



1997 ASSEMBLY BILL 196

March 20, 1997 - Introduced by Representatives KREUSER, TURNER, VANDER LOOP, GROTHMAN and SERATTI, cosponsored by Senators GROBSCHMIDT and BUETTNER. Referred to Joint survey committee on Retirement Systems.

1 **AN ACT to amend** 40.08 (1m) (f) 1., 40.08 (1m) (f) 2. and 40.08 (1m) (j); and **to**
2 **create** 40.08 (1m) (f) 3. of the statutes; **relating to:** qualified domestic relations
3 orders under the Wisconsin retirement system.

Analysis by the Legislative Reference Bureau

Under current law, a participant in the Wisconsin retirement system (WRS), whose marriage is terminated by a court on or after April 28, 1990, may have his or her benefits under the WRS divided pursuant to a qualified domestic relations order. A qualified domestic relations order is a judgment, decree or order issued by a court pursuant to a domestic relations law of any state or territory of the United States that meets certain criteria. This bill provides that a participant in the WRS whose marriage was terminated by a court during the period that begins on January 1, 1982, and ends on April 27, 1990, and for whom the department of employe trust funds receives a qualified domestic relations order after the effective date of the bill, may also have his or her WRS benefits divided, but only with respect to the payment of future benefits.

This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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1 **SECTION 1.** 40.08 (1m) (f) 1. of the statutes is amended to read:

2 40.08 **(1m)** (f) 1. If Subject to subd. 3., if the participant is not an annuitant on
3 the decree date, an amount equal to the total of the alternate payee share distributed
4 under par. (e), including creditable service, shall be subtracted from the participant's
5 account.

6 **SECTION 2.** 40.08 (1m) (f) 2. of the statutes is amended to read:

7 40.08 **(1m)** (f) 2. If Subject to subd. 3., if the participant is an annuitant on the
8 decree date, the annuity shall be recomputed using the total value of the participant's
9 account determined under par. (b) reduced by the total of the alternate payee share
10 transferred under par. (e) 1., in accordance with the actuarial tables in effect and
11 using the participant's age on the decree date. The decree date shall be the effective
12 date of recomputation. If the optional annuity form before division of the
13 participant's account under par. (b) was not a joint and survivor annuity with the
14 alternate payee as the named survivor, the same annuity option with no change in
15 the remaining guarantee period, if any, shall be continued upon recomputation to the
16 participant. The present value of the alternate payee's share of the annuity after
17 division shall be paid to the alternate payee as a straight life annuity based on the
18 age of the alternate payee on the decree date. The alternate payee's annuity shall
19 have the same remaining guarantee period, if any, as the participant's annuity. If
20 the optional annuity form before division of the participant's account under par. (b)
21 was a joint and survivor annuity with the alternate payee as the named survivor, the
22 present value of the annuity after division shall be paid to both the participant and
23 the alternate payee as a straight life annuity based upon their respective ages on the
24 decree date. If the participant's account is reestablished under s. 40.26 (2) after the
25 decree date, the memorandum account created under s. 40.26 (2) (b) shall be adjusted

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1 by the total of the alternate payee share computed under this subdivision. If the
2 participant's account is reestablished under s. 40.63 (10) after the decree date, the
3 amounts and creditable service reestablished shall be reduced by an amount equal
4 to the percentage of the alternate payee share computed under this subdivision.

5 **SECTION 3.** 40.08 (1m) (f) 3. of the statutes is created to read:

6 40.08 (1m) (f) 3. For any participant whose marriage is terminated by a court
7 during the period that begins on January 1, 1982, and ends on April 27, 1990, and
8 for whom the department receives a qualified domestic relations order after the
9 effective date of this subdivision [revisor inserts date], the division of benefits may
10 not apply to any benefits paid to the participant before the date on which the
11 department receives the qualified domestic relations order.

12 **SECTION 4.** 40.08 (1m) (j) of the statutes is amended to read:

13 40.08 (1m) (j) This subsection applies to qualified domestic relations orders
14 issued on or after April 28, 1990, that provide for divisions of the accumulated rights
15 and benefits of participants whose marriages have been terminated by a court on or
16 after ~~April 28, 1990~~ January 1, 1982.

17 (END)