



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-2755/1
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2023 ASSEMBLY BILL 278

May 17, 2023 - Introduced by Representatives WICHGERS, BRANDTJEN, O'CONNOR, SAPIK, BEHNKE, C. ANDERSON and RETTINGER, cosponsored by Senators JACQUE, BRADLEY, WANGGAARD, CABRAL-GUEVARA, BALLWEG and TOMCZYK. Referred to Committee on Labor and Integrated Employment.

1 **AN ACT** *to amend* 40.22 (1), 40.22 (2m) (intro.), 40.22 (2r) (intro.) and 40.22 (3)
2 (intro.); and *to create* 40.26 (7) of the statutes; **relating to:** law enforcement
3 and fire fighter annuitants in the Wisconsin Retirement System who are
4 rehired by a participating employer.

Analysis by the Legislative Reference Bureau

Under current law, certain persons who receive a retirement or disability annuity from the Wisconsin Retirement System and who are hired by an employer that participates in the WRS must suspend that annuity and may not receive a WRS annuity payment until the employee is no longer in a WRS-covered position. This suspension applies to a person who 1) has reached his or her normal retirement date; 2) is appointed to a position with a WRS-participating employer, or provides employee services to a WRS-participating employer; and 3) is expected to work at least two-thirds of what is considered full-time employment by the Department of Employee Trust Funds.

This bill creates an exception to this suspension for an annuitant who retired from employment with a participating employer and who is subsequently rehired or provides employee services after retirement, if 1) the annuitant is a retired law enforcement officer or fire fighter; 2) at the time the annuitant initially retires from covered employment with a participating employer, the annuitant does not have an agreement with any participating employer to return to employment; and 3) the annuitant elects to not become a participating employee at the time the annuitant is rehired or enters into a contract after retirement. In other words, the bill allows

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an annuitant who was a law enforcement officer or fire fighter to return to work with an employer who participates in the WRS and elect to not become a participating employee for purposes of the WRS, and instead continue to receive his or her annuity.

For further information see the 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.** 40.22 (1) of the statutes is amended to read:

2 40.22 (1) Except as otherwise provided in sub. (2) and s. 40.26 (6) and (7), each
3 employee currently in the service of, and receiving earnings from, a state agency or
4 other participating employer shall be included within the provisions of the Wisconsin
5 retirement system as a participating employee of that state agency or participating
6 employer.

7 **SECTION 2.** 40.22 (2m) (intro.) of the statutes is amended to read:

8 40.22 (2m) (intro.) Except as otherwise provided in s. 40.26 (6) and (7), an
9 employee who was a participating employee before July 1, 2011, who is not expected
10 to work at least one-third of what is considered full-time employment by the
11 department, as determined by rule, and who is not otherwise excluded under sub. (2)
12 from becoming a participating employee shall become a participating employee if he
13 or she is subsequently employed by the state agency or other participating employer
14 for either of the following periods:

15 **SECTION 3.** 40.22 (2r) (intro.) of the statutes is amended to read:

16 40.22 (2r) (intro.) Except as otherwise provided in s. 40.26 (6) and (7), an
17 employee who was not a participating employee before July 1, 2011, who is not
18 expected to work at least two-thirds of what is considered full-time employment by
19 the department, as determined by rule, and who is not otherwise excluded under sub.

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1 (2) from becoming a participating employee shall become a participating employee
2 if he or she is subsequently employed by the state agency or other participating
3 employer for either of the following periods:

4 **SECTION 4.** 40.22 (3) (intro.) of the statutes is amended to read:

5 40.22 (3) (intro.) Except as otherwise provided in s. 40.26 (6) and (7), a person
6 who qualifies as a participating employee shall be included within, and shall be
7 subject to, the Wisconsin retirement system effective on one of the following dates:

8 **SECTION 5.** 40.26 (7) of the statutes is created to read:

9 40.26 (7) (a) Under this subsection, “law enforcement officer” has the meaning
10 given in s. 165.85 (2) (c).

11 (b) Subsections (1) to (5) do not apply to a participant who applies for an annuity
12 or lump sum payment during the period in which at least 75 days have elapsed
13 between the participant’s termination of employment and becoming an employee or
14 contractor providing employee services with a participating employer if all of the
15 following conditions are met:

16 1. The participant is a retired law enforcement officer or fire fighter.

17 2. At the time the participant terminates his or her employment with a
18 participating employer, the participant does not have an agreement with any
19 participating employer to return to employment or enter into a contract to provide
20 employee services for the employer.

21 3. The participant elects on a form provided by the department to not become
22 a participating employee.

23 **SECTION 6. Initial applicability.**

