

## 2005 DRAFTING REQUEST

### Bill

Received: **11/16/2004**

Received By: **rchampag**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC**

By/Representing: **Nick Zavos**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - retirement**

Extra Copies:

Submit via email: **YES**

Requester's email: **laura.rose@legis.state.wi.us**

Carbon copy (CC:) to: **don.dyke@legis.state.wi.us**

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### Pre Topic:

No specific pre topic given

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### Topic:

WRS death benefit waiver

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### Instructions:

See Attached.

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			Retire
/P1	rchampag 11/17/2004	jdyer 11/17/2004	rschluet 11/17/2004	_____	lemery 11/17/2004		Retire
/P2	rchampag 11/03/2005	jdyer 11/03/2005	rschluet 11/03/2005	_____	lnorthro 11/03/2005		Retire
/1	rchampag 11/14/2005	jdyer 11/14/2005	chaugen 11/14/2005	_____	lnorthro 11/14/2005		Retire

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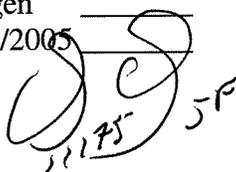
See Attached.

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1/2 11/17 jld

 11/17/05 JF

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1/14 jld

ch 11-14 SF 11-14

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FE Sent For:

*P2 11/3 jld*  
*1135*  
*P6*

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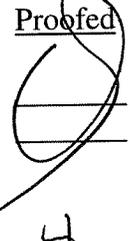
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1/?	rchampag	PI 11/17 JLD					

FE Sent For:   
<END>

0870

8. Death Benefit Waiver

Amend s. 40.74 (2) to read:

A beneficiary may waive, absolutely and without right of reconsideration or recovery, all or any portion of any benefit payable under this chapter. ~~and the~~ The beneficiary shall then be determined as if the person waiving beneficiary had died prior to filing an application except that if the person was a beneficiary under group 2 under s. 40.02 (8) (a) 2., payment shall be made as if at least one child had survived the participant, alternate payee, beneficiary, employee or annuitant. Unless the department receives the beneficiary's written request to cancel the waiver before the date on which it would otherwise become effective, the ~~The~~ waiver shall be effective on the first day of the 2<sup>nd</sup> month commencing after it is received by the department or the date specified in the waiver, if later. A waiver received after the effective date on which a beneficiary has commenced a monthly annuity under s. 40.73 (2) or (3) shall apply to monthly payments payable after the effective date of the waiver. Payment shall be subject to the restrictions in s. 40.73 (2) (b).

*This change enables the beneficiary to waive only a portion of an eligible death benefit instead of being required under current law to waive the entire amount. No fiscal impact.*

9. Disability Application Clarifications

Amend s. 40.63 (1) (c); (4) (a) and (b); (5); (8) (h) 1. and 2.; (9) (c) 2. and 3. and (d); and (11);

Create s. 40.63 (4) (c); (8) (bm) and (h), (h) 2m., 4., and 5. to read:

~~s. 40.63 (1) (c) The employee is not entitled to any earnings from the employer and the employer has certified that it has paid to the employee all earnings to which the employee is entitled, that the employee is on a leave of absence and is not expected to resume active service, or that the employee's participating employment has been terminated, because of a disability as described in par. (b) and as a consequence the employee is not entitled to any earnings from the employer. In this paragraph, "earnings" does not include bonus compensation to which the employee was entitled under s. 25.156(7)(a), 1997 stats.~~

~~s. 40.63 (4) Notwithstanding sub. (1)(b), a protective occupation participant is not disqualified from receiving a disability annuity, if all the following apply:~~

~~(a) the ~~The~~ participant has accumulated 15 or more years of creditable service and would attain age 55 in 60 months or less after the occurrence of disability and~~

~~(b) the ~~The~~ medical evidence, as provided in sub. (1), establishes a disability to the extent that the participant can no longer efficiently and safely perform the duties required by the participant's position, and that the condition is likely to be permanent.~~

~~(c) The participant would attain age 55 in 60 months or less after the date on which the participant first became unable to efficiently and safely perform the duties of the participant's position by reason of disability.~~

~~s. 40.63 (5) The department shall make a report determination based on the evidence prescribed in subs. (1) to (4) as to whether a disability benefit shall be granted or denied and~~



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-0870/P1

RAC:.....

ju

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

1

AN ACT ...; relating to: death benefits under the Wisconsin retirement system

2

(suggested as remedial legislation by the department of employee trust funds).

*Analysis by the Legislative Reference Bureau*

Current law authorizes a beneficiary to waive any benefit offered under any plan available to Wisconsin Retirement System participants or administered by the Department of Employee trust Funds. The bill clarifies that any such waiver, when it becomes effective, is absolute and without right of reconsideration or recovery.

✓ This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

✓ 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.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of employee trust funds and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

3

SECTION 1. 40.74 (2) of the statutes is amended to read:

1           40.74 (2) ✓ A beneficiary may waive absolutely and without right of  
2 reconsideration or recovery all or part of any benefit payable and the under this  
3 chapter. ✓ The beneficiary shall then be determined as if the person waiving  
4 beneficiary had died prior to filing an application except that if the person was a  
5 beneficiary under group 2 under s. 40.02 (8) (a) 2., payment shall be made as if at least  
6 one child had survived the participant, alternate payee, beneficiary, employee, or  
7 annuitant. ✓ The Unless the department ✓ receives the beneficiary's written request to  
8 cancel the waiver before the date on which it would otherwise become effective, the  
9 waiver shall be effective on the first day of the 2nd ✓ month commencing after it is  
10 received by the department or the date specified in the waiver, if later. A waiver  
11 received after the effective date on which a beneficiary has commenced a monthly  
12 annuity under s. 40.73 (2) or (3) ✓ shall apply to monthly payments payable after the  
13 effective date of the waiver. Payment shall be subject to the restrictions specified in  
14 s. 40.73 (2) (b). ✓

15 History: 1981 c. 96; 1987 a. 309.

(END)



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-0870/P1 P2  
RAC:jld:rs

FRI

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- regem. cat.

1 AN ACT to amend 40.74 (2) of the statutes; relating to: death benefits under the  
2 Wisconsin Retirement System (suggested as remedial legislation by the  
3 Department of Employee Trust Funds).

***Analysis by the Legislative Reference Bureau***

Current law authorizes a beneficiary to waive any benefit offered under any plan available to Wisconsin Retirement System participants or administered by the Department of Employee trust Funds. The bill clarifies that any such waiver, when it becomes effective, is absolute and without right of reconsideration or recovery.

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✓  
( of a deceased participant, annuitant, alternate payee, beneficiary, or employee ) SECTION 1

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(END)

## Emery, Lynn

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**From:** Emery, Lynn  
**Sent:** Friday, November 04, 2005 2:34 PM  
**To:** Veum, Rachel  
**Subject:** Requested drafts (attached)

**Attachments:** 05-0863/P2; 05-0866/P2; 05-0869/P2; 05-0870/P2



05-0863P2.pdf (15 KB)



05-0866P2.pdf (15 KB)



05-0869P2.pdf (10 KB)



05-0870P2.pdf (12 KB)

Lynn Emery  
Program Assistant  
Legislative Reference Bureau  
(608) 266-3561



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-0870/P2

RAC:jld:rs

SCM

RMK

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2005 Bill

-regen cat.

- 1 AN ACT *to amend* 40.74 (2) of the statutes; relating to: death benefits under the  
2 Wisconsin Retirement System (suggested as remedial legislation by the  
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CS → NOTE: ↗

(END)

Clarifies that the beneficiary of any deceased benefit payable under ch. 40 may waive all or a portion of the benefit.

*SSM*

*RMPC*

**2005 BILL**

*See 1.2*

*- regm. cod.*

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**MEMORANDUM**

from DON DYKE  
Legislative Council

11/17/05

Please jacket for  
introduction in Senate  
the following law revision  
bills:

LAB - 0864/1

LAB - 0869/2

LAB - 0870/2

LAB - 0874/1

Thanks,

Don  
plus →  
over

Per [signature]  
Don Dyke  
Council

~~LAB - 0853/1~~  
LAB - 0853/1