



Act 4 and Jailer Classification as Protective Status Under WRS

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Important Disclaimer

Consult with Corporation Counsel on all matters involving the appropriate classification of employees for WRS purposes.



WRS Classification – General vs Protective

- Protective Employment Category Benefits
 - “Normal Retirement Age” (benefit not reduced by age reduction factor)
 - General Employees – age 65 (or 57 with 30 years of service)
 - Protective – age 54 (or 53 with 25 years of service)
 - Duty disability benefits
 - Subject to qualifications, provides income continuation at 75% if permanent disability arises in course of employment



Act 4 – Background and Intent



Definitions – Who is a Jailer?

- A “County Jailer” is
 - An employee of a county
 - Whose principal duties (51% or more) involve supervising, controlling, or maintaining a jail or house of correction or the persons confined in a jail or house of correction
- Sworn status, title, etc., are irrelevant to the definition



The Cost of Protective Status

- Unless provided in a collective bargaining agreement, the employer (county) may not pay the increased contribution.
- Current Rates:

	General Employee	Act 4 Protective	Pre-Act 4 Protective
Employee Contribution	6.9%	14.3%	6.9%
Employer Contribution	6.9%	6.9%	14.3%
Total Contribution	13.8%	21.2%	21.2%

** Duty Disability Premium is additional .02% - .57% of salary and is employee contribution



What if a county currently bargaining with jailers wants to stop bargaining with jailers?

- Section 19 of Act 4

- A county that treats a county jailer as a public safety employee on [1-1-24], shall continue to treat any person it employs as a county jailer as a public safety employee except that, if the county raises a question concerning the appropriateness of including county jailers in a collective bargaining unit that includes public safety employees, no person it employs as a county jailer may be treated as a public safety employee.



Tax Implications for Employees

- Section 12 of Act 4

- Jailers hired (or transferred to jail) ON or AFTER 1-1-24 in a county that did NOT classify jailers as protective
 - Contributions are PRE-TAX
- Existing jailers (current employees as of 1-1-24) in a county that did NOT classify jailers as protective
 - Contributions are POST-TAX
- In counties where jailers are currently protective and county “opts out” of bargaining
 - Existing jailers make contributions POST-TAX
 - New hires make contributions PRE-TAX



Notice to Employees and Opt Out Form

- In counties that do not currently treat jailers as protective:
 - Jailers have 60 days from January 1, 2024, to opt out
 - County must provide opt out form
 - The election to opt out is IRREVOCABLE as to that county/employer
 - Use of Form 1
 - In counties where jailers are not currently protective, begin education process NOW.



Form 1

IRREVOCABLE ELECTION TO OPT OUT OF PROTECTIVE OCCUPATION PARTICIPANT STATUS

[●] COUNTY

(Pursuant to 2023 Wisconsin Act 4)

****IMPORTANT** – 2023 Wisconsin Act 4 modified the law relating to administration of the Wisconsin Retirement System (WRS) to make all county jailers (as defined in Wis. Stat. § 40.02(48)(b)5.) “protective” category employees (*i.e.*, a “protective occupation participant” as defined in Wis. Stat. § 40.02(48)(a)). Employees categorized as “protective” and otherwise qualifying under WRS regulations are eligible for certain benefits such as early retirement benefits and duty disability benefits. The additional WRS contributions necessary to fund the additional benefits are the responsibility of the **employee**. If you do not sign and return this form by March 1, 2024 (*i.e.*, NOT opt out), the additional contributions will be withheld from your paycheck on a post-tax basis. Should you sign this form where indicated and return it by March 1, 2024 (*i.e.*, OPT OUT), you will be categorized as a general employee for WRS purposes, you will not receive the additional benefits available to protective status employees and you will not have the additional contributions withheld from your pay. Your election is **IRREVOCABLE** for purposes of your employment with [●] County – please review your options carefully. **ANY QUESTIONS SURROUNDING YOUR WRS STATUS SHOULD BE DIRECTED TO THE WISCONSIN DEPARTMENT OF EMPLOYEE TRUST FUNDS (1-877-533-5020). THE COUNTY WILL NOT AND MAY NOT PROVIDE YOU WITH LEGAL, FINANCIAL, OR TAX ADVICE. YOU ARE STRONGLY ENCOURAGED TO REVIEW YOUR OPTIONS WITH A PROFESSIONAL OF YOUR CHOOSING.**

By signing below, I hereby elect to **not** become a “protective occupation participant” under the Wisconsin Retirement System. I understand that my election is IRREVOCABLE as it relates to my employment with [●] County. I further understand that my election may result in my being ineligible for certain benefits offered protective employees under the Wisconsin Retirement System.

Employee's Name: _____

Employee's Signature: _____

Date of Signature: _____

In order for the election to Opt Out to be valid, this form must be signed and returned to [insert name of position responsible for collecting this form] on or before Friday, March 1, 2024.



Notice to New Hires and Election Form

- In counties that do not currently treat jailers as protective, within 60 days of date of hire (for jailers hired after January 1, 2024):
 - County must provide election form
 - The election to opt out is IRREVOCABLE as to that county/employer
 - Use of Form 2



Form 2

IRREVOCABLE ELECTION RELATED TO PROTECTIVE OCCUPATION PARTICIPANT STATUS

[●] COUNTY

(Pursuant to 2023 Wisconsin Act 4)

****IMPORTANT** – 2023 Wisconsin Act 4 modified the law relating to administration of the Wisconsin Retirement System (WRS) to make all county jailers (as defined in Wis. Stat. § 40.02(48)(b)5.) “protective” category employees (i.e., a “protective occupation participant” as defined in Wis. Stat. § 40.02(48)(a)). Employees categorized as “protective” and otherwise qualifying under WRS regulations are eligible for certain benefits such as early retirement benefits and duty disability benefits. The additional WRS contributions necessary to fund the additional benefits are the responsibility of the employee. Employees hired as “jailers” on or after January 1, 2024, may elect to be treated as “protective occupation participants” or “general employee participants.” If you elect to become a “protective occupation participant,” the additional contributions will be withheld from your paycheck on a pre-tax basis. If you elect to be a general employee participant, you will not receive the additional benefits available to protective status employees and you will not have the additional contributions withheld from your pay. Your election is **IRREVOCABLE** for purposes of your employment with [●] County – please review your options carefully. **ANY QUESTIONS SURROUNDING YOUR WRS STATUS SHOULD BE DIRECTED TO THE WISCONSIN DEPARTMENT OF EMPLOYEE TRUST FUNDS (1-877-533-5020). THE COUNTY WILL NOT AND MAY NOT PROVIDE YOU WITH LEGAL, FINANCIAL, OR TAX ADVICE. YOU ARE STRONGLY ENCOURAGED TO REVIEW YOUR OPTIONS WITH A PROFESSIONAL OF YOUR CHOOSING.**

I hereby elect to be a “protective occupation participant”

Initials

I hereby elect to be a general employee participant

Initials

I understand that my election is IRREVOCABLE as it relates to my employment with [●] County.

Employee's Name: _____

Employee's Signature: _____

Date of Signature: _____

This form MUST be completed, signed and returned within 60 days of your date of hire.



Notice and Opt Out Choice for Counties that Stop Bargaining with Jailers After Jan. 1, 2024

- Within 60 days of the date a county decides not to treat jailers as public safety employees (*i.e.*, stop bargaining) a jailer can opt out
 - In such counties, all new hires can also opt out
 - County MUST provide opt out form
 - The election to opt out is IRREVOCABLE
 - County must provide notice of the county board's decision:
 - Individually to each jailer; and
 - Posting in typical posting place for employee notices
 - Use of modified Forms 1 and 2



Opt Out/Opt In and Future Employment

- The choice a jailer makes related to protective vs general is IRREVOCABLE as long as the jailer stays with the same employer.
 - If a jailer takes a job as jailer in a different county, they get a new choice.



ETF Guidance and FAQs

- A county should be helpful to employees, but should not provide financial planning, retirement or legal advice.
- ETF has resources available to assist employees with the process:

<https://etf.wi.gov/benefits/wrs-contribution-rates/2023-wisconsin-act-4-jailers>



ETF FAQs on Timing and Election

What category will my service be in during the 60 days I have to make my decision?

- The category you choose will be backdated to the beginning of your decision window.
 - **Example 1:** You're currently working as a county jailer and have from January 1 – March 31, 2024, to make your decision. On February 2, you opt out. Your service will continue to be categorized as general employee service, as it was prior to the decision window.
 - **Example 2:** You have from January 1 – March 31, 2024, to make your decision. You submit your form to opt in and become a protective occupation employee on February 3. As of January 1, the beginning of your decision window, your service is categorized as Act 4 protective county jailer service.



ETF FAQs (cont.)

I submitted the required form to be a protective occupation employee. Can I change my mind if it's still within the 60-day decision period?

- ETF will treat your choice as final upon your employer entering the choice in ETF's systems and providing a copy of the signed form to ETF.



Next Steps

- Develop Educational Materials
 - WCA
 - ETF
 - County
- Schedule Meetings
 - Group
 - Individual
- Create process for employee election/opt out
 - Customize Form 1 and Form 2 for your county



Questions?



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