because statutes provide few restrictions on annuitants who return to work, it is difficult for ETF to determine that good-faith terminations did not occur. We include a recommendation for ETF to develop written procedures for conducting investigations.

We provide several options the Legislature could consider if it chooses to modify statutes governing how annuitants are able to return to work for WRS-participating employers. In addition to these options, the four midwestern states we contacted and the federal government have placed other restrictions on the conditions under which annuitants in their respective retirement systems may be hired.

We appreciate the courtesy and cooperation extended to us by ETF. ETF's response follows the appendix.

Respectfully submitted,



Joe Chrisman
State Auditor

JC/DS/ss

Report Highlights ■

Most WRS annuitants employed by state agencies worked part-time for less than one year.

Local governments and school districts reported that they hired annuitants for their skills and experience.

Statutes provide few restrictions on annuitants who return to work.

The Legislature could consider modifying how annuitants are able to return to work.

More than 1,500 state and local government employers participate in the Wisconsin Retirement System (WRS), which provides post-retirement annuities funded by tax-deferred contributions from employers and employees. Federal law requires annuitants to have had good-faith terminations from employment. To meet this requirement, state law stipulates that on the day individuals terminate employment, they must have no rights to any future employment in any positions eligible to receive WRS benefits, and they must be separated from all WRS-eligible employment for at least 30 calendar days. If these conditions are met, individuals can receive an annuity and work in any position eligible to receive WRS benefits.

The Department of Employee Trust Funds (ETF) administers the WRS. It is statutorily responsible for ensuring that the WRS complies with federal law, and it may choose to investigate allegations that good-faith terminations from employment did not occur.

In response to questions about the extent to which WRS-participating employers have hired WRS annuitants, we:

- determined the number of individuals who terminated employment from January 2007 through December 2011, began receiving WRS annuities, and subsequently returned to work for state agencies through March 2012;

- surveyed local governments and school districts on the extent to which they hired WRS annuitants from January 2011 through March 2012; and
- analyzed ETF’s efforts to ensure that good-faith terminations occurred.

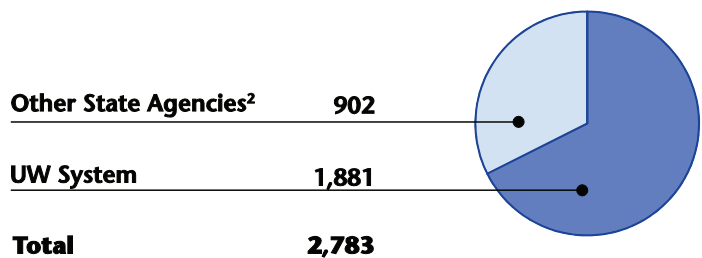
Annuitants Hired by State Agencies

Individuals receiving WRS annuities and working in positions eligible to participate in the WRS are commonly referred to as “rehired annuitants.” Because payroll data we obtained do not indicate whether annuitants worked in WRS-eligible positions, not all of the individuals we identified are rehired annuitants. However, to provide the most comprehensive information, we included in our analysis all annuitants we identified as working for state agencies.

From January 2007 through March 2012, the University of Wisconsin (UW) System and state agencies on Central Payroll hired 2,783 WRS annuitants who had terminated employment from 2007 through 2011. UW System and other agencies indicated that they hired annuitants who had particular skills and experience and could fill short-term staffing needs.

Figure 1

WRS Annuitants Hired by UW System and Other State Agencies¹
January 2007 through March 2012



¹ Includes employees who terminated employment from 2007 through 2011.

² Includes agencies on Central Payroll.

Annuitants working in WRS-eligible positions may choose to suspend their annuities and participate in the WRS as if they had never retired. Only 8 annuitants hired by UW System and 18 hired by state agencies on Central Payroll chose to do so.

Of the 2,783 annuitants, 33.2 percent worked for less than six months after being hired, and 27.9 percent worked from 6 to 12 months. In contrast, 1.5 percent worked for more than four years after being hired.

We found that 78.8 percent of annuitants who worked continuously during their first six months of employment worked fewer hours per week, on average, than they had worked before retirement. In contrast, 5.2 percent worked more hours per week. Annuitants worked an average of 22 hours per week during the first six months after being hired.

We also found that 91.7 percent of annuitants who worked continuously during their first six months of employment and for whom information was available had hourly wages that were the same as or lower than their hourly wages at retirement. In contrast, 8.3 percent had higher wages.

Annuitants Hired by Local Agencies

The 1,169 respondents to our survey of all school districts and local governments indicated that they hired 2,599 WRS annuitants from January 2011 through March 2012. Almost 80.0 percent indicated that annuitants were hired for their skills and experience.

School districts reported that the expected duration of employment for 39.3 percent of the 1,681 annuitants they hired was 12 months or less. They reported that 40.7 percent of annuitants were expected to work less than 20 hours per week, and that 80.6 percent were paid hourly wages lower than their hourly wages before retirement.

Local governments reported that the expected duration of employment for 46.8 percent of the 918 annuitants they hired was 12 months or less. They reported that 72.5 percent of annuitants were expected to work less than 20 hours per week, and that 68.7 percent were paid hourly wages lower than their hourly wages before retirement.

Contracting with Annuitants

We could not determine the extent to which state agencies contracted with firms that employed annuitants or the extent to which UW System contracted directly with annuitants. However, 28 state agencies directly paid \$1.7 million to 266 individuals who terminated employment from January 2007 through December 2011, began receiving a WRS annuity, and then contracted to provide goods and services at some point through June 2012. The annuitants were paid an average of \$6,200 each, although 12 were each paid \$25,000 or more. We found that three annuitants were employed by the same agencies with which they contracted directly.

ETF Oversight

ETF does not have access to payroll systems that would allow it to systematically monitor all employers and employees. Therefore, it initiates investigations only when it believes that pension laws may have been violated. If an investigation determines that a good-faith termination of employment did not occur, ETF can require an individual to repay all annuity amounts that were received.

ETF does not have written policies or procedures for conducting investigations. Instead, it handles each investigation in the manner it deems appropriate. From August 2009 through June 2012, ETF conducted 19 investigations, including 14 in which ETF determined there was insufficient information to conclude that good-faith terminations had not occurred and 4 in which ETF determined there was sufficient information to conclude that good-faith terminations had not occurred. One investigation was only partially completed when the individual withdrew the application to receive an annuity.

It can be challenging for ETF to determine that a good-faith termination did not occur. State law prohibits individuals who have not yet terminated employment from agreeing to work in a WRS-eligible position at a future date, but such agreements must be enforceable in order for ETF to determine that good-faith terminations did not occur. For example, individuals may indicate in their resignation letters that they desire to return to work, and their employers may subsequently hire them after the 30-day separation period. In these situations involving unenforceable agreements, ETF determines there is insufficient information to conclude that good-faith terminations did not occur.

State law does not prohibit an individual who has not yet terminated employment from agreeing to work for a different WRS-participating employer in a position ineligible for WRS benefits. This employment can begin during the separation period. At any point after the day an individual terminates employment, he or she can agree to return to work in a WRS-eligible position with any WRS-participating employer, as long as such employment does not begin during the separation period.

Future Considerations

Most of the annuitants we identified who returned to work for state agencies worked part-time and for less than one year. Most were paid either the same or a lower hourly wage than they had been paid at retirement. Employers indicated that annuitants possess

expertise that may be difficult to obtain from other employees. For these reasons, the Legislature could choose to make no modifications to statutes that govern how annuitants are able to return to work for WRS-participating employers.

However, we also identified a small number of annuitants who worked for several years after retirement, worked more hours per week than they had worked before retirement, or were paid a higher hourly wage than they had been paid at retirement. This raises questions about the intent of these annuitants to truly retire. We provide several options the Legislature could consider if it chooses to modify statutes governing how annuitants are able to return to work.

If the Legislature is concerned that employers sometimes deliberately do not fill positions when employees terminate employment because they know they will hire annuitants shortly after the separation period ends, it could lengthen the separation period to 60, 90, or 120 days or more.

If the Legislature is concerned about maintaining the integrity of the separation period, it could prohibit individuals who have not completed their separation periods from working in positions that are ineligible for WRS participation, contracting with WRS-participating employers, and signing employment agreements that involve returning to work in WRS-eligible positions after the separation periods end.

If the Legislature is concerned about the potential for annuitants to work for several years, it could limit the length of time annuitants are allowed to work for WRS-participating employers.

If the Legislature is concerned about determining the fiscal effects on the WRS of hiring annuitants or modifying statutes governing how annuitants may return to work, it could consider obtaining an actuarial opinion.

Recommendation

We include a recommendation for ETF to:

- ☑ develop written procedures for conducting consistent and complete investigations to determine if good-faith terminations from employment had not occurred (*p. 54*).

■ ■ ■ ■

Introduction ■

The WRS provides participating employees with post-retirement financial benefits.

Created in January 1982, the WRS is a cost-sharing, defined-benefit plan that provides post-retirement financial benefits to participating state and local government employees, as well as disability and death benefits to participants and their beneficiaries. WRS benefits are funded through employer and employee pre-tax contributions, as well as investment earnings. Contribution rates are determined annually for several employee categories, such as general employees, which include most participants; executive employees; elected officials; and employees in protective occupations, including police officers and firefighters. In 2012, employers and general employees each contributed 5.9 percent of a general employee's salary to the WRS.

According to ETF, 578,000 individuals participated in the WRS on December 31, 2011, including:

- 260,700 who were making contributions to the WRS;
- 169,200 who were receiving WRS benefits; and
- 148,100 who were not making contributions, although contributions had been made on their behalf in the past, and had not yet received any WRS benefits.

Section 40.21(1), Wis. Stats., allows any public agency to participate in the WRS, but statutes require certain entities to participate,

including state agencies and all counties except Milwaukee County, which maintains its own retirement system. In addition:

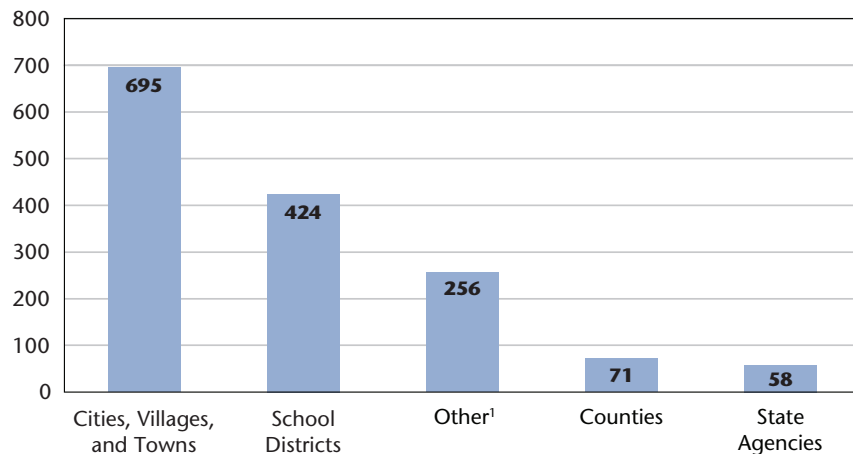
- second-, third-, and fourth-class cities must allow police officers and paid firefighters to participate if they allowed those employees to participate in Wisconsin’s retirement system before March 31, 1978;
- villages with a population of 5,000 or more must allow police officers to participate and villages with a population of 5,500 or more must also allow firefighters to participate, if they allowed them to participate in Wisconsin’s retirement system before March 31, 1978; and
- school districts must allow employees in teaching positions to participate.

As of March 31, 2012, 1,504 state and local employers participated in the WRS.

Figure 2 shows the number of state and local employers that participated in the WRS as of March 31, 2012. Most of the 1,504 employers that participated in the WRS were local governments and school districts. The City of Milwaukee does not participate because it maintains its own retirement system.

Figure 2

Employers Participating in the WRS
March 31, 2012



¹ Includes technical college districts, Cooperative Educational Service Agencies (CESAs), public authorities, and special districts such as housing and sanitary districts.

Statutes require employers participating in the WRS to enroll all eligible employees. To be eligible to participate in the WRS, the expected duration of an individual's employment must be one year or more. In addition:

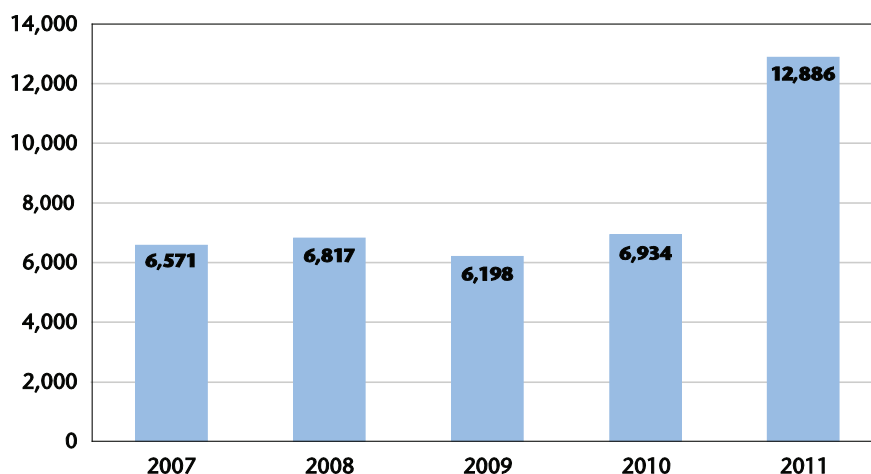
- individuals initially hired by a WRS-participating employer before July 1, 2011, are eligible to participate only if they were expected to work a minimum of one-third of full-time employment, which administrative rules define as 440 hours for teachers and 600 hours for all others; and
- individuals initially hired on July 1, 2011, or later are eligible only if they are expected to work a minimum of two-thirds of full-time employment, which ETF's policies define as 880 hours for teachers and 1,200 hours for all others.

Individuals initially ineligible to participate in the WRS subsequently become eligible if the employer's expectations of the number of hours the employee will work and the employment duration change to meet WRS eligibility criteria, or if individuals work more than the minimum number of hours in a 12-month period.

Figure 3 shows the number of individuals who began receiving WRS annuities from January 2007 through December 2011. The number increased by 85.8 percent from 2010 to 2011. In 2010, which was the most recent year for which information was available, the average annual annuity was approximately \$24,200.

Figure 3

Individuals Who Began Receiving WRS Annuities



A good-faith termination from employment requires individuals to be separated from WRS-eligible employment for at least 30 days.

Individuals are eligible to receive an annuity from the WRS if they meet certain statutory requirements, including having reached the age of 55, or the age of 50 if they worked in a protective occupation. Under Internal Revenue Service (IRS) regulations, employee and employer contributions to qualified retirement plans such as the WRS are made on a pre-tax basis, and the contribution amounts grow on a tax-deferred basis until an annuity is paid. In order for the WRS to remain a qualified retirement plan, the IRS requires individuals to have good-faith terminations from employment, but it does not specify what constitutes a good-faith termination from employment. To comply with this IRS requirement, statutes require an individual to be separated from all employment positions that are eligible to receive WRS benefits. This separation period must be at least 30 calendar days, beginning the day after an individual terminates employment. However, it can be no earlier than 30 calendar days after ETF receives the individual's application for an annuity or the day after an individual's annuity becomes effective.

Administrative rules specify that a good-faith termination of employment occurs only if an individual ceases to provide any compensable services to his or her employer and that employer has no further rights to any future compensable services from the individual. In addition, when employment is terminated, an individual can have no further rights to any future compensation in any WRS-eligible position with any WRS-participating employer. Finally, when employment is terminated, the individual must be treated as a former employee; have no authority to act as a representative of the former employer or exercise any control over the employer's staff; and have been paid any accumulated benefits, such as unused vacation time.

State law does not prohibit certain employment-related actions. For example:

- An individual who has not yet terminated employment can agree to work for a different WRS-participating employer in a position ineligible for WRS benefits, such as in a position with an expected duration of less than one year. This employment can begin within the statutorily required separation period. Each state and local agency participating in the WRS is considered to be a separate employer.

- At any point after the day an individual terminates employment, he or she can agree to return to work in a WRS-eligible position with any WRS-participating employer, as long as such employment does not begin during the separation period. However, ETF's policies indicate that agreeing during the separation period to return to work in a WRS-eligible position calls into question whether a good-faith termination actually occurred. Therefore, ETF may choose to investigate further to determine whether federal and state laws were followed.

If good-faith terminations from employment have occurred, state law allows individuals to be hired into WRS-eligible positions without affecting their annuity payments. Individuals receiving WRS annuities and working in WRS-eligible positions are commonly referred to as "rehired annuitants." Rehired annuitants may either:

- suspend their annuities, in which case they and their employers contribute to the WRS in the same manner as if the individuals had never retired, and their annuity payments are subsequently recalculated when they terminate their employment; or
- continue receiving their annuities, in which case they and their employers do not make additional contributions to the WRS, and they do not receive higher annuity payments as a result of their additional time working. In addition, these individuals do not receive some fringe benefits, such as health insurance.

Some believe that allowing employers to hire annuitants is beneficial and note that annuitants have job-related skills and experience that enable them to train other staff and work in their former positions until their employers recruit permanent replacements. In addition, they believe that hiring annuitants is less costly because employers do not pay for their health insurance or contribute to the WRS on their behalf. In contrast, others are concerned that allowing individuals to receive both an annuity and a salary is inappropriate and may be more costly. In addition, they believe that if annuitants work for extended periods of time, other individuals cannot be hired to fill those positions.

Questions have been raised about the extent to which WRS-participating employers have hired annuitants.

Questions have been raised about the extent to which state and local governments have hired annuitants, the circumstances under which these annuitants were hired, and the comparative cost of employing annuitants. In addition, questions have been raised about the extent to which state agencies have contracted with annuitants to provide goods and services. ETF does not maintain comprehensive information on all annuitants working for WRS-participating employers, such as those employed in positions that are not eligible to participate in the WRS, because it does not need this information to administer the WRS in accordance with federal and state laws.

At the direction of the Joint Legislative Audit Committee, we reviewed the practice of hiring annuitants. To do so, we reviewed available information on individuals who terminated their employment from January 2007 through December 2011, began receiving WRS annuities, and subsequently returned to work through March 2012 at UW System or a state agency on Central Payroll. Although most state agencies are on Central Payroll, a small number are not, including the Wisconsin Housing and Economic Development Authority and most of the Legislature. Because payroll data we obtained do not indicate whether the annuitants worked in WRS-eligible positions, not all of the individuals we identified are rehired annuitants. However, to provide the Legislature with the most comprehensive information, we included in our analysis all annuitants we identified as working for UW System and state agencies on Central Payroll. We contacted five state agencies—the departments of Corrections (DOC), Health Services (DHS), Natural Resources (DNR), Public Instruction (DPI), and Transportation (DOT)—and four UW System institutions—UW-Eau Claire, UW-Madison, UW-Oshkosh, and UW System Administration—to obtain additional information on their decisions to hire selected annuitants and their policies for hiring annuitants.

We also surveyed all school districts and local governments participating in the WRS to estimate the number of annuitants hired from January 2011 through March 2012. In addition, we examined the State's accounting system to determine the number of individuals who terminated their employment from January 2007 through December 2011, began receiving WRS annuities, and contracted with state agencies other than UW System to provide goods and services at some point through June 2012. We interviewed ETF and reviewed its policies related to hiring annuitants. Finally, we reviewed the laws governing how annuitants can be hired in four other midwestern states and by the federal government. We attempted to determine the number and characteristics of federal retirees employed by Wisconsin state agencies, but the federal Office of Personnel Management cited privacy concerns and declined to provide us with the identities of

federal retirees. However, it indicated that 19,087 former federal employees lived in Wisconsin and received federal pension benefits in December 2011.

We note that s. 40.07, Wis. Stats., generally prohibits ETF from releasing personal information about individual annuitants. Because we used ETF's data to complete our report, we are unable to personally identify individual annuitants.

■ ■ ■ ■

Number of Annuitants Hired
Length of Separation Period
Length of Employment
Hours Worked per Week
Hourly Wages
Cost Comparisons

Annuitants Hired by State Agencies ■

Although the available data did not allow us to determine the number of rehired annuitants, we did determine the number and characteristics of individuals who terminated employment from January 2007 through December 2011, began receiving a WRS annuity, and were subsequently hired by UW System or state agencies on Central Payroll at some point through March 2012. Most annuitants we identified were hired by the same agencies that had employed them before retirement, worked as annuitants part-time for less than one year, and were paid either the same hourly wage or a lower hourly wage than they had been paid at retirement. However, a small number of annuitants worked for several years after retirement, worked more hours per week than they had worked before retirement, or were paid a higher hourly wage than they had been paid at retirement.

Number of Annuitants Hired

From January 2007 through March 2012, UW System and state agencies on Central Payroll hired 2,783 WRS annuitants who had terminated employment from 2007 through 2011.

From January 2007 through March 2012, UW System and state agencies on Central Payroll hired 2,783 WRS annuitants who had terminated employment from 2007 through 2011, as shown in Table 1. In 2011, considerably more annuitants were hired than in prior years. As noted, the number of individuals who began receiving WRS annuities also increased significantly in 2011.

Table 1

WRS Annuitants Hired by UW System or Other State Agencies¹

| | UW System | Other State Agencies ² | Total |
|-------------------|--------------|-----------------------------------|--------------|
| 2007 | 185 | 92 | 277 |
| 2008 | 263 | 134 | 397 |
| 2009 | 288 | 90 | 378 |
| 2010 | 299 | 129 | 428 |
| 2011 | 768 | 393 | 1,161 |
| 2012 ³ | 78 | 64 | 142 |
| Total | 1,881 | 902 | 2,783 |

¹ Includes employees who terminated employment from January 2007 through December 2011.

² Includes state agencies on Central Payroll.

³ Through March 2012.

UW System***UW System hired twice as many annuitants as other state agencies.***

As shown in Table 2, UW-Madison hired 755 annuitants, or 40.1 percent of all 1,881 annuitants hired by UW System from January 2007 through March 2012. Among all UW System institutions, 1,257 annuitants were hired into academic staff positions, 610 were hired into classified staff positions, and 14 were hired into faculty positions. The five most common titles of the positions into which the 1,881 annuitants were hired were lecturer (414 annuitants), emeritus faculty (171), ad hoc program specialist (135), university services associate (106), and professor (58). UW System considers emeritus faculty and some professors to be academic staff.

Of the 1,881 annuitants:

- 1,368, or 72.7 percent, were hired by the UW System institution that had employed them at retirement, including 553 with the same position titles they had at retirement; and
- 513, or 27.3 percent, were hired by UW System institutions from which they had not retired, including 321 who retired from school districts, 71 who retired from other UW System institutions, 59 who retired from local governments, 58 who retired from state agencies, and 4 who retired from UW Hospital and Clinics Authority.

Table 2

Number of WRS Annuitants Hired, by UW System Institution¹
January 2007 through March 2012

| | Annuitants | Percentage of Total |
|-----------------------|--------------|------------------------|
| Madison | 755 | 40.1% |
| Milwaukee | 163 | 8.7 |
| Colleges | 123 | 6.5 |
| Oshkosh | 104 | 5.5 |
| Stout | 93 | 4.9 |
| Eau Claire | 91 | 4.8 |
| Stevens Point | 84 | 4.5 |
| La Crosse | 82 | 4.4 |
| Whitewater | 70 | 3.7 |
| Extension | 66 | 3.5 |
| River Falls | 64 | 3.4 |
| Green Bay | 54 | 2.9 |
| Platteville | 51 | 2.7 |
| Parkside | 37 | 2.0 |
| Superior | 26 | 1.4 |
| System Administration | 18 | 1.0 |
| Total | 1,881 | 100.0% |

¹ Includes individuals who terminated employment from January 2007 through December 2011 and were hired through March 2012.

UW System institutions indicated that they hired annuitants who had particular skills and experience and who could fill short-term staffing needs or teach specific courses. For example:

- UW-Madison hired an annuitant to work in a clinical research environment. It indicated that the annuitant had the necessary clinical research expertise and extensive knowledge of relevant university and state policies, which the position required.
- UW-Eau Claire hired an annuitant to teach courses during the upcoming academic semester after another faculty member unexpectedly resigned. It indicated that the annuitant had the necessary expertise and was able to begin working with short notice.

- UW-Oshkosh hired an annuitant to teach courses to non-traditional students. It indicated that the annuitant had expertise in utilizing communications technology and before retirement had worked as an administrator for a technical college district.

Although individuals can suspend their WRS annuities after returning to work, we found that only 8 of the 1,881 annuitants hired by UW System, or 0.4 percent, did so from January 2007 through March 2012.

UW-Madison created a policy for hiring annuitants in October 2011, and UW-Oshkosh did so in March 2012. Both policies state that annuitants may generally not be appointed into positions for more than one year, although a vice chancellor may approve longer appointments, and that annuitants hired competitively through an open recruitment process may be hired for more than one year. Both policies also outline the circumstances in which the institutions may hire an annuitant who had previously been employed by UW System, including situations in which an annuitant:

- is needed on an interim basis while the institution recruits a permanent employee;
- has needed expertise for a specific project;
- is needed to teach academic courses when it is not possible to hire a faculty member;
- is hired into an emeritus position when other resources are unavailable to hire a non-annuitant or because of the position's unique aspects;
- is hired as a limited-term employee (LTE) for specific projects; or
- will be paid entirely by non-state funds.

Other State Agencies

DNR hired more annuitants than any other state agency on Central Payroll.

Table 3 shows the 11 state agencies on Central Payroll that hired the most annuitants from January 2007 through March 2012. DNR hired 142 annuitants, or 15.7 percent of all 902 annuitants hired by state agencies on Central Payroll during this period. The five most common position titles into which the 902 annuitants were hired were reserve judge (32 annuitants), office associate (21), attorney (18), forestry technician-advanced (14), and office operations associate (14). The total includes 17 board and commission members who were paid hourly or daily stipends while receiving annuities. The appendix lists the number of annuitants hired by agencies on Central Payroll.

Table 3

Number of WRS Annuitants Hired, by State Agency¹
January 2007 through March 2012

| | Annuitants | Percentage of Total |
|---|------------|------------------------|
| Department of Natural Resources | 142 | 15.7% |
| Department of Transportation | 102 | 11.3 |
| Department of Health Services | 91 | 10.1 |
| Department of Corrections | 87 | 9.6 |
| Department of Workforce Development | 72 | 8.0 |
| Department of Public Instruction | 52 | 5.8 |
| Department of Revenue | 49 | 5.5 |
| Department of Administration | 40 | 4.4 |
| Circuit Courts | 36 | 4.0 |
| Department of Agriculture, Trade and Consumer Protection | 26 | 2.9 |
| Department of Employee Trust Funds | 26 | 2.9 |
| Subtotal | 723 | 80.2 |
| All Other State Agencies | 179 | 19.8 |
| Total | 902 | 100.0% |

¹ Includes individuals who terminated employment from January 2007 through December 2011 and were hired through March 2012 by state agencies on Central Payroll.

We used the Office of State Employment Relations' categorization of state jobs to determine the five most common types of positions into which the 902 annuitants were hired and found that:

- 83 worked in administrative support-general positions such as program assistants and executive staff assistants;
- 67 worked in general clerical positions such as typists and secretaries;
- 48 worked in law enforcement and public safety positions;
- 44 worked in supervisory positions; and
- 44 worked in management information positions.

Of the 902 annuitants:

- 689, or 76.4 percent, were hired by the same state agency that had employed them at retirement, including 412 with the same position titles they had at retirement; and
- 213, or 23.6 percent, were hired by a state agency from which they had not retired, including 79 who retired from other state agencies, 71 who retired from local governments, 40 who retired from school districts, and 23 who retired from UW System.

State agencies indicated that they hired annuitants for their skills and experience. For example:

- DHS hired an annuitant to fill a food services position at one of its institutions. The annuitant had worked for DHS before retirement and was familiar with the institution, which had a number of vacant food services positions.
- DHS hired an annuitant to fill a nurse administrator position within one of its programs. The annuitant had worked for DHS before retirement and had experience with the program, which DHS indicated was important for maintaining continuity in program administration.
- DOC hired an annuitant to fill a limited-term consultant position that provided mental health services to inmates at one of its prisons. The annuitant had worked for DOC before retirement and was familiar with DOC's policies and practices.

The Legislative Audit Bureau hired an annuitant with specialized information technology skills into an LTE position ineligible for WRS benefits for less than one month each year from 2008 through 2011 in order to help process data from an aging mainframe computer system.

From January 2007 through March 2012, we found that only 18 of the 902 annuitants hired by state agencies on Central Payroll, or 2.0 percent, suspended their annuities after returning to work.

Length of Separation Period

As noted, individuals can receive an annuity only if they are separated for at least 30 days from all employment that is eligible to receive WRS benefits. However, they may work during this separation period if hired into positions ineligible for WRS benefits if those positions are at different WRS-participating employers from which they terminated their employment. Because questions have been raised about whether some individuals return to work before they are statutorily permitted to do so, we determined the separation periods for all 2,783 annuitants we identified.

As shown in Table 4, 38.1 percent of the 2,783 annuitants were hired more than 150 days after terminating their employment. The median length of time between employment termination and an annuitant's hire was 112 days for the 1,881 annuitants hired by UW System and 134 days for the 902 annuitants hired by state agencies on Central Payroll.

Table 4

**Time between Termination of Employment and Date of Hire of WRS Annuitants
by UW System and Other State Agencies¹**
January 2007 through March 2012

| Days | Annuitants | Percentage of Total |
|-----------------|--------------|------------------------|
| 30 or Less | 14 | 0.5% |
| 31 through 60 | 577 | 20.7 |
| 61 through 90 | 468 | 16.9 |
| 91 through 120 | 376 | 13.5 |
| 121 through 150 | 287 | 10.3 |
| More than 150 | 1,061 | 38.1 |
| Total | 2,783 | 100.0% |

¹ Includes individuals who terminated employment from January 2007 through December 2011 and were hired through March 2012 by UW System or state agencies on Central Payroll.

All 14 individuals with separation periods of 30 days or less were employed in LTE positions, but the available data did not allow us to determine whether all of the positions were WRS-eligible. Three of the 14 individuals worked simultaneously for both local governments and state agencies, terminated employment from the

local governments and began receiving annuities, but continued to work for the state agencies in their LTE positions. Five of the 14 individuals subsequently entered into WRS-eligible positions with the state agencies that employed them, and none chose to suspend their annuities.

Length of Employment

The median length of time that annuitants worked for UW System and state agencies on Central Payroll was 7.5 months.

As shown in Table 5, 33.2 percent of annuitants worked for less than 6 months after being hired, while 27.9 percent worked from 6 to 12 months. In contrast, 41 annuitants, or 1.5 percent, worked for more than four years after being hired. The available data in UW System’s payroll system did not allow us to calculate precisely the length of employment for 321 annuitants. Excluding these 321 annuitants, the median length of time that the remaining annuitants worked was 7.5 months.

Table 5

Employment Duration of WRS Annuitants Hired by UW System and Other State Agencies¹
 January 2007 through March 2012

| | Annuitants | Percentage of Total |
|----------------------|--------------|---------------------|
| Less than 6 Months | 924 | 33.2% |
| 6 to 12 Months | 777 | 27.9 |
| 1 to 2 Years | 430 | 15.5 |
| 2 to 3 Years | 187 | 6.7 |
| 3 to 4 Years | 103 | 3.7 |
| 4 to 5 Years | 41 | 1.5 |
| Unknown ² | 321 | 11.5 |
| Total | 2,783 | 100.0% |

¹ Includes individuals who terminated employment from January 2007 through December 2011 and were hired through March 2012 by UW System or state agencies on Central Payroll.

² UW System’s payroll data did not allow us to calculate precisely the length of employment for these annuitants.

State agencies employed annuitants for short periods for a variety of reasons. For example:

- DOT hired annuitants into field agent and customer service representative positions in its Division of Motor Vehicles after experiencing an unexpected increase in retirements in 2011. In addition, 2011 Wisconsin Act 32 required DOT to provide at least 20 hours per week of services related to drivers licenses and identification cards in each county. As a result, DOT opened 33 new service centers throughout the state and hired annuitants as LTEs to help provide the required services and train other employees.
- DOC periodically hired annuitants into human resources and other administrative positions in order to complete payroll and other duties.
- UW System Administration periodically hired annuitants into the same positions they held before retirement and instructed them to train their permanent replacements.

We also asked agencies to provide their reasons for employing particular annuitants for multiple years. For example:

- DHS employed an annuitant as an information systems employee for approximately five years because it indicated that this individual had managed an information technology unit before retirement and was uniquely qualified to complete the position's duties and help to ensure that certain DHS programs are fully supported by the unit;
- UW-Eau Claire employed an annuitant as a senior administrative specialist for more than four years because it indicated that the annuitant had specialized expertise, and the institution believed it was more cost-effective to employ the annuitant for 11.6 hours per week than to hire someone else; and
- UW-Madison employed an annuitant as a shipping and mail associate for more than three years because it indicated that no other classified employees had applied to fill the position.

In some instances, annuitants remained on the payroll for multiple years even though their employers indicated they expected those annuitants to transfer their knowledge to other staff. For example, UW-Oshkosh employed an annuitant with expertise in databases used by the institution. The annuitant continued to work for the institution as of March 2012, which was more than two years after the date of hire, but UW-Oshkosh anticipates the annuitant will transfer knowledge to other staff in the future.

More than 85 percent of annuitants hired by UW System and state agencies on Central Payroll worked in only one position after being hired.

We determined how often annuitants changed positions after being hired. As shown in Table 6, 85.4 percent of the 2,783 annuitants hired by UW System and state agencies on Central Payroll held only one position after being hired. In contrast, one annuitant held four positions at UW-Green Bay and one position at UW-Madison between September 2008 and April 2010.

Table 6

Number of Positions Held by WRS Annuitants Hired by UW System and Other State Agencies¹
January 2007 through March 2012

| | UW System | Other State Agencies | Total | Percentage of Total |
|--------------|--------------|----------------------|--------------|---------------------|
| One | 1,616 | 760 | 2,376 | 85.4% |
| Two | 215 | 127 | 342 | 12.3 |
| Three | 37 | 15 | 52 | 1.9 |
| Four | 12 | 0 | 12 | 0.4 |
| Five | 1 | 0 | 1 | <0.1 |
| Total | 1,881 | 902 | 2,783 | 100.0% |

¹ Includes individuals who terminated employment from January 2007 through December 2011 and were hired through March 2012 by UW System or state agencies on Central Payroll.

After being hired, not all annuitants worked continuously. As shown in Table 7, 43.7 percent of annuitants worked continuously during the first six months after they were hired, while 28.1 percent worked continuously but for less than six months before ending their employment. In contrast, 28.2 percent worked intermittently during the first six months of their employment. As shown in Table 8, 1,396 annuitants, or 50.2 percent of the total, remained employed as of March 31, 2012.

Table 7

**Continuity of WRS Annuity Holders' Employment in the
First Six Months After Being Hired¹**
January 2007 through March 2012

| | Annuitants | Percentage of Total |
|---|--------------|------------------------|
| Worked Continuously for Six Months | 1,214 | 43.7% |
| Worked Intermittently | 786 | 28.2 |
| Worked Continuously for Less than Six Months ² | 783 | 28.1 |
| Total | 2,783 | 100.0% |

¹ Includes individuals who terminated employment from January 2007 through December 2011 and were hired through March 2012 by UW System or state agencies on Central Payroll.

² Includes 229 annuitants hired within six months of March 31, 2012.

Table 8

**WRS Annuity Holders Employed by UW System or
Other State Agencies as of March 31, 2012¹**

| Year | Total Hired | Employed on March 31, 2012 | Percentage |
|--------------|--------------|-------------------------------|-------------|
| 2007 | 277 | 86 | 31.0% |
| 2008 | 397 | 112 | 28.2 |
| 2009 | 378 | 131 | 34.7 |
| 2010 | 428 | 195 | 45.6 |
| 2011 | 1,161 | 751 | 64.7 |
| 2012 | 142 | 121 | 85.2 |
| Total | 2,783 | 1,396 | 50.2 |

¹ Includes individuals who terminated employment from January 2007 through December 2011 and were hired through March 2012 by UW System or state agencies on Central Payroll.

Hours Worked per Week

We determined whether annuitants worked more or fewer hours per week than they had worked before retirement. To do so, we examined those annuitants who worked continuously during their first six months of employment. We then compared the number of hours worked per week by annuitants with the number of hours per week they had worked at retirement. The available payroll information allowed us to make this comparison for 915 of the 1,214 annuitants who worked continuously for their first six months. Information for the other 299 annuitants was incomplete or not readily available because, for example, the annuitants had worked for a local government before retirement.

As shown in Table 9, 78.8 percent of the 915 annuitants worked fewer hours per week, on average, during the first six months after being hired than they had worked before retirement.

Table 9

**Change in Average Hours Worked per Week by
WRS Annuitants Since Retirement¹**
January 2007 through March 2012

| Average Hours Worked per Week | Annuitants | Percentage of Total |
|-------------------------------|------------|---------------------|
| Decreased | 721 | 78.8% |
| No Change | 146 | 16.0 |
| Increased | 48 | 5.2 |
| Total | 915 | 100.0% |

¹ Includes individuals who terminated employment from January 2007 through December 2011, were hired through March 2012 by UW System or state agencies on Central Payroll, and who worked continuously for six months.

During their first six months after being hired, annuitants hired by UW System and state agencies on Central Payroll worked 22 hours per week, on average.

On average, each of the 915 annuitants hired by UW System and state agencies on Central Payroll worked 22 hours per week during the first six months after being hired. Although 751 annuitants, or 82.1 percent of the total, had worked full-time before retirement, only 159, or 17.4 percent, did so during those first six months.

Hourly Wages

We also compared the hourly wages of annuitants hired by UW System and state agencies on Central Payroll with their wages at retirement. To do so, we examined 797 annuitants who worked continuously during their first six months of employment and for whom readily available payroll information allowed us to compare hourly wages.

More than 90 percent of annuitants hired by UW System and state agencies on Central Payroll had hourly wages the same as or lower than their wages at retirement.

As indicated in Table 10, 91.7 percent of the 797 annuitants had hourly wages that were the same as or lower than their hourly wages at retirement. In contrast, 66 annuitants had higher wages, including 41 whose hourly wages increased by less than 5.0 percent, 18 whose hourly wages increased between 5.0 percent and 20.0 percent, and 7 whose hourly wages increased by more than 20.0 percent. One annuitant’s hourly wage increased 66.2 percent, which was the greatest percentage increase. This annuitant had retired from UW-Madison and was hired by that institution four years later into a position different from the one held before retirement and worked ten hours per week.

Table 10

Change in Hourly Wages of WRS Annuitants Since Retirement¹ January 2007 through March 2012

| Hourly Wages | Annuitants | Percentage of Total |
|--------------|------------|---------------------|
| Decreased | 317 | 39.8% |
| No Change | 414 | 51.9 |
| Increased | 66 | 8.3 |
| Total | 797 | 100.0% |

¹ Includes individuals who terminated employment from January 2007 through December 2011, were hired through March 2012 by UW System or state agencies on Central Payroll, and who worked continuously for six months.

A number of reasons may explain why annuitants’ hourly wages increased in retirement. We found that 21 of the 66 annuitants had separation periods of more than 6 months, including 13 with separation periods of more than 12 months. During the time they were away from work, wages for their positions may have increased. In addition, some annuitants returned to work in

positions that differed from the positions they held before retirement. For example:

- an annuitant employed for an average of 8.0 hours per week by DOC as a probation and parole agent was paid \$17.04 per hour, which was \$2.15, or 14.4 percent, more than this individual had been paid as a youth counselor before retiring two years earlier; and
- an annuitant employed for an average of 40.0 hours per week by UW-Madison as a professor emeritus was paid \$87.37 per hour, which was \$2.79, or 3.3 percent, more than this individual had been paid as a professor before retiring approximately one month earlier. UW-Madison indicated that this annuitant was responsible for additional administrative duties that justified the pay increase.

We also examined the hourly wages of annuitants who did not work continuously during their first six months of employment. We found that one such annuitant employed by DOC for an average of 11.8 hours per week as a psychologist consultant was paid \$80 per hour, which was \$35.11 more per hour than this individual had been paid while working as a psychologist supervisor before retirement. DOC indicated that it hired this annuitant to fill a critical staffing need, and that all employees in these consultant positions earn \$80 per hour.

Cost Comparisons

Questions have been raised about whether it is more or less costly for state agencies to hire annuitants, rather than individuals who are not receiving annuities. For example, an agency could replace a retired employee who had many years of experience with a less-experienced employee at a much lower salary, or it could hire someone with comparable experience and pay almost the same salary as it had paid the retired employee. Alternatively, an agency could replace a retired employee who had worked full-time with someone hired into a project, part-time, or LTE position, and then transfer some of the retired employee's job duties to other staff.

Certain costs are more difficult to quantify. For example, conducting a competitive recruitment for and training a non-annuitant incurs costs. State agencies can avoid these costs by hiring the annuitant who had previously filled a position. Under ch. ER-MRS 16, Wis. Adm. Code, an agency may avoid a competitive recruitment in

certain situations and hire a former employee who had retired within the past five years without misconduct. However, hiring former employees may prevent current employees from advancing, which may result in their departure from an agency if they believe promotional opportunities are diminished as a result of hiring annuitants. To the extent they depart, an agency will lose expertise and incur costs to replace them.

As noted, most annuitants we identified who were hired by state agencies worked part-time for less than one year. However, for comparison purposes, we calculated a state agency's hypothetical costs of hiring into a WRS-eligible position either an annuitant who worked full-time or an individual new to state employment. To do so, we assumed that a 60-year-old employee worked full-time at a \$60,000 salary (which is approximately the median salary of WRS participants who retired in 2011), lived in Dane County, and decided to retire after 30 years of service. If the agency hired the annuitant after the statutorily required separation period, we assumed that it would continue to pay the annuitant a \$60,000 salary but would no longer make WRS contributions or pay for health insurance because the annuitant would not suspend his or her annuity. However, the annuitant would receive other fringe benefits, such as sick leave. If the agency did not hire the annuitant, we assumed that it would instead hire a 35-year-old who had not previously worked for the State, make WRS contributions for the individual, and provide the individual with a salary and health insurance and other fringe benefits associated with full-time employment.

The costs of some fringe benefits are based on an employee's salary. In 2012, state agencies paid 7.65 percent of an employee's salary for Medicare and Social Security taxes, contributed 5.9 percent of the salary of most employees to the WRS, and paid 1.2 percent of the salary for the sick leave conversion credit program. An agency's costs for an employee's life insurance and income continuation insurance are also based, in part, on an employee's salary. The costs of health insurance coverage are not based on an employee's salary. In 2012, agencies typically paid \$1,233 per month, on average, for each employee who selected family health care insurance from a health maintenance organization (HMO) in Dane County, and \$494 per month, on average, for each employee who selected single health care insurance.

We compared the hypothetical costs to the State of hiring either an annuitant or an individual new to state employment.

In this hypothetical example, and as shown in Table 11, we estimate that the annual cost to the State in 2012 of employing an annuitant at a salary of \$60,000 would have been approximately equal to the annual cost of employing a non-annuitant with no prior state service at a salary of \$44,190, assuming the non-annuitant selected family health care insurance and received fringe benefits associated with

full-time employment. Therefore, given these assumptions, it would have been less costly for the agency to hire the non-annuitant if the agency had paid that individual at least \$15,811 less annually than it would have paid the annuitant. Because so few annuitants suspend their annuities, the annuity is typically paid regardless of who fills a given position.

Table 11

Hypothetical Cost Comparison of a State Agency Hiring a WRS Annuitant versus a Non-Annuitant 2012

| | WRS Annuitant | Non-Annuitant |
|------------------------------------|-----------------|-----------------|
| State Costs | | |
| Salary | \$60,000 | \$44,190 |
| Health Insurance ¹ | 0 | 14,796 |
| WRS Contribution | 0 | 2,607 |
| Other Fringe Benefits ² | 5,531 | 3,938 |
| Total | \$65,531 | \$65,531 |
| WRS Annuity ³ | | \$30,582 |

¹ Based upon the State’s average cost to provide family coverage with the lowest-cost HMOs in Dane County.

² Includes Medicare and Social Security taxes, the sick leave credit conversion program, life insurance, and ETF administrative fees.

³ Assumes the retiree had been paid \$5,000 per month, on average, during his or her three highest-paid years, which help to determine the annuity amount. Because few annuitants who return to work suspend their annuities, the annuity is paid regardless of who fills the position.

If the non-annuitant selected single health care insurance and received fringe benefits associated with full-time employment, we estimate that the annual cost to the State in 2012 of employing an annuitant at a salary of \$60,000 would have been approximately equal to the annual cost of employing a non-annuitant with no prior state service at a salary of \$51,911. Therefore, given these assumptions, it would have been less costly for the agency to hire the non-annuitant if the agency had paid that individual at least \$8,090 less annually than it would have paid the annuitant.

We also compared the State's hypothetical costs in situations involving part-time employment for brief periods of time. For example, if an employee retired, an agency could have transferred some of that individual's former duties to other staff temporarily and then hired either the annuitant or a non-annuitant to complete the remaining job duties on a part-time basis until it recruited a permanent replacement. Because few annuitants who return to work suspend their annuities, we assumed an agency would likely not have paid for fringe benefits other than Medicare and Social Security. Alternatively, if an agency had hired a non-annuitant with the necessary job skills to work part-time for a short period of time, such as in an LTE position, the agency would not have paid for fringe benefits other than Medicare and Social Security. Given these circumstances, we found that it would have been less costly for an agency to hire a non-annuitant if it had paid that individual an hourly wage less than the hourly wage it would have paid the annuitant.

■ ■ ■ ■

Annuitants Hired by School Districts and Local Governments ■

We surveyed all 424 school districts and 1,000 local governments that participated in the WRS.

Although the available data did not allow us to determine the number of rehired annuitants, in May 2012 we surveyed all 424 school districts and 1,000 local governments that participated in the WRS to determine the number and characteristics of individuals who had terminated employment, began receiving a WRS annuity, and were subsequently hired by a school district or local government from January 2011 through March 2012. Almost three-fourths of school districts and one-fourth of local governments that responded to our survey indicated they had hired annuitants. Although the expected duration of their employment varied, most annuitants were paid hourly wages less than the wages at which they had been paid at retirement and were hired because they had skills and experience that others did not possess.

Number of Annuitants Hired

We received 1,169 responses to our survey, which is an 82.1 percent response rate. Respondents included 348 school districts and 821 local governments. We did not survey Milwaukee County or the City of Milwaukee because, as noted, they do not participate in the WRS. Milwaukee Public Schools and the City of Madison responded, but Madison Metropolitan School District did not, even though we contacted it about responding to the survey. Because we did not obtain access to the payroll systems of school districts and local governments, we did not determine the number of rehired annuitants. Instead, we relied exclusively on the information respondents reported about the annuitants they hired.

Survey respondents hired 2,599 annuitants from January 2011 through March 2012.

As shown in Table 12, survey respondents indicated that they hired a total of 2,599 annuitants from January 2011 through March 2012. Almost two-thirds were hired by school districts. We found that 257 school districts, or 73.9 percent that responded, hired annuitants, while 181 local governments, or 22.0 percent that responded, hired annuitants.

Table 12

Number of WRS Annuitants Hired by School Districts and Local Governments¹ January 2011 through March 2012

| | Number | Percentage of Total |
|--------------------------------|--------------|---------------------|
| School Districts | 1,681 | 64.7% |
| Local Governments ² | 918 | 35.3 |
| Total | 2,599 | 100.0% |

¹ As reported by respondents to our survey of all school districts and local governments participating in the WRS.

² Includes counties; cities, towns, and villages; technical college districts; CESAs; and special districts such as housing and sanitary districts.

We asked school districts and local governments to indicate how long they had expected to employ annuitants as of the date the annuitants were hired. As shown in Table 13, the most commonly reported expected duration of employment indicated by school districts was 6 to 12 months. School districts reported that the expected duration of employment was unknown for 45.5 percent of annuitants, likely because many school districts hired retired teachers to serve as substitute teachers, who worked on an as-needed basis rather than for specified time periods. Local governments reported that 35.3 percent of annuitants were expected to work for less than six months.

Table 13

Expected Employment Duration of WRS Annuityants, as of the Hiring Date¹
 January 2011 through March 2012

| | School Districts | | Local Governments | |
|---------------------|------------------|---------------------|-------------------|---------------------|
| | Number | Percentage of Total | Number | Percentage of Total |
| Less than 6 Months | 259 | 15.4% | 324 | 35.3% |
| 6 to 12 Months | 402 | 23.9 | 106 | 11.5 |
| More than 12 Months | 255 | 15.2 | 219 | 23.9 |
| Unknown | 765 | 45.5 | 269 | 29.3 |
| Total | 1,681 | 100.0% | 918 | 100.0% |

¹ As reported by respondents to our survey of all school districts and local governments participating in the WRS.

At the time of hire, survey respondents expected most annuityants to work part-time.

We also asked school districts and local governments to indicate how many hours per week they expected annuityants to work as of the date the annuityants were hired. As shown in Table 14, school districts reported that 40.7 percent of annuityants were expected to work less than 20 hours per week, while local governments reported that 72.5 percent of annuityants were expected to work that amount of time each week. Relatively few annuityants were expected to work 40 hours per week.

Table 14

Hours per Week that WRS Annuityants Were Expected to Work, as of the Hiring Date¹
 January 2011 through March 2012

| | School Districts | | Local Governments | |
|--------------|------------------|---------------------|-------------------|---------------------|
| | Number | Percentage of Total | Number | Percentage of Total |
| Less than 20 | 684 | 40.7% | 666 | 72.5% |
| 20 to 39 | 413 | 24.6 | 157 | 17.1 |
| 40 | 187 | 11.1 | 63 | 6.9 |
| Unknown | 397 | 23.6 | 32 | 3.5 |
| Total | 1,681 | 100.0% | 918 | 100.0% |

¹ As reported by respondents to our survey of all school districts and local governments participating in the WRS.

Survey respondents hired annuitants mainly for their skills and experience.

Survey respondents provided multiple reasons for hiring annuitants. As shown in Table 15, almost 80 percent of school districts and local governments hired annuitants for their skills and experience. Annuitants were also hired to work as substitute or part-time teachers for school districts, or to work in part-time, seasonal, or temporary positions for local governments. Several municipalities indicated that annuitants were employed as poll workers or were elected or appointed to positions.

Table 15

Reasons for Hiring WRS Annuitants¹
January 2011 through March 2012

| | School Districts | | Local Governments | |
|---|------------------|------------|-------------------|------------|
| | Number | Percentage | Number | Percentage |
| Annuitants Had Needed Skills and Experience | 203 | 79.0% | 142 | 78.5% |
| Annuitants Cost Less than Other Potential Employees | 62 | 24.1 | 31 | 17.1 |
| Annuitants Were Hired to Train New Staff | 28 | 10.9 | 37 | 20.4 |
| Other | 108 | 42.0 | 58 | 32.0 |

¹ As reported by respondents to our survey of all school districts and local governments participating in the WRS. Survey respondents provided multiple reasons for hiring annuitants.

Survey respondents indicated that 1,987 of the 2,599 annuitants, or 76.5 percent, were hired by the employer from which they retired. In total, 88.3 percent of the school districts and 71.3 percent of the local governments that hired annuitants indicated that they hired at least one annuitant who had previously worked for them before retirement.

Most survey respondents indicated that annuitants' hourly wages were lower than at retirement.

We asked school districts and local governments to provide summary information on the wages of the 1,987 annuitants who had worked for them before and after retirement. As shown in Table 16, the hourly wages of 80.6 percent of annuitants hired by school districts and 68.7 percent of annuitants hired by local governments were lower than the hourly wages these individuals had been paid at retirement. Few annuitants were paid wages higher than what they had been paid when they retired.

Table 16

Change in Hourly Wages of WRS Annuityants Since Retirement¹
 January 2011 through March 2012

| Hourly Wages | School Districts | | Local Governments | |
|--------------|------------------|---------------------|-------------------|---------------------|
| | Number | Percentage of Total | Number | Percentage of Total |
| Decreased | 1,183 | 80.6% | 357 | 68.7% |
| No Change | 206 | 14.0 | 120 | 23.1 |
| Increased | 56 | 3.8 | 37 | 7.1 |
| Unknown | 22 | 1.6 | 6 | 1.1 |
| Total | 1,467 | 100.0% | 520 | 100.0% |

¹ As reported by respondents to our survey of all school districts and local governments participating in the WRS.



Contracting with Annuitants ■

Although annuitants who contracted with state agencies are not rehired annuitants, we determined the number of individuals who terminated employment from January 2007 through December 2011; began receiving a WRS annuity; and subsequently contracted to provide goods and services to any state agency, except for UW System, at some point through June 2012. The available information did not allow us to determine the extent to which UW System contracted directly with annuitants or the extent to which any state agencies contracted with firms that employed annuitants to complete the contracted work.

Contract Amounts

From January 2007 through June 2012, state agencies directly paid \$1.7 million to 266 annuitants through contracts.

As shown in Table 17, 28 state agencies directly paid a total of \$1.7 million to 266 annuitants who were contracted to provide goods and services, or an average of \$6,204 each, from January 2007 through June 2012. Some annuitants were paid in multiple years.

Table 18 shows the amounts that state agencies paid to each of the 266 annuitants from January 2007 through June 2012. Although most were paid less than \$5,000, 12 were each paid \$25,000 or more over this period.

Table 17

Amounts State Agencies Directly Paid to WRS Annuitants Contracted to Provide Goods and Services¹

| | Amount | Annuitants | Average per Annuitant |
|-------------------|--------------------|------------|-----------------------|
| 2007 | \$ 13,700 | 15 | \$ 913 |
| 2008 | 109,500 | 42 | 2,607 |
| 2009 | 166,300 | 54 | 3,080 |
| 2010 | 265,300 | 72 | 3,685 |
| 2011 | 756,400 | 130 | 5,818 |
| 2012 ² | 339,100 | 77 | 4,404 |
| Total | \$1,650,300 | 266 | 6,204 |

¹ Includes annuitants who terminated employment from January 2007 through December 2011. Some annuitants were paid in multiple years. Does not include annuitants directly paid by UW System or working for firms that contracted with state agencies.

² Through June 2012.

Table 18

Amounts Directly Paid to Individual WRS Annuitants Contracted to Provide Goods and Services¹ January 2007 through June 2012

| | Annuitants | Percentage of Total |
|----------------------|------------|---------------------|
| Less than \$500 | 79 | 29.6% |
| \$500 to \$999 | 32 | 12.0 |
| \$1,000 to \$2,499 | 42 | 15.8 |
| \$2,500 to \$4,999 | 43 | 16.2 |
| \$5,000 to \$9,999 | 29 | 10.9 |
| \$10,000 to \$24,999 | 29 | 10.9 |
| \$25,000 to \$49,999 | 6 | 2.3 |
| \$50,000 or More | 6 | 2.3 |
| Total | 266 | 100.0% |

¹ Includes annuitants who terminated employment from January 2007 through December 2011 and payments made to them through June 2012. Does not include annuitants directly paid by UW System or working for firms that contracted with state agencies.

State agencies paid more than \$50,000 to annuitants through contracts for a variety of reasons. For example:

- Two individuals retired from DOC as psychological consultants in fall 2010. From January 2011 through May 2012, DOC, DHS, and the Department of Justice paid one annuitant a total of \$115,200 through contracts, including \$104,200 paid by DHS. From January 2011 through December 2011, DHS paid the second annuitant \$99,700 through a contract. DHS contracted with the two annuitants to examine patients at one of its residential facilities that had vacant psychologist counseling positions while it recruited permanent employees. DHS indicated it did so to comply with statutory requirements for committing sexually violent individuals.
- One individual retired from DNR as a conservation biologist in spring 2009. From July 2009 through June 2012, DNR paid this annuitant \$113,600 through a contract. DNR indicated that when this individual retired, it shifted some of the position's duties to another employee, but no other employees possessed the specialized skills needed to complete other duties. DNR indicated that it was more cost-effective to contract with the annuitant than to hire a new employee.
- One individual retired from DOT as a transportation engineer in spring 2011. From August 2011 through June 2012, DOT paid this annuitant \$96,300 through contracts. DOT initially contracted with the annuitant to train other staff on the position's duties and subsequently contracted with the annuitant to complete tasks related to road construction.

Table 19 shows the ten state agencies that directly paid the most to annuitants contracted to provide goods and services from January 2007 through June 2012. DHS paid \$709,500, which was the highest total amount paid, while DPI contracted with 59 annuitants, which was the most annuitants.

Table 19

**Amounts Directly Paid to WRS Annuitants Contracted to
Provide Goods and Services, by State Agency¹**
January 2007 through June 2012

| State Agency | Total | Annuitants | Average per Annuitant |
|-------------------------------------|--------------------|------------|--------------------------|
| Department of Health Services | \$ 709,500 | 39 | \$18,192 |
| Department of Natural Resources | 273,100 | 36 | 7,586 |
| Department of Transportation | 130,400 | 12 | 10,867 |
| Department of Public Instruction | 124,600 | 59 | 2,112 |
| District Attorneys | 97,400 | 7 | 13,914 |
| State of Wisconsin Investment Board | 51,300 | 1 | 51,300 |
| Department of Corrections | 46,600 | 17 | 2,741 |
| Public Defender Board | 20,500 | 4 | 5,125 |
| Supreme Court | 20,100 | 11 | 1,827 |
| Educational Communications Board | 19,100 | 3 | 6,367 |
| Subtotal | 1,492,600 | 189 | 7,897 |
| Other ² | 157,700 | 77 | 2,048 |
| Total | \$1,650,300 | 266 | 6,204 |

¹ Includes annuitants who terminated employment from January 2007 through December 2011 and payments made to them through June 2012. Does not include annuitants directly paid by UW System or working for firms that contracted with state agencies.

² Includes 18 state agencies.

Contracted Annuitants Employed by State Agencies

State agencies may have simultaneously employed and contracted directly with some annuitants.

From January 2007 through March 2012, state agencies employed 68 of the 266 annuitants who were directly paid through contracts. We found that UW System employed 18 annuitants who received a total of \$53,500 in contract payments from other state agencies during pay periods in which they were employed by UW System, and that other state agencies employed 9 annuitants who received a total of \$15,800 in contract payments from state agencies during pay periods in which they were employed by state agencies. Three annuitants were employed by the same state agencies with whom they contracted directly. For example, one individual retired from DNR as a photographer in summer 2007. Subsequently, DNR employed this annuitant as a part-time publications editor and contracted with the annuitant at a cost of \$2,200 to provide photographs for a magazine it publishes.

Another individual retired in 2008 from DOT as a worker's compensation examiner. During a 42-day separation period, DOT contracted with this individual to perform the duties of a worker's compensation examiner. Immediately after the separation period, DOT hired the individual into a WRS-eligible position with the same job title and duties that the individual had before retirement. DOT indicated to us that it contracted with this individual because it was legally prohibited from hiring the individual during the separation period and it believed that nobody else was available to complete the position's duties. The position ended after several months, but one month later DOT hired the individual into another WRS-eligible position as a worker's compensation examiner. During that month, DOT again contracted with the individual for the same types of services. In total, DOT directly paid this individual \$13,600 through contracts. As of March 2012, DOT still employed this individual.

■ ■ ■ ■

ETF Oversight Activities ■

To help administer the WRS and ensure that good-faith terminations from employment occur, ETF provides training to WRS-participating employers and employees, and it has recently begun collecting additional information about annuitants who have been hired by WRS-participating employers. Because ETF does not have access to payroll systems or employment agreements that would allow it to systematically monitor all WRS-participating employers and employees, it initiates investigations only when it believes that federal and state pension laws may have been violated. If an investigation determines that a good-faith termination did not occur, ETF will require an individual to repay all annuity amounts that were received. We provide ETF with suggestions to improve its oversight efforts.

Education and Training

ETF educates employers and employees about the legal requirements for hiring annuitants.

ETF educates employers and employees about the legal requirements for ensuring good-faith terminations and hiring annuitants. It does so by:

- distributing periodic bulletins and newsletters that contain information about a variety of topics related to retirement and the WRS;
- making trained staff available to answer questions over the telephone;

- providing a variety of information for annuitants and employers on its website; and
- providing information at meetings of the State Payroll Council, which is an informal group of payroll and benefits coordinators employed by state agencies.

ETF also conducts training sessions about retirement and the WRS. From February 2011 through August 2011, it conducted 17 one-hour webinars for a total of 61 employers. In spring 2011, it conducted 20 full-day training sessions in 13 cities statewide, which were attended by a total of 322 employers. In fall 2011, it conducted 16 additional training sessions in eight cities statewide, which were attended by a total of 394 employers. It planned to conduct 14 more training sessions in eight cities in fall 2012, not all of which had been completed at the time of our review. However, we found that ETF did not conduct any such training sessions for employers from spring 2008 until spring 2011, in part because the staff position that was responsible for conducting the training was vacant for part of that period. During the three-year period in which no employer training occurred, ETF indicated that it reorganized its training efforts and provided more information on its website.

ETF also presents information to employees participating in the WRS about the legal requirements related to retirement. From January 2007 through June 2012, ETF conducted a total of 2,288 presentations for employees.

Notification about Annuitants Who Return to Work

ETF maintains information on all WRS-participating employees, including the amounts contributed by employers and employees to the WRS. When participating employees decide to terminate their employment, they must notify ETF and arrange for their annuities to be paid. If annuitants subsequently decide to return to work for WRS-participating employers, they and their employers must notify ETF in writing and indicate whether the annuitants elect to: continue receiving their annuities, in which case ETF takes no action other than determining whether the statutorily required separation period occurred; or participate actively once again in the WRS, in which case ETF suspends their annuities. Unless it receives this notification, ETF does not know when annuitants return to work because it does not have access to payroll systems or employment agreements.

Annuitants and employers have not always provided ETF with written notification when annuitants return to work in WRS-eligible positions and choose to continue receiving their annuities. In a

survey of WRS-participating employers conducted by ETF in September 2010, more than one-third of respondents indicated that ETF had not always been informed when annuitants were hired.

In August 2012, ETF began requiring notification whenever annuitants are hired by WRS-participating employers.

In August 2012, ETF revised administrative rules to require both employers and annuitants to notify it in writing whenever annuitants are hired by WRS-participating employers, even if they are hired into positions that are ineligible to participate in the WRS. ETF hopes that by requiring notification in all instances, it will receive more complete information about the extent to which annuitants are working.

ETF plans to use the information it receives on a form to begin tracking the number of annuitants who are hired and their characteristics. Although ETF currently scans copies of the completed forms into an electronic system, the information is not entered into a database that would allow ETF to summarize it easily. The form requires information on the date an annuitant was hired and the employment category, such as “general employee,” “teacher,” and “circuit judge,” but it does not request the specific position title or other information that could be useful in tracking annuitants, such as the position’s expected duration of employment. If ETF plans to track systematically annuitants who are hired, it may want to request additional information and enter it into a database or other format that will allow it to be summarized and analyzed. This information may also be of value to actuaries, who could use it to determine the effects of hiring annuitants on the WRS.

Investigations

ETF can choose to investigate if it believes a good-faith termination from employment had not occurred.

ETF cannot determine if a good-faith termination from employment had not occurred unless it chooses to investigate, which its policies indicate it will do to ensure compliance with federal and state laws. ETF can choose to initiate investigations based on information included in the written form it receives when annuitants are hired, or when legislators, the media, employers, employees, and others provide it with information that questions whether a good-faith employment termination occurred. ETF’s policies specify that WRS-participating employers and employees have the burden of demonstrating that good-faith terminations occurred.

Because ETF does not have written policies or procedures for conducting such investigations, it handles each investigation in the manner it deems appropriate. For example, it may interview those who hired an annuitant. It may consider the length of separation, if job duties were completed during the separation period, when the employer began to discuss hiring the annuitant, and the extent to which the job duties of an annuitant who returned to work for

his or her former employer have changed. In addition, it may collect and review a variety of other information, including:

- copies of an employer's personnel policies related to terminating and recruiting employees, as well as any documentation supporting that these policies were followed;
- information about an individual's access to the employer's e-mail system, credit card accounts, facilities, and vehicles after terminating employment;
- an individual's letter of resignation;
- an employer's effort to fill a position during the separation period;
- an individual's past and current employment contracts; and
- meeting minutes related to an individual's resignation and subsequent hiring.

Certain information obtained during ETF's investigations indicates that a good-faith termination did not occur, such as proof that an individual used the former employer's e-mail system or vehicle during the separation period. However, some information may be insufficient to allow ETF to make a definitive determination, such as if employees verbally state before terminating employment that they would like to return to work after a separation period, employers make no efforts to fill a position or reassign job duties to other staff, or annuitants return to their former positions after a brief separation period.

If ETF determines that a good-faith termination did not occur, statutes require it to:

- stop an individual's annuity payments and invalidate the annuity;
- require an annuitant to repay the annuity amounts received;
- require an employer and an annuitant to make WRS contributions that should have been paid while the annuitant was employed; and
- restore the individual's WRS account as though the individual had never retired.

If individuals disagree with ETF's determination, they can appeal. After an appeal has been filed, ETF contacts the individual to try to resolve the appeal informally. If this is not possible, the appeal is referred to a hearing examiner within the Department of Administration's Division of Hearings and Appeals.

From August 2009 through June 2012, ETF conducted 19 investigations to determine if good-faith terminations had not occurred.

Since August 2009, ETF has formally tracked its investigations. To learn how the investigations were conducted and their results, we reviewed ETF's files for all 19 investigations conducted from August 2009 through June 2012. We found that:

- 14 investigations resulted in ETF determining there was insufficient information to conclude that good-faith terminations had not occurred;
- 4 investigations resulted in ETF determining there was sufficient information to conclude that good-faith terminations had not occurred; and
- 1 investigation was only partially completed when the individual being investigated admitted not having had a good-faith termination, withdrew the application to receive an annuity, and returned to work as a WRS-participating employee.

We reviewed the four investigations that resulted in determinations that good-faith terminations did not occur. Two investigations involved UW-Green Bay employees whom ETF investigated after media reports suggested that good-faith terminations had not occurred. We found that:

- One individual employed by UW-Green Bay indicated in writing the intent to return to work 31 days after terminating employment. The individual provided only a 4-day notice of the intent to terminate employment, rather than the contractually required 180-day notice. Three days after terminating employment, the individual received and responded to work-related e-mail messages and signed an agreement to return to work 31 days after terminating employment. ETF stopped the individual's annuity and required all \$32,300 in annuity payments that the individual had received over eight months to be repaid. The individual subsequently legitimately terminated employment with UW-Green Bay.

- A second individual provided UW-Green Bay with a two-day notice of the intent to terminate employment, rather than the two-week notice that is typically expected. In an e-mail message announcing the retirement to other staff, a UW-Green Bay official stated that the individual would return to work. After retiring, the individual received and responded to work-related e-mail messages and used a former job title in doing so. UW-Green Bay did not attempt to recruit anyone else to fill the position. After a 31-day separation period, the individual returned to work. ETF stopped the individual's annuity and required all \$29,900 in annuity payments that the individual had received over nine months to be repaid. The individual subsequently legitimately terminated employment with UW-Green Bay.

ETF initiated the third investigation based on information it received. An annuitant had terminated employment from a CESA and returned to work there after a 32-day separation period. During the investigation, the individual informed ETF that a good-faith termination from employment likely had not occurred because the individual continued to use an employer-provided vehicle and credit card during the separation period. ETF found that these actions were inconsistent with the agency's voluntary termination policies. It stopped the individual's annuity and required all \$18,300 in annuity payments that the individual had received over five months to be repaid. At the time of our review, this individual was still employed by the CESA.

ETF also initiated the fourth investigation based on information it received. An annuitant had terminated employment from UW-River Falls and returned to work there after a 32-day separation period. However, the individual did not actually submit to ETF an application to receive an annuity until 122 days after terminating employment. As noted, statutes require an individual in this situation to complete a 30-day separation period after ETF receives the application. ETF stopped the individual's annuity and required all \$27,300 in annuity payments that the individual had received over 17 months to be repaid. As of August 2012, the individual was appealing ETF's decision and was still employed at UW-River Falls.

It can be challenging for ETF to determine that a good-faith termination did not occur.

Although state law prohibits individuals who have not yet terminated employment from agreeing to return to work in a WRS-eligible position at a future date, ETF indicated that such agreements need to be enforceable in order for it to determine that good-faith terminations have not occurred. For example:

- ETF investigated three individuals who indicated in their resignation letters a desire to return to work with their employers, who subsequently hired them. Two of the three were hired into their same positions, while the third was hired into a different position. ETF determined that none had enforceable employment agreements before they terminated their employment. Therefore, in all three instances ETF determined there was insufficient information to conclude that good-faith terminations did not occur.
- ETF investigated one individual and found that before the individual terminated employment, the individual's employer offered in writing to hire the individual after the statutorily required separation period was completed. However, the individual did not sign the agreement until returning to work after the separation period. ETF initially determined that a good-faith termination had not occurred, but the individual appealed and provided an affidavit signed by the individual and the employer, both of whom attested that a good-faith termination had occurred. After further consideration, ETF decided that the employment agreement was not enforceable until the individual signed it and, therefore, reversed its initial decision.
- ETF investigated one individual who, before terminating employment, had received a conditional offer of employment in a WRS-eligible position with another employer, subject to the individual successfully completing a background investigation, medical examination, and drug screening test. Because the employment offer was not from the individual's current employer and was only conditional, ETF determined there was insufficient information to conclude that a good-faith termination did not occur.

As noted, although statutes do not prohibit individuals from agreeing during their separation periods to return to work in WRS-eligible positions, ETF's policies indicate that such agreements call into question whether good-faith terminations actually occurred. We found that even when individuals agree only shortly after terminating employment to return to work for their former employer after the separation period, ETF determines there is insufficient information to conclude that a good-faith termination did not occur. During one investigation, ETF found that an

individual had noted in a resignation letter a willingness to return to work. Two days into the separation period, the individual and former employer signed an agreement that the individual would return to work 31 days after the employment had been terminated. Because the employment agreement was not signed while the individual was still employed, ETF determined that there was insufficient information to conclude that a good-faith termination had not occurred.

We also found that ETF did not review all relevant information pertaining to one individual it investigated. ETF indicated that it did not review city council meeting minutes indicating that one of the city's employees who planned to terminate employment had formally agreed to work for another local government after completing a separation period. As noted, administrative rules stipulate that a good-faith termination from employment occurs only if an employee has no further rights to any future compensation in a WRS-eligible position. After retiring and completing a 37-day separation period, the individual was hired by the other local government into a WRS-eligible position.

Some ETF investigation files contained a relatively small amount of information to support its determinations that there was insufficient information to conclude that good-faith terminations of employment had not occurred. For example, one file contained only written notification to ETF that an agency had hired the annuitant and an e-mail message that an ETF staff member wrote about the investigation. In some instances, because ETF did not receive additional information it requested from WRS-participating employers, it could not determine that good-faith terminations of employment had not occurred.

ETF should develop written procedures to determine if good-faith terminations had not occurred.

It is not reasonable to expect that ETF will investigate all cases without error, particularly given the difficulty of assessing facts that can sometimes be unclear. However, if ETF were to develop written procedures for conducting investigations, it could increase the likelihood that its staff will consistently and completely consider all relevant information before determining if good-faith terminations of employment had not occurred.

Recommendation

We recommend the Department of Employee Trust Funds develop written procedures for conducting consistent and complete investigations to determine if good-faith terminations of employment had not occurred.

Future Considerations ■

The Legislature could choose to make no modifications to statutes that govern how annuitants are able to return to work for WRS-participating employers.

As noted, most of the annuitants we identified who returned to work for state agencies in recent years worked part-time and for less than one year, which indicates that most of them did not intend to work extensively while receiving their annuities. In addition, most annuitants were paid either the same hourly wage or a lower hourly wage than they had been paid at retirement. Employers indicated that annuitants possess skills and experience that may be difficult to obtain from other employees, have filled positions until permanent replacements are hired, and have trained other staff how to complete their job duties. Similarly, school districts reported having hired annuitants to serve as substitute teachers. Particularly when employees terminate their employment with short notice, employers have found annuitants to be helpful in maintaining continuity in program operations and agency administration. For these reasons, the Legislature could choose to make no modifications to statutes that govern how annuitants are able to return to work for WRS-participating employers.

However, we also identified a small number of annuitants who worked for several years after retirement, worked more hours per week than they had worked before retirement, or were paid a higher hourly wage than they had been paid at retirement, which raises questions about the intent of these annuitants to truly terminate employment and retire. Because statutes provide few restrictions on the ability of annuitants to return to work for WRS-participating employers, it is difficult for ETF to determine if good-faith terminations of employment had not occurred. In some instances, employees and employers may have complied with the letter, if not

the spirit, of the law, such as when an employee who has not yet terminated employment verbally agrees to return to work shortly after a 30-day separation period, and then signs a written employment agreement during the separation period.

To address the concerns raised about annuitants hired in these circumstances, we provide several options that the Legislature could consider if it chooses to modify statutes governing how annuitants are able to return to work for WRS-participating employers.

The Legislature could lengthen the statutorily required separation period.

If the Legislature is concerned that employers sometimes deliberately do not fill positions when employees terminate employment because they know they will hire annuitants shortly after the separation period ends, it could lengthen the separation period from at least 30 days to 60, 90, or 120 days or more. In many instances, employers might consider 60 days or more to be too long to hold positions open until annuitants can be hired. Although ETF indicates its support for this approach, a longer separation period could hinder the ability of employers to hire annuitants to train other staff in job duties or temporarily fill positions until permanent replacements can be hired.

The Legislature could further restrict the ability of annuitants to work for WRS-participating employers during their separation periods.

If the Legislature is concerned about maintaining the integrity of the separation period, it could further restrict the ability of annuitants to work for WRS-participating employers during their separation periods. As noted, statutes currently prohibit individuals from working in WRS-eligible positions during their separation periods. However, the Legislature could also prohibit individuals who have not completed their separation periods from:

- working in positions that are ineligible for WRS participation;
- contracting with WRS-participating employers; and
- signing employment agreements that involve returning to work in WRS-eligible positions after the separation periods end. As noted, although ETF considers that such agreements raise questions about whether good-faith terminations from employment have occurred, statutes do not prohibit them.

The Legislature could limit the length of time that annuitants are allowed to work.

If the Legislature is concerned about the potential for annuitants to work for several years, it could limit the length of time that annuitants are allowed to work for WRS-participating employers. It could limit the length of time that annuitants are allowed to work in positions eligible to participate in the WRS, in positions ineligible to

participate in the WRS, or as contractors with WRS-participating employers. Implementing such a change would still allow annuitants to train other staff on the duties of their jobs or to fill positions until full-time replacements could be hired.

We note that other states and the federal government have placed other restrictions on the conditions under which annuitants may be hired. All four midwestern states we contacted and the federal government restrict the length of time that annuitants may work for employers participating in their retirement systems, the annuitants' wages, or their annuity payments. We found that:

- Illinois allows annuitants to work for up to 75 days per calendar year for participating employers and still receive annuity payments. Those working more than 75 days have their annuities suspended and must make pension contributions for all days worked over that limit.
- Iowa reduces the annuity payments to annuitants younger than age 65 when they earn more than \$30,000 annually. The annuity payment is reduced by one-half of any amount earned over this limit. Annuitants younger than age 65 must make pension contributions for all days worked for participating employers.
- Michigan suspends the annuities of annuitants who return to work for participating employers if they were initially hired by the state before March 1997, and pension contributions must be made for all days worked. Annuitants initially hired by the state after March 1997 do not have these restrictions because they receive different pension benefits.
- Minnesota suspends the annuities of annuitants who are not old enough to receive full Social Security benefits if they work for participating employers and earn more than \$14,640 per calendar year. This threshold equals the amount that individuals can earn without having their Social Security benefits temporarily reduced if they are younger than full retirement age. One year after annuitants cease working for the state, they receive the amounts of their annuity payments that were suspended.

- The federal government reduces annuitants' wages earned from participating employers by the amounts of the annuity payments. Annuitants make pension contributions for all days worked, and their annuity payments are recalculated when they cease working.

Minnesota typically requires a 30-day separation period before participating employers are allowed to hire annuitants. However, state employees who worked at least 1,044 hours annually for at least five years may disregard the separation period, return to work for their former employers, and continue to receive their full annuity payments if they follow certain provisions of the law. For example, they must agree to work for at least 25 percent fewer hours per pay period than they had worked before retirement, and they are allowed to work for up to one year, although employers may subsequently offer up to four one-year renewal periods. This option is intended to allow annuitants to transfer their knowledge to other staff.

Iowa requires a 30-day separation period before annuitants are able to work in positions ineligible to participate in the state retirement system, and it requires a 120-day separation period before annuitants are allowed to work in positions eligible to participate in the system. Annuitants who do not complete the separation period must repay all annuity payments that they received while working.

To implement these restrictions, the agencies that administer retirement systems in some other midwestern states have access to information that is unavailable to ETF. For example, Iowa state agencies participating in the retirement system report annuitants' annual wages to the retirement system's administrating agency. The administrating agency for Illinois' retirement system can access payroll information for participating employers.

The Legislature could consider obtaining an actuarial opinion to determine the fiscal effects on the WRS of hiring annuitants.

Finally, if the Legislature is concerned about determining the fiscal effects on the WRS of hiring annuitants or modifying statutes governing how annuitants may return to work, it could consider obtaining an actuarial opinion. Annuitants hired by WRS-participating employers in almost all instances no longer contribute to the WRS because they are receiving their annuities, and they create no additional financial obligations on the WRS. In contrast, non-annuitants hired by WRS-participating employers do contribute to the WRS, but they also create financial obligations on the WRS because they may eventually receive annuities. Because these effects are complex, the specialized expertise of an actuary is needed to fully understand them. Section 13.50(6)(am), Wis. Stats.,

allows the co-chairpersons of the Joint Survey Committee on Retirement Systems, the co-chairpersons of the Joint Committee on Finance, or the presiding officers of either house to order actuarial opinions on proposed legislation that would have a significant fiscal impact on the costs, actuarial balance, or goals of the WRS. An actuarial opinion could provide the Legislature with information it could use to help determine how to modify statutes that govern how annuitants are able to return to work for WRS-participating employers.

■ ■ ■ ■

Appendix

Number of WRS Annuitants Hired, by State Agency¹

January 2007 through March 2012

| | Annuitants | Percentage of Total |
|--|------------|------------------------|
| Department of Natural Resources | 142 | 15.7% |
| Department of Transportation | 102 | 11.3 |
| Department of Health Services | 91 | 10.1 |
| Department of Corrections | 87 | 9.6 |
| Department of Workforce Development | 72 | 8.0 |
| Department of Public Instruction | 52 | 5.8 |
| Department of Revenue | 49 | 5.4 |
| Department of Administration | 40 | 4.4 |
| Circuit Courts | 36 | 4.0 |
| Department of Agriculture, Trade and Consumer Protection | 26 | 2.9 |
| Department of Employee Trust Funds | 26 | 2.9 |
| Department of Justice | 25 | 2.8 |
| State Fair Park | 25 | 2.8 |
| Department of Commerce ² | 19 | 2.1 |
| Department of Children and Families | 18 | 2.0 |
| State Historical Society | 15 | 1.7 |
| Department of Military Affairs | 13 | 1.4 |
| Department of Veterans Affairs | 12 | 1.3 |
| Department of Regulation and Licensing ² | 9 | 1.0 |
| Office of State Employment Relations | 9 | 1.0 |
| Other ³ | 34 | 3.8 |
| Total | 902 | 100.0% |

¹ Includes individuals who terminated employment from January 2007 through December 2011 and were hired through March 2012 by state agencies on Central Payroll.

² In July 2011, the Department of Commerce and the Department of Regulation and Licensing were abolished.

³ Includes 17 state agencies.



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December 10, 2012

Mr. Joe Chrisman, State Auditor
Legislative Audit Bureau
22 East Mifflin Street, Suite 500
Madison, WI 53703

Dear Mr. Chrisman,

Thank you for the opportunity to respond to the Legislative Audit Bureau's (LAB) review of the extent to which Wisconsin Retirement System (WRS) annuitants are rehired by WRS employers. We recognize and appreciate the level of professionalism of your staff. Their review was thorough, while respecting the time and daily job duties of our staff.

The Department of Employee Trust Funds (ETF) reviewed the audit and believes it provides a valuable addition to the collective body of knowledge about rehired annuitants. It also provides a range of possible changes to the policy and processes of rehiring annuitants.

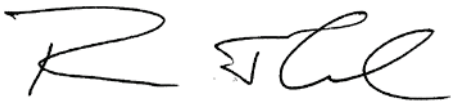
In the past few years, ETF has taken steps to improve the enforcement of the state and federal requirements pertaining to rehired annuitants, including revisions to administrative code, providing more training and education to WRS members and employers, and the development of policies and procedures for conducting investigations concerning terminations from employment. ETF agrees with LAB's recommendation to better document these policies and procedures to guide our investigations and determinations. We will formalize our practice by developing written procedures for use by internal staff.

The re-hire of WRS annuitants is a lawful practice that, as noted in the audit, appears to serve the needs of retirees and employers. The LAB identified only a small number of annuitants in which good faith terminations were questionable; nevertheless, if evidence is presented that calls a particular termination into question, ETF must ensure that the law's parameters are being followed by the annuitant and employer. For this reason, ETF believes the LAB option of extending the break-in-service requirement is worthy of consideration by the legislature. It will help ensure retirees have had a full and complete separation of service from their employer before being rehired and will enhance ETF's ability to enforce the law. For these same reasons, many states have already taken steps to increase the length of separation requirement, which vary anywhere from one month to one year, with the average approximately four months.

Finally, the LAB stated that the Joint Survey Committee on Retirement Systems (JSCRS) could choose to order an actuarial opinion on proposed legislation that would have a fiscal impact on the costs, actuarial balance, or goals of the WRS. As the fiduciaries of the WRS, ETF and its governing Boards value the important role the JSCRS serves in the administration of Wisconsin retirement benefits for public employees and employers. Actuarial reports, including those ordered by the JSCRS, play an important role in keeping the WRS strong and healthy while mitigating potential costs to the taxpayer.

Again, thank you for this analysis of rehired annuitants in Wisconsin. We feel this report will help inform the legislature on the complex issues surrounding this matter as they contemplate policy decisions. We look forward to working with the legislature on the rehired annuitant topic and finding a solution that meets the needs of employers and ETF's duty to enforce the law.

Respectfully,

A handwritten signature in black ink, appearing to read "R Conlin". The signature is written in a cursive style with a large initial "R" and a distinct "C" for "Conlin".

Robert J. Conlin
Secretary