

Congress of the United States
Washington, DC 20510

March 28, 2012

Honorable Timothy J. Geithner
Secretary
United States Department of Treasury
1500 Pennsylvania Avenue
Washington, DC 20220

Dear Secretary Geithner:

We write to express our concern that you have yet to issue guidance regarding Treasury regulations on the normal retirement age (NRA) of protective occupation participants, including police officers and fire fighters, in the Wisconsin Retirement System (WRS). While we know that you are aware of our concerns and appreciate that you have been working diligently to address them, we ask that you issue guidance as soon as possible to provide clarity to our public safety employees. Wisconsin's public safety officials who are preparing to retire before year's end contact us on a daily basis. Their time to prepare is getting short, especially if the guidance requires further clarification.

The Treasury Department issued final regulations on NRA in pension plans in 2007. The NRA regulations provide that "normal retirement age under a plan must be an age that is not earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed." The regulations go on to provide that a NRA of 62 or older would meet this requirement. However, whether an NRA of ages 55 to 62 would meet this requirement would be based on relevant facts and circumstances and an NRA that is less than 55 years would be presumed to be unreasonable.

Under the WRS, all state employees are covered under the same plan, including the 8.7% of the plan's participants employed in a protective occupation. These participants, such as law enforcement officers and firefighters, do physically demanding and dangerous work. Because of this, the NRA for protective occupation participants in the WRS is age 53 with 25 years of service or age 54 with less than 25 years of service. Because the NRA for WRS protective occupation participants is less than 55 years, the NRA would be presumed unreasonable and would need to be raised to be brought in compliance. Further, the WRS does not qualify for a safe harbor exception because it includes both general employees and public safety employees, thereby failing to meet the "substantially all" public safety employee threshold.

Due to the regulation's lack of clarity, and as the deadline for implementation nears, many of Wisconsin's public safety employees could choose to retire this year to avoid potential changes due to take effect January 1, 2013. They would rather secure their earned benefits rather than risk a change to their retirement plan or their health and safety for several additional years. Without

a change to their retirement plan or their health and safety for several additional years. Without clarification, communities would needlessly lose well-trained public servants in large numbers, which would threaten public safety.

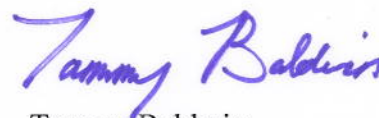
We understand that you have been working on this issue for several months. However, you informed us in the fall to expect formal guidance in short order. We are now nearing a point when we will begin to see an exodus of public safety officials throughout Wisconsin. Therefore, we urge you to expedite your efforts and resolve the uncertainty faced by countless Wisconsin residents who keep our communities safe.

We look forward to working with you to address this problem. Should you have any questions, please contact Joel Eskovitz at 202-224-5364 or Kristen Kreple at 202-224-3406.

Sincerely,



Herb Kohl
U.S. Senator



Tammy Baldwin
U.S. Representative

cc: J. Mark Iwry, Senior Adviser to the Secretary, Deputy Assistant Secretary for Retirement and Health Policy, United States Department of Treasury

George H. Bostick, Benefits Tax Counsel, United States Department of Treasury

Michael F. Mundaca, Assistant Secretary, Tax Policy, United States Department of Treasury