



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4869/1
RAC:hmh:jf

2001 ASSEMBLY BILL 795

February 12, 2002 – Introduced by Representative VRAKAS, cosponsored by Senator WIRCH. Referred to Joint Committee on Retirement Systems.

1 **AN ACT** *to repeal* 40.22 (2) (h) and 40.26 (5) (a); *to renumber and amend* 40.08
2 (3), 40.08 (10), 40.71 (1) (d) and 40.73 (1) (am); *to amend* 40.02 (1), 40.02 (2),
3 40.02 (15) (c) (intro.), 40.02 (15) (c) 3., 40.02 (15) (c) 4., 40.02 (38), 40.03 (2) (ig),
4 40.03 (6) (i), 40.04 (4) (a) 1., 40.04 (4) (a) 2., 40.04 (7) (intro.), 40.04 (7) (a) (intro.),
5 40.04 (7) (c), 40.05 (1) (a) 6., 40.05 (1) (a) 7., 40.05 (2) (g) 2., 40.08 (1), 40.08 (7)
6 (a), 40.08 (7) (c), 40.08 (8) (a) 1., 40.08 (8) (a) 2., 40.08 (8) (a) 2m., 40.08 (8) (a)
7 3., 40.08 (8) (a) 4., 40.08 (8) (b), 40.08 (8) (c), 40.08 (8) (e), 40.08 (13), 40.23 (1)
8 (b), 40.23 (3), 40.23 (4) (a), 40.23 (4) (b), 40.23 (4) (c), 40.23 (4) (d), 40.23 (4) (e)
9 1., 40.23 (4) (e) 3., 40.23 (4) (g), 40.24 (1) (f), 40.24 (3), 40.24 (7) (a) 4., 40.25 (1)
10 (a), 40.25 (1) (b), 40.25 (3m), 40.25 (4), 40.25 (6) (a) 1., 40.25 (6) (a) 2., 40.25 (7)
11 (a) 2., 40.25 (7) (a) 3., 40.25 (7) (d), 40.26 (2) (a), 40.26 (2) (b), 40.26 (5) (intro.),
12 40.26 (5) (c), 40.28 (1) (a) 1., 40.63 (7), 40.63 (9) (b), 40.63 (10), 40.70 (1) (b), 40.70
13 (6), 40.71 (2), 40.73 (1) (b) and 40.73 (3) (e); *to repeal and recreate* 40.08 (4),
14 40.08 (6) (e) and 40.23 (4) (f); and *to create* 40.02 (54v), 40.03 (6) (cm), 40.05 (1)

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1 (a) 5m., 40.06 (8), 40.08 (3) (b), 40.08 (10) (b), 40.08 (10) (c), 40.08 (10) (d), 40.73
2 (1) (am) 1., 40.73 (1) (am) 2., 40.73 (1) (am) 3. and 40.80 (2) (g) of the statutes;
3 **relating to:** an omnibus measure affecting the provision and administration
4 of benefits provided to participants in the Wisconsin retirement system and
5 granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes to the administration of the Wisconsin retirement system (WRS) and other benefits offered to state and other governmental employees. The changes include all of the following:

1. Current law permits the making of additional contributions by participants in the WRS. These contributions are in addition to the employer and employee required contributions to the WRS. Additional contributions may be used to purchase an annuity at the time of retirement. This bill specifies that there are two different kinds of additional contributions that may be made by participants to the WRS: after-tax additional contributions made under section 401 (a) of the Internal Revenue Code (IRC); and tax-deferred additional contributions made under section 403 (b) of the IRC.

2. Under current law, any participant in the WRS, subject to rules promulgated by the secretary of employee trust funds, may elect as a payout option for a deferred compensation plan established by the deferred compensation board or a plan established by his or her employer, if his or her employer is a local government employer, to have the entire balance treated as an additional contribution to the fixed annuity division of the employee trust fund. (To date, the rules have not been promulgated.) This bill provides that this option is available only for a deferred compensation plan established by the deferred compensation board. The bill also specifies that the deferred compensation board must serve as trustee of any deferred compensation plan it establishes and must hold the assets and income of the plan in trust for the exclusive benefit of the employees who participate in the plan and their beneficiaries.

3. Under current law, a participating employee in the WRS may purchase creditable service that he or she may have forfeited in the past. In addition, a participating employee may purchase creditable service under the WRS for service as an employee of the federal government or for service as an employee of an employer that was not covered under the WRS during the period in which the service was performed, but that subsequently became an employer under the WRS. In order to purchase such service, the employee must have at least three continuous years of creditable service under the WRS at the time of application and the number of years that an employee may purchase may not exceed the lesser of ten years or the number of years of creditable service that the employee has at the time of application.

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This bill provides that the employee must have at least three continuous years of creditable *current* service under the WRS at the time of application. Under current law, creditable *current* service is defined as “the creditable service granted for service performed for a participating employer and for which a participating employee receives earnings after the effective date of participation for that employer.”

In addition, the bill provides that creditable service previously purchased by a participating employee may not be used to determine the maximum amount of service that a participating employee may purchase.

4. Under current law, the department of employee trust funds (DETF) may retain out of any person’s annuity or benefit an amount that DETF has determined was paid to the person as a result of misrepresentation, fraud, or error. This bill authorizes DETF to secure these inadvertently paid moneys by a lien against the person’s account in the employee accumulation reserve of the employee trust fund and any annuity, benefit, or obligation of the employee trust fund that is payable or will become payable to the person or the person’s beneficiaries.

5. Under current law, a participating employee under the WRS may receive one year of creditable military service under the WRS for each year of military service, up to a maximum of four years of military service credit, at the time of retirement in either of the following ways:

a. If the participant left employment covered under the WRS to enter military service and returned to the same employer within 180 days after being discharged, the participant may receive one year of military service credit for each year of military service (regardless of the amount of the participant’s creditable service).

b. If the participant’s military service was performed before 1974, the participant may receive up to one, two, three, or four years of military service credit if the participant has at least five, ten, fifteen, or twenty years, respectively, of creditable service (not counting previously granted military service credit). Under current law, the crediting of creditable military service under this item 5. b. occurs on the date on which the participant attains five, ten, fifteen, or twenty years of creditable service.

This bill provides that the crediting of creditable military service under item 5. b. above continues to occur on the date on which the participant attains five, ten, fifteen, or twenty years of creditable service, except that, if a participant would receive an higher benefit, the creditable military service must be allocated according to the amount of creditable service that is credited to the participant’s account on the date on which the participant terminates participating employment.

In addition, the bill provides the new statutory cross-reference to the U.S. Code provision referring to the nonregular military service program. Finally, the bill clarifies that not more than one year of creditable service may be earned by a participant in any year for the purpose of receiving creditable military service.

6. Under current law, other than the first \$5,000 of additional contributions that are attributable to a WRS death benefit, additional contributions of a participant in the WRS may be made to the fixed annuity division of the public employee trust fund by rollover contribution of a payment or distribution from a pension or annuity qualified under the IRC. This bill permits the first \$5,000 of

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additional contributions that are attributable to a WRS death benefit to be made to the fixed annuity division.

7. Under current law, a participant in the WRS may elect, as a payout option, to have his or her deferred compensation balance treated as an additional contribution under the WRS. Additional contributions under the WRS may be used to increase a WRS annuity. This bill specifies that this option is only available for state employees who participate in the Wisconsin deferred compensation program.

8. Under current law, a potential primary beneficiary of a participant under the WRS, other than an estate, who has not applied for any benefit payable as a result of the death of the participant and whom DETF cannot locate by reasonable efforts within one year after the death of the participant is presumed to have predeceased the participant and all other potential beneficiaries. Thereafter, if DETF is unable to locate any resulting subsequent beneficiary within six months, all beneficiaries are presumed to have predeceased the participant, and DETF must pay benefits to the participant's estate. This bill changes the time period from *one year after* the death of the participant to *one year after DETF learns of* the death of the participant.

9. Under current law, an account in the WRS is considered abandoned if DETF cannot locate the participant before the date on which the participant attains, or would have attained, the age of 70. However, if the participant subsequently applies for retirement benefits before attaining the age of 80, DETF must restore any participant's account. This bill eliminates the provision that allows a participant to have his or her account restored if he or she applies for retirement benefits before attaining the age of 80.

10. Under current law, DETF is required to publish notice in the official state newspaper of the names of all WRS participants who are presumed to have died intestate or whose accounts are presumed to be abandoned. At the end of the fifth calendar year after which the notice is published, the unclaimed moneys are transferred to the employer accumulation reserve to reduce future funding requirements of the WRS. This bill requires that the moneys must be transferred at the end of the calendar year in which the notice is published.

11. This bill provides that the factors that are used to calculate a participant's retirement benefits under the WRS are subject to correction for seven years after the date that DETF calculates the participant's benefits. In addition, the bill provides that individual premium and benefit payments are subject to correction for seven years after the premium is due or the benefit is made, whichever is applicable, and that a contribution correction may occur as a result of a decision of DETF to classify a participant as a protective occupation participant. Finally, the bill provides that any employer under the WRS who employed teacher participants who were members of the state teachers retirement system shall pay the state all employer required contributions, plus interest at the effective rate on the accumulations, that would have been paid for the teacher participants under the state teachers retirement system.

12. Under current law, DETF may refund any moneys to any person who has paid the moneys in error into the public employee trust fund. However, DETF may

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not pay interest on any such refund. This bill authorizes DETF to pay interest on the refunded moneys at a rate of interest that is established by rule.

13. Under current law, with respect to certain annuity underpayments under the WRS, DETF is required to pay interest to an annuitant at a rate of 0.4% interest for each month during the period in which the underpayment occurred. This bill provides that DETF must pay interest at a rate of interest that is established by rule.

14. This bill makes several changes regarding the timing of the distributions of benefits under the WRS so as to bring the timing of the distributions in compliance with the IRC.

15. Under current law, one of the conditions that a participant in the WRS must meet in order to qualify for a WRS annuity is that the participant must be separated until his or her annuity effective date, the date 30 days after an annuity application is received by the department of employee trust funds, or the date 30 days after separation, whichever is latest, from all participating employment. This bill provides that if a participant does not meet this condition the participant may not receive any benefit provided under the WRS for which the receipt of an annuity is a condition.

16. Under current law, in the WRS, if an application, by a participant age 55 or over, or by a protective occupation participant age 50 or over, for any disability annuity is disapproved, the date that would have been the disability annuity effective date shall be the retirement annuity effective date if so requested by the applicant within 60 days of the disapproval or, if the disapproval is appealed, within 60 days of final disposition of the appeal.

This bill provides that, if the application is cancelled, withdrawn or denied, the date that would have been the disability annuity effective date shall be the retirement annuity effective date if so requested by the applicant within 60 days of the date of cancellation, withdrawal, or denial or, if the denial is appealed, within 60 days of final disposition of the appeal.

17. This bill provides that, for the purposes of death benefit eligibility under the WRS, every participant in the WRS is considered an annuitant upon the later of the following:

- a. The effective date of the participant's annuity.
- b. The date the application for an annuity is received by DETF, but only if the participant is living on that date.

This bill simply restates the current law requirement.

18. This bill permits DETF, if required under federal law, to distribute a participant's death benefits as a lump sum payment even if the participant provided written notice to DETF before his or her death that the benefit should not be distributed as a lump sum payment.

19. This bill specifies that the number of guaranteed death benefit payments that are payable to a beneficiary of a participant in the WRS may not exceed the life expectancy of the beneficiary.

20. Under current law affecting the WRS, any person who is a visiting professor, associate professor, assistant professor, or instructor employed by the University of Wisconsin (UW) System and whose employment with the UW System

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is all within 12 consecutive months may not participate in the WRS. This bill eliminates this prohibition.

21. Under current law, the secretary of employee trust funds must promulgate, with the approval of the group insurance board, all rules required for the administration of the group health, long-term care, income continuation, and life insurance plans established under certain subchapters of chapter 40 of the statutes. This bill expands this duty to promulgating rules for the administration of the group health, long-term care, income continuation, life insurance, and other insurance plans established under all of chapter 40 of the statutes.

22. Under current law, the secretary of employee trust funds is required to promulgate, with the approval of the group insurance board, all rules required for the administration of the group health, long-term care, income continuation, and life insurance plans provided by the group insurance board. This bill specifically provides that the group insurance board shall approve or reject all rules proposed by the secretary of employee trust funds.

23. Under current law, to be insured under the group life insurance plan administered by DETF, an eligible employee must file an application with DETF. This bill requires that the application be filed in the manner provided by rule or contract.

24. Currently, with respect to life insurance benefits offered to participating employees in the WRS, an employee must apply for the insurance coverage within 6 months after becoming eligible for coverage. If the employee does not apply for life insurance coverage within the six-month period, the employee may subsequently be covered under the life insurance program only if he or she is under 55 and furnishes evidence of insurability satisfactory to the insurer, at his or her own expense. This bill provides that the employee must apply for the insurance coverage within a time period specified by rule or contract after becoming eligible for coverage. In addition, the bill eliminates the requirement that the employee must be under 55 if he or she subsequently wishes to apply for life insurance outside of the permissible time period established by rule or contract.

25. Under current law, the group insurance board is authorized to hear appeals of determinations made by DETF affecting group insurance plans. This bill requires the group insurance board to hear such appeals.

26. Current law provides that no participant, beneficiary or distributee of any estate may waive the right to or the payment of all or any portion of any benefit under the WRS or under a program administered by DETF.

This bill provides that no participant, alternate payee, beneficiary, or personal representative of any estate may conditionally or partially waive any portion of a benefit under the WRS or under a program administered by DETF if the implementation of the waiver, or monitoring of benefits under the waiver, would require "special administration" by DETF.

27. Under current law, DETF may not be required by a court order, or by any other action or proceeding, to enforce or otherwise monitor the beneficiary designation specified in a qualified domestic relations order (QDRO). A QDRO is a judgment, decree, or order issued by a court pursuant to a domestic relations law of

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any state or territory of the United States, that meets certain requirements. This bill provides that DETF may not be required by a court order, or by any other action or proceeding, to enforce or otherwise monitor any beneficiary designation filed with DETF.

28. Under the WRS, if a participating employee dies before he or she would be eligible to receive an annuity his or her death benefit equals the sum of his or her additional contribution accumulations and twice his or her employee required contribution accumulations. For a participating employee who has purchased WRS service based on his or her other governmental employment, this bill reduces the amount of the death benefit by the amount that the employee paid for the additional WRS service.

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 and local* 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:

1 **SECTION 1.** 40.02 (1) of the statutes is amended to read:

2 40.02 (1) "Accumulation" means the total employee required contributions or,
3 employer required contributions or, additional contributions, or tax-deferred
4 additional contributions as increased or decreased by application of investment
5 earnings.

6 **SECTION 2.** 40.02 (2) of the statutes is amended to read:

7 40.02 (2) "Additional contribution" means any after-tax contribution made by
8 or on behalf of a participant to the retirement system other than employee and
9 employer required contributions.

10 **SECTION 3.** 40.02 (15) (c) (intro.) of the statutes is amended to read:

11 40.02 (15) (c) (intro.) ~~Notwithstanding sub. (17) (intro.) and any other law, any~~
12 Any person who is credited with 5, 10, 15, or 20 or more years of creditable service,
13 not counting any previously granted creditable military service, may receive
14 creditable military service at the time of retirement for not more than 1, 2, 3, or 4

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1 years, respectively, of active service ~~which~~ that meets the standards under par. (a)
2 5., provided:

3 **SECTION 4.** 40.02 (15) (c) 3. of the statutes is amended to read:

4 40.02 (15) (c) 3. Creditable military service under this paragraph shall be
5 allocated at the time of retirement in proportion to the amount of the participant's
6 creditable service for each of the types of creditable service set forth in s. 40.23 (2m)
7 (e) on the date the participant attains 5, 10, 15, or 20 years of creditable service,
8 except that, if a participant would receive a higher benefit, the creditable military
9 service shall be allocated according to the amount of creditable service that is
10 credited to the participant's account on the date on which the participant terminates
11 participating employment and that is used to calculate a benefit under s. 40.23 (2m)
12 (e), 40.63 (8) (a), or 40.73 (1) (c).

13 **SECTION 5.** 40.02 (15) (c) 4. of the statutes is amended to read:

14 40.02 (15) (c) 4. This paragraph does not apply to any active service used for
15 the purpose of establishing entitlement to, or the amount of, any benefit, other than
16 a disability benefit, to be paid by any federal retirement program except OASDHI
17 and the retired pay for nonregular military service program under 10 USC 1331 to
18 1337 12731 to 12738 or, if the participant makes an election under s. 40.30 (2), by any
19 retirement system specified in s. 40.30 (2) other than the Wisconsin retirement
20 system.

21 **SECTION 6.** 40.02 (38) of the statutes is amended to read:

22 40.02 (38) "Immediate annuity" means an annuity, not including an annuity
23 from additional contributions or tax-deferred additional contributions, which begins
24 to accrue not later than 30 days after termination of employment.

25 **SECTION 7.** 40.02 (54v) of the statutes is created to read:

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1 40.02 (54v) “Tax-deferred additional contribution” means any contribution
2 made to the retirement system by a participating employee or an annuitant
3 employed by an employer as a pre-tax deduction from earnings under section 403 (b)
4 of the Internal Revenue Code.

5 **SECTION 8.** 40.03 (2) (ig) of the statutes is amended to read:

6 40.03 (2) (ig) Shall promulgate, with the approval of the group insurance board,
7 all rules required for the administration of the group health, long-term care, income
8 continuation ~~or~~ life insurance, and other insurance plans established under ~~subchs.~~
9 ~~IV to VI~~ this chapter.

10 **SECTION 9.** 40.03 (6) (cm) of the statutes is created to read:

11 40.03 (6) (cm) Shall approve or reject all administrative rules proposed by the
12 secretary under sub. (2) (ig).

13 **SECTION 10.** 40.03 (6) (i) of the statutes is amended to read:

14 40.03 (6) (i) ~~May~~ Shall accept timely appeals of determinations made by the
15 department affecting any right or benefit under any group insurance plan provided
16 for under this chapter.

17 **SECTION 11.** 40.04 (4) (a) 1. of the statutes is amended to read:

18 40.04 (4) (a) 1. Credited with all employee contributions made under s. 40.05
19 (1), all employer additional contributions made under s. 40.05 (2) (g) 1., all additional
20 contributions under s. 40.05 (2) (g) 2., all tax-deferred additional contributions
21 under s. 40.05 (1) (a) 5m., and all contribution accumulations reestablished under
22 s. 40.26 or 40.63 (10).

23 **SECTION 12.** 40.04 (4) (a) 2. of the statutes is amended to read:

24 40.04 (4) (a) 2. Credited as of each December 31 with interest on the prior year’s
25 closing balance at the effective rate on all employee required contribution

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1 accumulations in the variable annuity division, on all employee required
2 contributions in the fixed annuity division on December 31, 1984, on all employee
3 required contributions in the fixed annuity division of participants who are not
4 participating employees after December 31, 1984, ~~and~~ on all employee and employer
5 additional contribution accumulations, and on all tax-deferred additional
6 contribution accumulations and with interest on the prior year's closing balance at
7 the assumed benefit rate on all employee required contribution accumulations in the
8 fixed annuity division for participants who are participating employees after
9 December 31, 1984, but who terminated covered employment before December 30,
10 1999.

11 **SECTION 13.** 40.04 (7) (intro.) of the statutes is amended to read:

12 40.04 (7) (intro.) The reserves established under subs. (4), (5), and (6) shall be
13 divided both individually and for the purposes of sub. (3) between a fixed annuity
14 division and a variable annuity division. All required ~~and~~, additional, and
15 tax-deferred additional contributions shall be credited to the fixed annuity division
16 except:

17 **SECTION 14.** 40.04 (7) (a) (intro.) of the statutes is amended to read:

18 40.04 (7) (a) (intro.) As otherwise elected by a participant prior to April 30,
19 1980, or on or after January 1, 2001. Any participant who was a participant prior
20 to April 30, 1980, and whose accounts on January 1, 1982, include credits segregated
21 for a variable annuity shall have his or her required ~~and~~, additional, and
22 tax-deferred additional contributions made on or after January 1, 1982, credited to
23 the variable annuity division in a manner consistent with the participant's election
24 prior to April 30, 1980, unless prior to January 1, 1982, the participant terminated
25 such election under s. 40.85, 1979 stats. Any participant who elects or has elected

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1 to have any of his or her credits segregated for a variable annuity on or after January
2 1, 2001, shall have 50% of his or her required ~~and~~, additional, and tax-deferred
3 additional contributions made on or after the date of election credited to the variable
4 annuity division. The department shall by rule provide that any participant who
5 elects or has elected variable participation prior to April 30, 1980, or on or after
6 January 1, 2001, may elect to cancel that variable participation as to future
7 contributions. The department's rules shall permit a participant who elects or has
8 elected to cancel variable participation as to future contributions, or an annuitant,
9 to elect to transfer previous variable contribution accumulations to the fixed annuity
10 division. A transfer of variable contribution accumulations under this paragraph
11 shall result in the participant receiving the accrued gain or loss from the
12 participant's variable participation. A participant may specify that election to cancel
13 participation in the variable annuity division is conditional. If the participant so
14 specifies the election is effective on the first date on which it may take effect on which
15 the participant:

16 **SECTION 15.** 40.04 (7) (c) of the statutes is amended to read:

17 40.04 (7) (c) Any participant whose required contributions are segregated in
18 any portion to provide for a variable annuity may direct that any part or all of
19 subsequent additional and tax-deferred additional contributions credited to the
20 participant's account be segregated to provide for a variable annuity and may at any
21 time by filing a form prescribed by the department change the portion being
22 segregated for any future additional and tax-deferred additional contributions.

23 **SECTION 16.** 40.05 (1) (a) 5m. of the statutes is created to read:

24 40.05 (1) (a) 5m. Tax-deferred additional contributions may be made by any
25 participating employee of, or an annuitant employed by, an employer that had at

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1 least one employee who made such contributions to the Wisconsin retirement system
2 or its predecessor systems under s. 42.30 (3), 1979 stats., on or before May 17, 1982.

3 The making of contributions under this subdivision shall be subject to any
4 limitations imposed on contributions by the Internal Revenue Code, applicable
5 regulations adopted under the Internal Revenue Code and rules of the department.

6 The participating employee and the employer are solely responsible for determining
7 the amount of contributions that may be made to the retirement system under this
8 subdivision and monitoring the annual contributions for compliance with any
9 limitations imposed on contributions by the Internal Revenue Code, applicable
10 regulations adopted under the Internal Revenue Code and rules of the department.

11 **SECTION 17.** 40.05 (1) (a) 6. of the statutes is amended to read:

12 40.05 (1) (a) 6. Under the rules promulgated under s. 40.03 (2) (r), additional
13 contributions, ~~other than the first \$5,000 of contributions, or a beneficiary's prorated~~
14 ~~share thereof, that are attributable to a death benefit paid under s. 40.73,~~ may be
15 made to the fixed annuity division by any participant, or to the variable annuity
16 division for any participant whose accounts include credits segregated for a variable
17 annuity, by rollover contribution of a payment or distribution from a pension or
18 annuity qualified under section 401 of the ~~internal revenue code~~ Internal Revenue
19 Code, subject to any limitations imposed on contributions by the ~~internal revenue~~
20 ~~code~~ Internal Revenue Code, applicable regulations adopted under the ~~internal~~
21 ~~revenue code~~ Internal Revenue Code and rules of the department.

22 **SECTION 18.** 40.05 (1) (a) 7. of the statutes is amended to read:

23 40.05 (1) (a) 7. Subject to any applicable limitations under the ~~internal revenue~~
24 ~~code~~ Internal Revenue Code, a participating employee may elect to use part or all of
25 his or her ~~accumulated after-tax~~ additional contributions, including interest, made

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1 under subd. 5., ~~other than contributions treated by the department as contributions~~
2 ~~to a tax sheltered annuity under section 403 (b) of the internal revenue code,~~ to
3 purchase creditable service under this chapter.

4 **SECTION 19.** 40.05 (2) (g) 2. of the statutes is amended to read:

5 40.05 (2) (g) 2. Under the rules promulgated under s. 40.03 (2) (r), a participant
6 may, as a payout option for the deferred compensation plan established under subch.
7 ~~VII s. 40.80,~~ elect to have the entire balance in the participant's account under subch.
8 ~~VII s. 40.80~~ treated as an additional contribution to the fixed annuity division,
9 subject to any limitations imposed on contributions by the ~~internal revenue code~~
10 Internal Revenue Code, applicable regulations adopted under the ~~internal revenue~~
11 ~~code~~ Internal Revenue Code and rules of the department. Additional contributions
12 under this subdivision shall be available for all benefit purposes and shall be
13 administered and invested on the same basis as employee additional contributions,
14 except that ss. 40.24 (1) (f) and 40.25 (4) do not apply to additional contributions
15 under this subdivision and s. 40.26 does not apply to an annuity received from
16 additional contributions under this subdivision.

17 **SECTION 20.** 40.06 (8) of the statutes is created to read:

18 40.06 (8) Any employer who employed teacher participants who were members
19 of the state teachers retirement system shall pay the state all employer required
20 contributions, plus interest at the effective rate on the accumulations, that would
21 have been paid for the teacher participants under the state teachers retirement
22 system.

23 **SECTION 21.** 40.08 (1) of the statutes is amended to read:

24 40.08 (1) EXEMPTIONS. The benefits payable to, or other rights and interests of,
25 any ~~member,~~ participant, alternate payee, beneficiary, or ~~distributee~~ personal

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1 representative of any estate under any of the benefit plans administered by the
2 department, including insurance payments, shall be exempt from any tax levied by
3 the state or any subdivision of the state and shall not be assignable, either in law or
4 equity, or be subject to execution, levy, attachment, garnishment, or other legal
5 process except as specifically provided in this section; except that, notwithstanding
6 s. 40.01 (2), the department of revenue may attach benefit payments to satisfy
7 delinquent tax obligations. The board and any member or agent thereof and the
8 department and any employee or agent thereof are immune from civil liability for
9 any act or omission while performing official duties relating to withholding any
10 annuity payment under this subsection. The exemption from taxation under this
11 section shall not apply with respect to any tax on income.

12 **SECTION 22.** 40.08 (3) of the statutes is renumbered 40.08 (3) (a) and amended
13 to read:

14 40.08 (3) (a) ~~Any~~ Subject to par. (b), any participant, alternate payee,
15 beneficiary, or distributee personal representative of any estate may waive,
16 absolutely and without right of reconsideration or recovery, the right to or the
17 payment of all or any portion of any benefit payable ~~or to become payable~~ under this
18 chapter. The waiver shall be effective on the first day of the 2nd month commencing
19 after it is received by the department or on the date specified in the waiver if later.

20 **SECTION 23.** 40.08 (3) (b) of the statutes is created to read:

21 40.08 (3) (b) No participant, alternate payee, beneficiary, or personal
22 representative of any estate may conditionally or partially waive any portion of any
23 benefit under this chapter if the implementation of the waiver, or monitoring of
24 benefits under the waiver, would require special administration by the department.

25 **SECTION 24.** 40.08 (4) of the statutes is repealed and recreated to read:

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1 40.08 (4) REIMBURSEMENTS OF MONEYS PAID AS A RESULT OF MISREPRESENTATION,
2 FRAUD, OR ERROR. (a) If the department has paid any money to a person or estate as
3 a result of misrepresentation, fraud, or error, the department shall determine the
4 amount of such payment and shall require that the person or estate reimburse the
5 department for this amount, plus interest at the rate established by the department
6 by rule.

7 (b) If the department determines that any money has been paid to a person or
8 estate as a result of misrepresentation, fraud, or error, the department shall notify
9 the person or the personal representative or special administrator of the person's
10 estate by certified mail of this determination. The department shall send the notice
11 to the last-known address of the person or the personal representative or special
12 administrator of the person's estate. The notice shall inform the person of his or her
13 right to a timely appeal. The notice must be sent within 7 years from the date that
14 the department first acquires actual notice of the alleged misrepresentation, fraud,
15 or error.

16 (c) The sending of the notice by the department under par. (b) shall constitute
17 a lien against the person's separate account under s. 40.04 (4) (a) and any annuity,
18 benefit, or obligation of the employee trust fund that is payable or will become
19 payable to the person or the person's beneficiaries. This lien takes precedence over
20 all other withholdings, liens, or encumbrances, whenever perfected, against the
21 person's separate account under s. 40.04 (4) (a) and any annuity, benefit, or obligation
22 of the employee trust fund that is payable or will become payable to the person or the
23 person's beneficiaries.

24 (d) Subject to sub. (10), the department may do any of the following to provide
25 for reimbursement of the amount or any portion of the amount due under par. (a):

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1 1. Obtain voluntary repayment from the person or estate within a reasonable
2 period, as determined by the department.

3 2. Foreclose on the lien against the person's separate account under s. 40.04 (4)
4 (a) or any annuity, benefit, or obligation of the employee trust fund that is payable
5 or will become payable to the person or the person's beneficiaries. In foreclosing on
6 this lien, the department may retain the amount or portion of the amount out of any
7 annuity, benefit, or obligation of the employee trust fund that is payable or will
8 become payable to the person or the person's beneficiaries or may permanently
9 reduce the person's annuity by the actuarial present value of the amount or portion
10 of the amount that is due under par. (a). If the department forecloses on the lien, the
11 department shall notify, by regular mail, the person or personal representative or
12 special administrator of the person's estate of the foreclosure as soon as practical.

13 3. Request that an employer withhold the amount or any portion of the amount
14 from any sum payable by the employer to any person or estate. If an employer
15 receives such a request, the employer shall withhold and remit the amount to the
16 department.

17 4. Bring a civil action against the person or estate for the amount or any portion
18 of the amount that is not otherwise recovered by the department.

19 (e) Any amount that is reimbursed to the department under par. (d) shall be
20 credited to the appropriate benefit plan accounts.

21 **SECTION 25.** 40.08 (6) (e) of the statutes is repealed and recreated to read:

22 40.08 (6) (e) In accordance with rules promulgated by the department, and at
23 a rate of interest established by rule, the department may credit interest on moneys
24 refunded or credited under this subsection.

25 **SECTION 26.** 40.08 (7) (a) of the statutes is amended to read:

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1 40.08 (7) (a) Any overpayment or underpayment of a lump-sum payment
2 under s. 40.25 or a death benefit which is less than 60% of the amount specified in
3 s. 40.25 (1) (a) rounded to the next highest dollar amount, and any annuity payment
4 error which is less than \$2 per month may not be corrected but shall be credited or
5 debited to the employer accumulation reserve or the appropriate insurance account.
6 However, if the amount of unapplied additional contributions or tax-deferred
7 additional contributions would increase an annuity payment by less than \$2 but is
8 more than 60% of the amount specified in s. 40.25 (1) (a) rounded to the next highest
9 dollar amount, the unapplied additional contributions or tax-deferred additional
10 contributions shall be paid to the annuitant as a lump sum.

11 **SECTION 27.** 40.08 (7) (c) of the statutes is amended to read:

12 40.08 (7) (c) If In accordance with rules promulgated by the department, and
13 at a rate of interest established by rule, if an annuity underpayment ~~exceeding~~
14 exceeds the limits in par. (a) ~~has not been corrected for at least 12 months, the~~
15 payment to the annuitant to correct the underpayment shall include 0.4% interest
16 on the amount of the underpayment ~~for each full month during the period beginning~~
17 ~~on the date on which the underpayment occurred and ending on the date on which~~
18 ~~the underpayment is corrected.~~

19 **SECTION 28.** 40.08 (8) (a) 1. of the statutes is amended to read:

20 40.08 (8) (a) 1. Any potential primary beneficiary under s. 40.02 (8), other than
21 an estate, who has not applied for any benefit payable under this chapter as a result
22 of the death of the participant and whom the department cannot locate by reasonable
23 efforts, as determined by the department by rule, within one year after the
24 department learns of the death of the participant shall be presumed to have
25 predeceased the participant and all other potential beneficiaries. Thereafter, if the

ASSEMBLY BILL 795**SECTION 28**

1 department is unable to locate any resulting subsequent beneficiary within 6
2 months, all beneficiaries under s. 40.02 (8) (a) 1. and 2. shall be presumed to have
3 predeceased the participant, and the department shall pay all benefits payable
4 under this chapter as a result of the death of the participant to the participant's
5 estate in a lump sum.

6 **SECTION 29.** 40.08 (8) (a) 2. of the statutes is amended to read:

7 40.08 (8) (a) 2. If an estate that is determined by the department to be a
8 beneficiary is closed prior to the payment of benefits payable under this chapter as
9 a result of the death of the participant, and the estate is not reopened within 6
10 months after the department notifies the estate that a benefit is payable, the benefit
11 shall be considered irrevocably abandoned and shall be transferred to the employer
12 accumulation reserve, unless the estate was the designated beneficiary under s.
13 40.02 (8) (a) 1.

14 **SECTION 30.** 40.08 (8) (a) 2m. of the statutes is amended to read:

15 40.08 (8) (a) 2m. If the estate was the designated beneficiary under s. 40.02 (8)
16 (a) 1., and the estate is closed prior to the payment of benefits payable under this
17 chapter as a result of death of the participant, and the estate is not reopened within
18 6 months after the department notifies the estate that a benefit is payable, the
19 department shall pay the benefit to a beneficiary as determined under s. 40.02 (8)
20 (a) 2. If the department is unable to locate any such beneficiary within 6 months, all
21 such beneficiaries shall be presumed to have predeceased the participant, and the
22 benefit shall be considered irrevocably abandoned and shall be transferred to the
23 employer accumulation reserve.

24 **SECTION 31.** 40.08 (8) (a) 3. of the statutes is amended to read:

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1 40.08 (8) (a) 3. A participant, other than a participating employee or annuitant,
2 whom the department cannot locate by reasonable efforts, with such efforts
3 beginning by the end of the month in which the participant attains, or would have
4 attained, the age of 65, shall be considered to have abandoned all benefits under the
5 Wisconsin retirement system on the date on which the participant attains, or would
6 have attained, the age of 70. ~~The department shall close the participant's account
7 and shall transfer the moneys in the account to the employer accumulation reserve.
8 The department shall restore the participant's account and shall debit the employer
9 accumulation reserve accordingly if the participant subsequently applies for
10 retirement benefits under this chapter before attaining the age of 80.~~

11 **SECTION 32.** 40.08 (8) (a) 4. of the statutes is amended to read:

12 40.08 (8) (a) 4. The former spouse of a participant who is an alternate payee
13 and whom the department cannot locate by reasonable efforts, with such efforts
14 beginning by the end of the month in which the participant attains, or would have
15 attained, the age of 65, shall be considered to have abandoned all benefits under the
16 Wisconsin retirement system on the date on which the participant attains, or would
17 have attained, the age of 70. ~~The department shall close the alternate payee's
18 account and shall transfer the moneys in the account to the employer accumulation
19 reserve. The department shall restore the alternate payee's account and shall debit
20 the employer accumulation reserve accordingly if the alternate payee subsequently
21 applies for retirement benefits under this chapter before the participant attains or
22 would have attained the age of 80.~~

23 **SECTION 33.** 40.08 (8) (b) of the statutes is amended to read:

24 40.08 (8) (b) All moneys or credits in an account for a person presumed to have
25 died intestate, without heirs or beneficiary, or to be abandoned by the person under

ASSEMBLY BILL 795**SECTION 33**

1 par. (a) shall be applied, at the end of the 5th calendar year in which notice is
2 published under par. (c), to the employer accumulation reserve to reduce future
3 funding requirements.

4 **SECTION 34.** 40.08 (8) (c) of the statutes is amended to read:

5 40.08 (8) (c) The department shall publish a class 1 notice, under ch. 985, in
6 the official state paper stating the names of persons presumed to have died intestate,
7 without heirs or beneficiary, or whose accounts are presumed to be abandoned under
8 par. (a), and the fact that a benefit will be paid, if applied for within the time limits
9 under par. ~~(a)~~ (d) and if the participant, alternate payee or other person offers proof
10 satisfactory to the department that the participant, alternate payee or other person
11 is entitled to the benefit. Such proof shall include, but is not limited to, evidence that
12 the participant died and that the person is the beneficiary under s. 40.02 (8).

13 **SECTION 35.** 40.08 (8) (e) of the statutes is amended to read:

14 40.08 (8) (e) Notwithstanding ~~any other provision of the statutes s. 40.02 (8),~~
15 any account subject to this subsection may, at the discretion of the department, be
16 settled by any heirs of a deceased participant or beneficiary making application, on
17 a form approved by the department, certifying the names of any other persons not
18 known by the applicants to be deceased and known by the applicants to have an equal
19 or superior claim to the account and certifying that the applicants have no knowledge
20 of the whereabouts of any of the persons so named.

21 **SECTION 36.** 40.08 (10) of the statutes is renumbered 40.08 (10) (a) and
22 amended to read:

23 40.08 (10) (a) ~~Service credits granted and contribution, premium and benefit~~
24 ~~payments made under this chapter are not~~ Except as provided in par. (b), the factors
25 that are used to calculate a participant's retirement benefits are subject to correction

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1 ~~unless correction is requested or made prior to the end of 7 full calendar for 7 years~~
2 ~~after the date of the alleged error or January 1, 1987, whichever is later that the~~
3 ~~department calculates the benefits, unless the alleged error is the result of fraud or~~
4 ~~unless another limitation is specifically provided by statute. This subsection does~~
5 ~~not prohibit correction of purely clerical errors in reporting or recording~~
6 ~~contributions, service and earnings law.~~

7 **SECTION 37.** 40.08 (10) (b) of the statutes is created to read:

8 40.08 (10) (b) Contribution payments are subject to correction as provided in
9 a decision under s. 40.06 (1) (e).

10 **SECTION 38.** 40.08 (10) (c) of the statutes is created to read:

11 40.08 (10) (c) Individual premium and benefit payments are subject to
12 correction for 7 years after the premium is due or after the benefit is paid, whichever
13 is applicable, unless the alleged error is the result of fraud or unless another
14 limitation is specifically provided by law.

15 **SECTION 39.** 40.08 (10) (d) of the statutes is created to read:

16 40.08 (10) (d) This subsection does not prohibit correction of purely clerical
17 errors in reporting or recording contributions, service, and earnings.

18 **SECTION 40.** 40.08 (13) of the statutes is amended to read:

19 40.08 (13) BENEFICIARY DESIGNATION. The department may not be required by
20 a court order, or by any other action or proceeding, to enforce or otherwise monitor
21 the any beneficiary designation specified in a qualified domestic relations order filed
22 with the department.

23 **SECTION 41.** 40.22 (2) (h) of the statutes is repealed.

24 **SECTION 42.** 40.23 (1) (b) of the statutes is amended to read:

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1 40.23 (1) (b) Except as provided in par. (bm), all retirement annuities shall be
2 effective on the day following, or on the first day of a month following, the date of
3 separation from the last participating employer by which the participant was
4 employed, as specified by the participant in the written application for the annuity.
5 However, the date shall not be more than 90 days prior to the date of receipt of the
6 application by the department. The participant may specify that additional and
7 tax-deferred additional contribution accumulations shall not be applied to provide
8 an annuity until a subsequent application is filed for an annuity to be paid from the
9 additional and tax-deferred additional contribution accumulations. The
10 subsequent application shall be made as specified under sub. (4) or the department
11 shall automatically distribute the accumulated additional and tax-deferred
12 additional contribution accumulations as a lump sum.

13 **SECTION 43.** 40.23 (3) of the statutes is amended to read:

14 40.23 (3) The initial monthly amount of any retirement annuity in the normal
15 form shall not be less than the money purchase annuity which can be provided by
16 applying the sum of the participant's accumulated additional and required
17 contributions plus an amount from the employer accumulation reserve equal to the
18 participant's accumulated required contributions, less the amount of any lump sum
19 payment under s. 40.25 (7) (a) 5. and any interest thereon, to fund the annuity in
20 accordance with the actuarial tables in effect on the annuity effective date.

21 **SECTION 44.** 40.23 (4) (a) of the statutes is amended to read:

22 40.23 (4) (a) Subject to all requirements under the ~~internal revenue code~~
23 Internal Revenue Code, the department shall distribute to the participant the entire
24 benefit attributable to the amount that is credited to the account of a participant
25 under the Wisconsin retirement system no later than the required beginning date,

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1 unless the department distributes this ~~amount~~ benefit as an annuity or in more than
2 one payment. If the department distributes this ~~amount~~ benefit as an annuity or in
3 more than one payment, the department shall begin the distribution no later than
4 the required beginning date.

5 **SECTION 45.** 40.23 (4) (b) of the statutes is amended to read:

6 40.23 (4) (b) In the calendar year immediately preceding the calendar year of
7 a participant's required beginning date, if the department distributes the benefit
8 attributable to the amount that is credited to the account of a participant under the
9 Wisconsin retirement system in a form other than as a lump sum payment, the
10 department, subject to all requirements under the ~~internal revenue code~~ Internal
11 Revenue Code, shall calculate the distribution to the participant according to one of
12 the following:

13 1. The life expectancy of a participant or, if the annuity is in the form of a joint
14 and survivor annuity, the joint lives life expectancies of the participant and the
15 named survivor.

16 2. For an annuity authorized under s. 40.24 (1) (f), a term certain not to exceed
17 the life expectancy of the participant ~~or, if the annuity is in the form of a joint and~~
18 ~~survivor annuity, the joint life expectancies of the participant and the named~~
19 ~~survivor.~~

20 **SECTION 46.** 40.23 (4) (c) of the statutes is amended to read:

21 40.23 (4) (c) If a participant during the calendar year in which he or she attains
22 69.5 years or in which he or she terminates employment with a participating
23 employer, whichever is later, or the alternate payee during the calendar year in
24 which the participant attains or would have attained 69.5 years, does not apply
25 before December 31 in that year for a distribution of the benefit attributable to the

ASSEMBLY BILL 795**SECTION 46**

1 amount that is credited to the account of a participant under the Wisconsin
2 retirement system, the department shall begin, effective the following January 1, an
3 automatic distribution to the participant or alternate payee in the form of an annuity
4 specified under s. 40.24 (1) (c) or as determined by the department by rule. If the
5 department makes an automatic distribution under this paragraph, the beneficiary
6 designation filed with the department before the date on which the department
7 begins the automatic distribution is no longer applicable under ss. 40.71 and 40.73.
8 Unless the participant or alternate payee files a subsequent beneficiary designation
9 with the department after the date on which the department begins the automatic
10 distribution, the department shall pay any death benefit as provided under s. 40.02
11 (8) (a) 2.

12 **SECTION 47.** 40.23 (4) (d) of the statutes is amended to read:

13 40.23 (4) (d) If a participant dies after the department begins to distribute the
14 benefit attributable to the amount that is credited to the account of a participant
15 under the Wisconsin retirement system, but before the entire amount in the account
16 benefit has been distributed, the department shall distribute the remaining portion
17 of the ~~account~~ benefit at least as rapidly as is provided in the manner of distribution
18 selected by the participant. If the beneficiary does not apply to the department to
19 continue the distribution, within a period specified by rule, the department shall pay
20 the remaining distribution to the beneficiary as a lump sum.

21 **SECTION 48.** 40.23 (4) (e) 1. of the statutes is amended to read:

22 40.23 (4) (e) 1. Subject to subs. 2. to 4., if a participant dies before the
23 distribution of benefits has commenced and the participant's beneficiary is the
24 spouse, the department shall begin the distribution ~~within 5 years after the date~~ no

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1 later than December 31 of the 5th calendar year that occurs after the year of the
2 participant's death.

3 **SECTION 49.** 40.23 (4) (e) 3. of the statutes is amended to read:

4 40.23 (4) (e) 3. If the spouse does not apply for a distribution, the ~~distribution~~
5 ~~shall begin as an automatic distribution~~ department shall distribute the entire
6 benefit as provided under subd. 1. or ~~under par. (e) 2.~~, whichever distribution date
7 is ~~earlier~~ later.

8 **SECTION 50.** 40.23 (4) (f) of the statutes is repealed and recreated to read:

9 40.23 (4) (f) If a participant dies before the distribution of benefits has
10 commenced and the participant's beneficiary is not the spouse, the department shall
11 distribute the entire benefit in a lump sum no later than December 31 of the calendar
12 year that occurs after the year of the participant's death, unless the beneficiary
13 begins an annuity benefit not to exceed his or her life expectancy no later than
14 December 31 of the calendar year that occurs after the year of the participant's death.

15 **SECTION 51.** 40.23 (4) (g) of the statutes is amended to read:

16 40.23 (4) (g) Nothing in this subsection shall be construed to create any benefit,
17 lump sum payment option or form of annuity not otherwise expressly provided for
18 in this subchapter chapter.

19 **SECTION 52.** 40.24 (1) (f) of the statutes is amended to read:

20 40.24 (1) (f) From accumulated additional contributions made under s. 40.05
21 (1) (a) 5. and tax-deferred additional contribution accumulations made under s.
22 40.05 (1) (a) 5m. only, an annuity certain payable for and terminating after the
23 number of months specified by the applicant, regardless of whether the applicant
24 dies before or after the number of months specified, provided that the monthly
25 amount of the annuity certain is at least equal to the minimum amount established

ASSEMBLY BILL 795**SECTION 52**

1 under s. 40.25 (1) (a). Subject to the period of distribution required under s. 40.23
2 (4) (b) 2., the number of months specified shall not exceed 180 and shall not be less
3 than 24. At any time before the expiration of the certain period, the annuitant may
4 elect to receive a lump-sum payment equal to the present value of the remaining
5 monthly payments. If the death of the annuitant occurs prior to the expiration of the
6 certain period, the remaining payments shall be made in accordance with s. 40.73
7 (2) without regard to any other annuity payments payable to the beneficiary. An
8 annuity under this paragraph may be initiated prior to any other annuity amount
9 provided under this subchapter and prior to age 55 if all other qualifications for
10 receiving an annuity payment are met.

11 **SECTION 53.** 40.24 (3) of the statutes is amended to read:

12 40.24 (3) Any participant specified under sub. (1) (intro.) may elect to receive
13 the amount provided by accumulated additional contributions and tax-deferred
14 additional contributions in a different optional form than the balance of the annuity.

15 **SECTION 54.** 40.24 (7) (a) 4. of the statutes is amended to read:

16 40.24 (7) (a) 4. Benefits paid from accumulated additional contributions and
17 tax-deferred additional contributions.

18 **SECTION 55.** 40.25 (1) (a) of the statutes is amended to read:

19 40.25 (1) (a) If all other requirements for payment of a retirement annuity are
20 met and if the retirement annuity in the normal form which could be provided under
21 s. 40.23 is equal to or less than \$100 monthly for a benefit with an effective date that
22 is on or after April 23, 1994, ~~but before the end of the calendar year of 1993~~ or, for
23 a benefit with an effective date in a subsequent calendar year, the monthly amount
24 applied under this paragraph for the previous calendar year increased by the salary
25 index and ignoring fractions of the dollar, the then present value, including

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1 additional contributions and tax-deferred additional contributions, of the annuity
2 shall be paid in a single sum instead of as an annuity. The additional contribution
3 accumulations and tax-deferred additional contribution accumulations shall not be
4 included in determining whether a single sum should be paid if the optional form
5 provided by s. 40.24 (1) (f) or a lump sum under sub. (4) is selected.

6 **SECTION 56.** 40.25 (1) (b) of the statutes is amended to read:

7 40.25 (1) (b) If all other requirements for payment of a retirement annuity are
8 met and if the retirement annuity in the normal form which could be provided under
9 s. 40.23 from all available accumulations and credits, other than accumulations from
10 additional contributions and tax-deferred additional contributions, is more than
11 \$100 and less than \$200 monthly for a benefit with an effective date that is on or after
12 April 23, 1994, ~~but before the end of the calendar year of 1993~~ or, for a benefit with
13 an effective date in a subsequent calendar year, the monthly amounts applied under
14 this paragraph for the previous calendar year increased by the salary index and
15 ignoring fractions of the dollar, then any participant may elect to receive, in lieu of
16 the annuity, the then present value, including additional contributions and
17 tax-deferred additional contributions, of the annuity in a single sum.

18 **SECTION 57.** 40.25 (3m) of the statutes is amended to read:

19 40.25 (3m) A participant's application for a lump sum payment under sub. (1)
20 (b) or (2), filed after May 7, 1994, shall be signed by both the participant and the
21 participant's spouse, if the participant has been married to that spouse for at least
22 one year immediately preceding the date the application is filed. The department
23 may promulgate rules that allow for the waiver of the requirements of this subsection
24 for a situation in which, by reason of absence or incompetency, the spouse's signature

ASSEMBLY BILL 795**SECTION 57**

1 may not be obtained. This subsection does not apply to any benefits paid from
2 accumulated additional contributions and tax-deferred additional contributions.

3 **SECTION 58.** 40.25 (4) of the statutes is amended to read:

4 40.25 (4) If all the requirements for payment of a retirement annuity or a
5 separation benefit are met, except filing of an application, a participant may elect
6 that the accumulation from the participant's additional contributions made under
7 s. 40.05 (1) (a) 5. and tax-deferred additional contributions made under s. 40.05 (1)
8 (a) 5m. be paid as a lump sum in lieu of an annuity from those additional
9 contributions.

10 **SECTION 59.** 40.25 (6) (a) 1. of the statutes is amended to read:

11 40.25 (6) (a) 1. The participating employee must have at least 3 continuous
12 years of creditable current service under the fund at the time of application for
13 reestablishment of creditable service under this subsection.

14 **SECTION 60.** 40.25 (6) (a) 2. of the statutes is amended to read:

15 40.25 (6) (a) 2. ~~Applications for reestablishment of creditable service must~~
16 ~~include all creditable service that has been forfeited except that the~~ Subject to the
17 rules promulgated by the department, a participating employee may apply for all or
18 part of the creditable service that he or she has forfeited. The total number of years
19 which may be reestablished under this subsection may not be greater than the
20 creditable service of the participating employee at the date of application, or 10
21 years, whichever is smaller. Creditable service previously purchased under this
22 chapter may not be used to determine the maximum amount of service that may be
23 purchased under this subsection.

24 **SECTION 61.** 40.25 (7) (a) 2. of the statutes is amended to read:

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1 40.25 (7) (a) 2. The participant has at least 3 continuous years of creditable
2 current service under the fund at the time of application under subd. 1.

3 **SECTION 62.** 40.25 (7) (a) 3. of the statutes is amended to read:

4 40.25 (7) (a) 3. The number of years of creditable service applied for under this
5 paragraph does not exceed the number of years of creditable service that the
6 participant has at the date of application or 10 years, whichever is less. Creditable
7 service previously purchased under this chapter may not be used to determine the
8 maximum amount of service that may be purchased under this subsection.

9 **SECTION 63.** 40.25 (7) (d) of the statutes is amended to read:

10 40.25 (7) (d) The lump sum payment under par. (a) 5. shall be credited and
11 treated as an employee required contribution for all purposes of the retirement
12 system, ~~except for purposes of s. as provided in ss. 40.23 (3) and 40.73 (1) (am).~~

13 **SECTION 64.** 40.26 (2) (a) of the statutes is amended to read:

14 40.26 (2) (a) The then present value of any portion of the terminated annuity
15 which was originally provided by employee or employer additional contributions or
16 tax-deferred additional contributions shall be credited to the corresponding
17 additional contribution account or tax-deferred additional contribution account.

18 **SECTION 65.** 40.26 (2) (b) of the statutes is amended to read:

19 40.26 (2) (b) The amount of the annuity payments, excluding any portion
20 originally provided by additional contributions or tax-deferred additional
21 contributions, which would have been paid under the terminated annuity, if the
22 annuity had been a straight life annuity, prior to the participant's normal retirement
23 date or prior to the annuity termination date, whichever would first occur, shall be
24 credited to a memorandum account which is subject to s. 40.04 (4) (a) 2., 2g., and 2m.
25 and (c). If the annuity was recomputed under s. 40.08 (1m) because of a qualified

ASSEMBLY BILL 795**SECTION 65**

1 domestic relations order, the memorandum account established under this
2 paragraph shall be adjusted as provided under s. 40.08 (1m) (f) 2.

3 **SECTION 66.** 40.26 (5) (intro.) of the statutes is amended to read:

4 40.26 (5) (intro.) If a participant ~~applies for an annuity or lump sum payment~~
5 ~~during the period in which less than 30 days have elapsed between the termination~~
6 ~~of employment with a participating employer and becoming a participating employee~~
7 ~~with any participating employer~~ does not satisfy the condition under s. 40.23 (1) (a)
8 1., all of the following shall apply:

9 **SECTION 67.** 40.26 (5) (a) of the statutes is repealed.

10 **SECTION 68.** 40.26 (5) (c) of the statutes is amended to read:

11 40.26 (5) (c) Any annuity or lump sum payment made to the participant shall
12 be considered to have been made in error and is subject to s. 40.08 (4). ~~The sum of~~
13 ~~the payments made in error shall be credited to a memorandum account. The~~
14 ~~memorandum account is subject to s. 40.04 (4) (a) 2., 2g. and 2m. and (e). If the~~
15 ~~annuity was recomputed under s. 40.08 (1m), the memorandum account established~~
16 ~~under this paragraph shall be adjusted pursuant to s. 40.08 (1m) (f) 2. The~~
17 ~~retirement account of a participant paid in error, and whose annuity was terminated,~~
18 ~~shall be reestablished as if the terminated annuity had never been effective,~~
19 ~~including the crediting of interest.~~

20 **SECTION 69.** 40.28 (1) (a) 1. of the statutes is amended to read:

21 40.28 (1) (a) 1. The amount of the additional contribution accumulations and
22 tax-deferred additional contribution accumulations reserved for a variable annuity
23 as of the date the annuity begins;

24 **SECTION 70.** 40.63 (7) of the statutes is amended to read:

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1 40.63 (7) If an application, by a participant age 55 or over, or by a protective
2 occupation participant age 50 or over, for any disability annuity is ~~disapproved~~
3 denied, withdrawn, or cancelled, the date which would have been the disability
4 annuity effective date shall be the retirement annuity effective date if so requested
5 by the applicant within 60 days of the ~~disapproval~~ date of withdrawal, denial, or
6 cancellation or, if the ~~disapproval~~ denial is appealed, within 60 days of final
7 disposition of the appeal.

8 **SECTION 71.** 40.63 (9) (b) of the statutes is amended to read:

9 40.63 (9) (b) If a disability annuitant, prior to attaining the normal retirement
10 date for the annuitant's former participant classification, receives earnings or other
11 earned income from any source whatsoever for personal services, including services
12 performed on a contractual basis, the annuity shall be suspended, except for any
13 amount provided by additional contributions or tax-deferred additional
14 contributions, and no payment shall be payable after the first of the month in which
15 the earnings or earned income received during any calendar year exceed the amount
16 established under sub. (11), except that if payment was being made under sub. (4)
17 the annuity may only be suspended if the annuitant is employed in a law
18 enforcement or fire fighting capacity and then the suspension shall be effective
19 immediately. The suspended amount shall be reinstated on January 1 following the
20 date of suspension, or, if earlier, on the first day of the 2nd month following the
21 termination of personal services. An amount, which is reinstated in any calendar
22 year, other than on January 1 of the calendar year, shall again be suspended for any
23 subsequent month in the calendar year following a month in which the disability
24 annuitant receives any amount of earnings or earned income for personal services.

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1 The department may request any earnings or compensation information as it deems
2 necessary to implement the provisions of this paragraph and par. (c).

3 **SECTION 72.** 40.63 (10) of the statutes is amended to read:

4 40.63 (10) Upon termination of an annuity in accordance with sub. (9), each
5 participant whose annuity is so terminated shall, as of the beginning of the calendar
6 month following termination, be credited with additional contributions and
7 tax-deferred additional contributions equal to the then present value of the portion
8 of the terminated annuity which was originally provided by the corresponding type
9 of ~~additional~~ contributions. Except for additional contributions and tax-deferred
10 additional contributions, the retirement account of the participant shall be
11 reestablished as if the terminated annuity had never been effective, including
12 crediting of interest and of any contributions and creditable service earned during
13 the period the annuity was in force.

14 **SECTION 73.** 40.70 (1) (b) of the statutes is amended to read:

15 40.70 (1) (b) The employee files ~~with the department~~ an application in the
16 manner provided by rule or contract, to be effective on a date fixed by the department,
17 for one or more of the types of coverage established under this subchapter. The group
18 insurance board may provide a different method of enrollment than provided under
19 this subsection.

20 **SECTION 74.** 40.70 (6) of the statutes is amended to read:

21 40.70 (6) Except as provided in sub. (7m), any employee who has not applied
22 for coverage under sub. (1) within ~~6 months~~ the time period specified by rule or
23 contract after becoming eligible for coverage or any employee whose insurance
24 terminates under sub. (8) shall not thereafter become insured for that coverage
25 unless ~~prior to the attainment of age 55~~ the employee furnishes evidence of

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1 insurability satisfactory to the insurer, at his or her own expense. If the evidence is
2 approved, the employee shall become insured on the first day of the first month
3 beginning after the approval.

4 **SECTION 75.** 40.71 (1) (d) of the statutes is renumbered 40.71 (1) (d) (intro.) and
5 amended to read:

6 40.71 (1) (d) (intro.) Every participant is deemed an annuitant immediately
7 upon the later of the following:

- 8 1. The effective date of the participant's annuity, or the,
- 9 2. The date the application for an annuity is received by the department, but
10 only if the participant is living on that date, whichever is later.

11 **SECTION 76.** 40.71 (2) of the statutes is amended to read:

12 40.71 (2) Any death benefit may be paid as a beneficiary annuity, subject to s.
13 40.73 (3), or as a single cash sum as specified by the beneficiary in the application
14 for the death benefit unless the participant prohibited payment of a single cash sum
15 in a written notice received by the department prior to the participant's death. A
16 prohibition on payment of a single cash sum shall not be effective if the monthly
17 amount of the annuity would be less than the amount determined under s. 40.25 (1)
18 (a), if the department commences an automatic distribution under s. 40.23 (4), or if
19 the beneficiary is the participant's estate or a trust in which the beneficiary has a
20 beneficial interest.

21 **SECTION 77.** 40.73 (1) (am) of the statutes is renumbered 40.73 (1) (am) (intro.)
22 and amended to read:

23 40.73 (1) (am) (intro.) Upon the death of a participating employee, except as
24 otherwise provided by par. (c), the sum of the ~~additional contribution and twice the~~
25 ~~employee required contribution accumulations credited~~ following accumulations,

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1 including any interest credited to the accumulations, that are credited to the
2 participant's account on the beneficiary annuity effective date or, in the case of a
3 lump sum payment, the first day of the month in which the death benefit is
4 approved;

5 **SECTION 78.** 40.73 (1) (am) 1. of the statutes is created to read:

6 40.73 (1) (am) 1. Additional contributions.

7 **SECTION 79.** 40.73 (1) (am) 2. of the statutes is created to read:

8 40.73 (1) (am) 2. Lump sum payments under s. 40.25 (7) (a) 5.

9 **SECTION 80.** 40.73 (1) (am) 3. of the statutes is created to read:

10 40.73 (1) (am) 3. Twice the employee required contributions, less the amounts
11 under subd. 2.

12 **SECTION 81.** 40.73 (1) (b) of the statutes is amended to read:

13 40.73 (1) (b) Upon the death of an annuitant, in addition to any amounts
14 payable by virtue of the annuity option elected by an annuitant, the amount
15 determined under par. (a) for contributions made under s. 40.05 (1) subsequent to the
16 effective date of the annuity, or additional contributions and tax-deferred additional
17 contributions not applied to provide an annuity, provided the amounts have not been
18 previously paid out as a lump sum under s. 40.25.

19 **SECTION 82.** 40.73 (3) (e) of the statutes is amended to read:

20 40.73 (3) (e) Any beneficiary who is eligible to receive a beneficiary annuity
21 may elect to receive the annuity in any of the optional annuity forms provided for
22 retirement annuities, other than as an annuity under s. 40.24 (1) (e) or any annuity
23 payable over the joint life expectancies of the beneficiary and another person or as
24 an annuity payable under s. 40.24 (1) (b) or (c) if the payment period would exceed
25 the life expectancy of the beneficiary.

