2013 DRAFTING REQUEST

Bill

Received:	**11/6/2012**	Received By:	**rchampag**
Wanted:	**Soon**	Same as LRB:	
For:	**Duey Stroebel (608) 267-2369**	By/Representing:	**Himself**
May Contact:		Drafter:	**rchampag**
Subject:	**Employ Pub - employee benefits** **Employ Pub - retirement**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **rep.stroebel@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Rehired WRS Annuitants

Instructions:

2011 ASA2 to AB 318

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	rchampag 11/6/2012	jdyer 11/8/2012		_____ _____			
/1	rchampag 1/13/2013		jfrantze 11/8/2012	_____ _____	sbasford 11/8/2012		State S&L Retire
/2		jdyer 1/14/2013	phenry 1/14/2013	_____ _____	lparisi 1/14/2013	sbasford 4/17/2013	State S&L Retire

FE Sent For:

At intro

<END>

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/1		11/14 jld	jfrantze 11/8/2012 11/14 ph	ph/sm	sbasford 11/8/2012		State S&L Retire

FE Sent For:

<END>

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Bill

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Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	rchampag	11/8 jld		RS 11/8			

FE Sent For:

<END>

Champagne, Rick

From: Kiesow, Lauren
Sent: Tuesday, November 06, 2012 9:20 AM
To: Champagne, Rick
Subject: Rep. Stroebel bill

Rick,

Duey would like to have his double dipping bill from last session re-drafted and ready to go for the start of next session. Assembly substitute amendment 2 was the piece of legislation that was adopted/passed, and that's the one he'd like to have re-drafted. Here is the link to it:
https://docs.legis.wisconsin.gov/2011/related/amendments/ab318/asa2_ab318

Please let me know if you have any questions. Thanks!

Lauren

Lauren Kiesow
Office of Rep. Duey Stroebel
8 West, State Capitol
Madison, WI 53708
(608) 267-2369

State of Wisconsin
2011 – 2012 LEGISLATURE

LRBs0334/1
RAC:cjs:rs

soon

LRB-0500/1
RAC:jl

~~ASSEMBLY SUBSTITUTE AMENDMENT 2,~~
~~TO 2011 ASSEMBLY BILL 618~~

PWF

2013

~~February 21, 2012 – Offered by Representative STROEBEL.~~

-regen. cat

1 AN ACT ***to amend*** 40.22 (2) (a), 40.22 (2m) (intro.), 40.26 (1), 40.26 (2) (intro.),
2 40.26 (2) (c) and 40.26 (5) (intro.); and ***to create*** 40.26 (1m) and 40.26 (2) (d) of
3 the statutes; **relating to:** post–retirement employment of annuitants under
4 the Wisconsin Retirement System, participation status under the Wisconsin
5 Retirement System, and granting rule–making authority.

Analysis by the Legislative Reference Bureau

This ~~substitute amendment~~ bill makes all of the following changes with respect to the receipt of an annuity under the Wisconsin Retirement System (WRS), the termination of an annuity under certain conditions, and participation status under the WRS:

Mandatory period of separation from covered employment

Under current law, a WRS participant who has applied to receive a retirement annuity must wait at least 30 days between terminating covered employment with a WRS employer and returning to covered employment again as a participating employee. If the participant does not wait the 30–day period, and is rehired before the expiration of the 30–day period, the participant is not eligible to receive a WRS retirement annuity. The ~~substitute amendment~~ bill provides that the participant must remain separated from covered employment under the WRS for at least 75 days in

order to be an eligible rehired annuitant. This provision first applies to a WRS participating employee who terminates covered employment under the WRS on the ~~substitute amendment's~~ effective date.

Termination of annuity for rehired annuitants

Currently, when a WRS participant terminates employment and receives an annuity he or she may return to covered employment and either terminate the annuity and again become a WRS participating employee or, instead, continue to receive the annuity, as well as wages from covered employment. If a participant does not terminate the annuity, the participant may not be a participating employee in the WRS and, in the case of state employment, is not eligible for group insurance benefits provided to participating employees, and may not use any of his or her employment service as a rehired annuitant for any WRS purposes. If the participant terminates the annuity, the participant returns to participating employee status and is eligible for all group insurance benefits provided other participating employees, as well as is able to accumulate additional years of creditable service under the WRS for the additional period of covered employment.

This ~~substitute amendment~~ provides that if a WRS participant who is receiving an annuity, or a disability annuitant who has attained his or her normal retirement date, is appointed to a position in covered employment in which he or she is expected to work at least one–half of what is considered full–time employment by the DETF, as determined by rule, the participant's annuity must be terminated and no annuity payment is payable until after the participant again terminates covered employment. This provision first applies to a WRS participating employee who terminates covered employment under the WRS on the ~~substitute amendment's~~ effective date.

Under the ~~substitute amendment~~, even though the participant again becomes a WRS participating employee after terminating his or her annuity, and becomes eligible to receive group insurance benefits provided to other participating employees, the participant may not accumulate additional years of creditable service under the WRS for the additional period of covered employment. Also, all WRS employee required contributions that are paid by the participant during the period in which the annuity was terminated, as well as any interest on those contributions, must be paid to the participant as a lump sum upon the reestablishment of the terminated annuity.

Termination of annuity for annuitants providing employee services

The ~~substitute amendment~~ also provides that if a participant receiving a retirement annuity, or a disability annuitant who has attained his or her normal retirement date, enters into a contract to provide employee services with a participating employer after the substitute amendment's effective date, and he or she is expected to work at least one–half of what is considered full–time employment by DETF, as determined by rule, the participant's retirement annuity must be terminated and no annuity payment is payable until after the participant no longer provides employee services under the contract. This provision first applies to a WRS participating employee who terminates covered employment under the WRS on the ~~substitute amendment's~~ effective date.

Two–thirds employment requirement for participation in WRS

Finally, 2011 Wisconsin Act 32 increased the number of hours that an employee must work in order to become a participating employee in the WRS, from one–third of what is considered full–time employment to two–thirds of what is considered full–time employment, as determined by DETF by rule. Under 2011 Wisconsin Act 32, this change in law did not apply to those employees who were first *hired* by a WRS ~~employer before July 1, 2011,~~ regardless of whether they were participating employees before that date. This ~~substitute amendment~~ provides that in order to be exempt from this change in law, employees must have been *participating employees* before July 1, 2011.

Because this substitute amendment relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill.

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

SECTION 1. 40.22 (2) (a) of the statutes ~~as affected by 2011 Wisconsin Act 32~~ is amended to read:

40.22 **(2)** (a) Except as provided in sub. (2m), the employee was ~~initially employed by a participating employer~~ a participating employee before July 1, 2011, and is not expected to work at least one–third of what is considered full–time employment by the department, as determined by rule.

SECTION 2. 40.22 (2m) (intro.) of the statutes ~~as affected by 2011 Wisconsin Act 32~~ is amended to read:

40.22 **(2m)** (intro.) An employee who was ~~initially employed by a participating employer~~ a participating employee before July 1, 2011, who is not expected to work at least one–third of what is considered full–time employment by the department, as determined by rule, and who is not otherwise excluded under sub. (2) from becoming a participating employee shall become a participating employee if he or she is subsequently employed by the state agency or other participating employer for either of the following periods:

1 **SECTION 3.** 40.26 (1) of the statutes is amended to read:

2 40.26 **(1)** Except as provided in sub. (1m) and ss. 40.05 (2) (g) 2. and 40.23 (1)
3 (am), if a participant receiving a retirement annuity, or a disability annuitant who
4 has attained his or her normal retirement date, receives earnings that are subject
5 to s. 40.05 (1) or that would be subject to s. 40.05 (1) except for the exclusion specified
6 in s. 40.22 (2) (L), the annuity shall be terminated and no annuity payment shall be
7 payable after the month in which the participant files with the department a written
8 election to be included within the provisions of the Wisconsin retirement system as
9 a participating employee.

10 **SECTION 4.** 40.26 (1m) of the statutes is created to read:

11 40.26 **(1m)** (a) If a participant receiving a retirement annuity, or a disability
12 annuitant who has attained his or her normal retirement date, is employed in a
13 position in covered employment in which he or she is expected to work at least
14 one–half of what is considered full–time employment by the department, as
15 determined by rule, the participant's annuity shall be terminated and no annuity
16 payment shall be payable until after the participant terminates covered
17 employment.

18 (b) If a participant receiving a retirement annuity, or a disability annuitant
19 who has attained his or her normal retirement date, enters into a contract to provide
20 employee services with a participating employer and he or she is expected to work
21 at least one–half of what is considered full–time employment by the department, as
22 determined by rule, the participant's annuity shall be terminated and no annuity
23 payment shall be payable until after the participant no longer provides employee
24 services under the contract.

25 **SECTION 5.** 40.26 (2) (intro.) of the statutes is amended to read:

40.26 **(2)** (intro.) Upon termination of an annuity under sub. (1) or (1m), the retirement account of the participant whose annuity is so terminated shall be reestablished on the following basis:

SECTION 6. 40.26 (2) (c) of the statutes is amended to read:

40.26 **(2)** (c) Except as provided in pars. (a) ~~and~~, (b), and (d), the retirement account shall be reestablished as if the terminated annuity had never been effective, including crediting of interest and of any contributions made and creditable service earned during the period the annuity was in force.

SECTION 7. 40.26 (2) (d) of the statutes is created to read:

40.26 **(2)** (d) 1. Notwithstanding s. 40.02 (17) and (33), a participant who terminates an annuity under sub. (1m) may not receive any creditable service during the period in which the annuity was terminated, nor may any earnings received during the period in which the annuity was terminated be used for purposes of recalculating the participant's final average earnings.

2. All employee required contributions under s. 40.05 (1) (a) that are paid by a participant who terminates an annuity under sub. (1m), during the period in which the annuity was terminated, as well as any interest on those contributions, shall be paid to the participant as a lump sum upon the reestablishment of the terminated annuity.

SECTION 8. 40.26 (5) (intro.) of the statutes is amended to read:

40.26 **(5)** (intro.) If a participant applies for an annuity or lump sum payment during the period in which less than ~~30~~ 75 days have elapsed between the termination of employment with a participating employer and becoming a participating employee with any participating employer, all of the following shall apply:

SECTION 9. Nonstatutory provisions.

(1) PROMULGATION OF EMERGENCY RULES FOR REENTRY INTO SERVICE. The ~~department~~ secretary of employee trust funds may use the procedure under section 227.24 of the statutes to promulgate rules under section 40.26 (1m) of the statutes, as created by this act. ~~Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect until January 1, 2013, or the date on which permanent rules take effect, whichever is sooner.~~ Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the ~~department~~ secretary is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

SECTION 10. Initial applicability.

(1) The treatment of section 40.26 (1), (1m), (2) (intro.), (c), and (d), and (5) (intro.) of the statutes first applies to participating employees under the Wisconsin Retirement System who terminate covered employment under the Wisconsin Retirement System on the effective date of this subsection.

(END)

Stet

Stet

, but not to exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of the statutes

Champagne, Rick

From: Soper, John
Sent: Thursday, January 10, 2013 4:44 PM
To: Champagne, Rick
Subject: Modification to Bill draft for Rep. Stroebel
Attachments: 13-0500_1.pdf

Rick,

After reviewing your draft of the attached bill, Representative Stroebel would like to add a provision, 40.26(1m)(c), concerning annuitants who perform one-half fulltime or more services for a participating employer via a temp agency. He is concerned going through a temp agency would be an easy way for annuitants to frustrate the purpose of 40.26(1m)(b) if nothing is changed. The definition of "temporary help agency" from the Worker's Compensation law (102.01(f)) may be a good starting point for defining the term.

Please contact me to discuss any questions you have about this modification. Thank you.

John Soper
Research Assistant
Office of Rep. Duey Stroebel
207 North, State Capitol
Madison, WI 53708
(608) 267-2370

State of Wisconsin
2013 – 2014 LEGISLATURE

LRB–0500/1
RAC:jld:jf

2013 BILL

AN ACT ***to amend*** 40.22 (2) (a), 40.22 (2m) (intro.), 40.26 (1), 40.26 (2) (intro.), 40.26 (2) (c) and 40.26 (5) (intro.); and ***to create*** 40.26 (1m) and 40.26 (2) (d) of the statutes; **relating to:** post–retirement employment of annuitants under the Wisconsin Retirement System, participation status under the Wisconsin Retirement System, and granting rule–making authority.

Analysis by the Legislative Reference Bureau

This bill makes all of the following changes with respect to the receipt of an annuity under the Wisconsin Retirement System (WRS), the termination of an annuity under certain conditions, and participation status under the WRS:

Mandatory period of separation from covered employment

Under current law, a WRS participant who has applied to receive a retirement annuity must wait at least 30 days between terminating covered employment with a WRS employer and returning to covered employment again as a participating employee. If the participant does not wait the 30–day period, and is rehired before the expiration of the 30–day period, the participant is not eligible to receive a WRS retirement annuity. The bill provides that the participant must remain separated from covered employment under the WRS for at least 75 days in order to be an eligible rehired annuitant. This provision first applies to a WRS participating employee who terminates covered employment under the WRS on the bill's effective date.

Termination of annuity for rehired annuitants

Currently, when a WRS participant terminates employment and receives an annuity he or she may return to covered employment and either terminate the annuity and again become a WRS participating employee or, instead, continue to receive the annuity, as well as wages from covered employment. If a participant does not terminate the annuity, the participant may not be a participating employee in the WRS and, in the case of state employment, is not eligible for group insurance benefits provided to participating employees, and may not use any of his or her employment service as a rehired annuitant for any WRS purposes. If the participant terminates the annuity, the participant returns to participating employee status and is eligible for all group insurance benefits provided other participating employees, as well as is able to accumulate additional years of creditable service under the WRS for the additional period of covered employment.

This bill provides that, if a WRS participant who is receiving an annuity, or a disability annuitant who has attained his or her normal retirement date, is appointed to a position in covered employment in which he or she is expected to work at least one–half of what is considered full–time employment by the Department of Employee Trust Funds (DETF), as determined by rule, the participant's annuity must be terminated and no annuity payment is payable until after the participant again terminates covered employment. This provision first applies to a WRS participating employee who terminates covered employment under the WRS on the bill's effective date.

Under the bill, even though the participant again becomes a WRS participating employee after terminating his or her annuity, and becomes eligible to receive group insurance benefits provided to other participating employees, the participant may not accumulate additional years of creditable service under the WRS for the additional period of covered employment. Also, all WRS employee required contributions that are paid by the participant during the period in which the annuity was terminated, as well as any interest on those contributions, must be paid to the participant as a lump sum upon the reestablishment of the terminated annuity.

Termination of annuity for annuitants providing employee services

The bill also provides that, if a participant receiving a retirement annuity, or a disability annuitant who has attained his or her normal retirement date, enters into a contract to provide employee services with a participating employer after the bill's effective date, and he or she is expected to work at least one–half of what is considered full–time employment by DETF, as determined by rule, the participant's retirement annuity must be terminated and no annuity payment is payable until after the participant no longer provides employee services under the contract. This provision first applies to a WRS participating employee who terminates covered employment under the WRS on the bill's effective date.

Insert Andrew

Two–thirds employment requirement for participation in WRS

Finally, 2011 Wisconsin Act 32 increased the number of hours that an employee must work in order to become a participating employee in the WRS, from one–third of what is considered full–time employment to two–thirds of what is considered full–time employment, as determined by DETF by rule. Under 2011 Wisconsin Act

32, this change in law did not apply to those employees who were first *hired* by a WRS employer before July 1, 2011, regardless of whether they were participating employees before that date. This bill provides that, in order to be exempt from this change in law, employees must have been *participating employees* before July 1, 2011.

Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the 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.** 40.22 (2) (a) of the statutes is amended to read:

2 40.22 **(2)** (a) Except as provided in sub. (2m), the employee was ~~initially~~
3 ~~employed by a participating employer~~ a participating employee before July 1, 2011,
4 and is not expected to work at least one–third of what is considered full–time
5 employment by the department, as determined by rule.

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

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

14 **SECTION 3.** 40.26 (1) of the statutes is amended to read:

15 40.26 **(1)** Except as provided in sub. (1m) and ss. 40.05 (2) (g) 2. and 40.23 (1)
16 (am), if a participant receiving a retirement annuity, or a disability annuitant who
17 has attained his or her normal retirement date, receives earnings that are subject

1 to s. 40.05 (1) or that would be subject to s. 40.05 (1) except for the exclusion specified
2 in s. 40.22 (2) (L), the annuity shall be terminated and no annuity payment shall be
3 payable after the month in which the participant files with the department a written
4 election to be included within the provisions of the Wisconsin retirement system as
5 a participating employee.

6 **SECTION 4.** 40.26 (1m) of the statutes is created to read:

7 40.26 **(1m)** (a) If a participant receiving a retirement annuity, or a disability
8 annuitant who has attained his or her normal retirement date, is employed in a
9 position in covered employment in which he or she is expected to work at least
10 one–half of what is considered full–time employment by the department, as
11 determined by rule, the participant's annuity shall be terminated and no annuity
12 payment shall be payable until after the participant terminates covered
13 employment.

14 (b) If a participant receiving a retirement annuity, or a disability annuitant
15 who has attained his or her normal retirement date, enters into a contract to provide
16 employee services with a participating employer and he or she is expected to work
17 at least one–half of what is considered full–time employment by the department, as
18 determined by rule, the participant's annuity shall be terminated and no annuity
19 payment shall be payable until after the participant no longer provides employee
20 services under the contract.

Insert 4-21

21 **SECTION 5.** 40.26 (2) (intro.) of the statutes is amended to read:

22 40.26 **(2)** (intro.) Upon termination of an annuity under sub. (1) <u>or (1m)</u>, the
23 retirement account of the participant whose annuity is so terminated shall be
24 reestablished on the following basis:

25 **SECTION 6.** 40.26 (2) (c) of the statutes is amended to read:

40.26 **(2)** (c) Except as provided in pars. (a) ~~and~~, (b), and (d), the retirement account shall be reestablished as if the terminated annuity had never been effective, including crediting of interest and of any contributions made and creditable service earned during the period the annuity was in force.

SECTION 7. 40.26 (2) (d) of the statutes is created to read:

40.26 **(2)** (d) 1. Notwithstanding s. 40.02 (17) and (33), a participant who terminates an annuity under sub. (1m) may not receive any creditable service during the period in which the annuity was terminated, nor may any earnings received during the period in which the annuity was terminated be used for purposes of recalculating the participant's final average earnings.

2. All employee required contributions under s. 40.05 (1) (a) that are paid by a participant who terminates an annuity under sub. (1m), during the period in which the annuity was terminated, as well as any interest on those contributions, shall be paid to the participant as a lump sum upon the reestablishment of the terminated annuity.

SECTION 8. 40.26 (5) (intro.) of the statutes is amended to read:

40.26 **(5)** (intro.) If a participant applies for an annuity or lump sum payment during the period in which less than ~~30~~ 75 days have elapsed between the termination of employment with a participating employer and becoming a participating employee with any participating employer, all of the following shall apply:

SECTION 9. Nonstatutory provisions.

(1) PROMULGATION OF EMERGENCY RULES FOR REENTRY INTO SERVICE. The secretary of employee trust funds may use the procedure under section 227.24 of the statutes to promulgate rules under section 40.26 (1m) of the statutes, as created by this act,

1 but not to exceed the period authorized under section 227.24 (1) (c) of the statutes,
2 subject to extension under section 227.24 (2) of the statutes. Notwithstanding
3 section 227.24 (1) (a), (2) (b), and (3) of the statutes, the secretary is not required to
4 provide evidence that promulgating a rule under this subsection as an emergency
5 rule is necessary for the preservation of the public peace, health, safety, or welfare
6 and is not required to provide a finding of emergency for a rule promulgated under
7 this subsection.

8 **SECTION 10. Initial applicability.**

9 (1) The treatment of section 40.26 (1), (1m), (2) (intro.), (c), and (d), and (5)
10 (intro.) of the statutes first applies to participating employees under the Wisconsin
11 Retirement System who terminate covered employment under the Wisconsin
12 Retirement System on the effective date of this subsection.

13 **(END)**

Insert Analysis:

Termination of annuity for annuitants providing employee services for a temporary help agency

The bill also provides that, if a participant receiving a retirement annuity, or a disability annuitant who has attained his or her normal retirement date, is employed by a temporary help agency ~~which~~ which contracts with a participating employer to provide services, and the participant is expected to provide services for the participating employer in a capacity of at least one-half of what is considered full–time employment by DETF, as determined by rule, the participant's retirement annuity must be terminated and no annuity payment is payable until after the participant no longer provides employee services under the contract. This provision first applies to a WRS participating employee who terminates covered employment under the WRS on the bill's effective date.

Insert 4–21:

(c) If a participant receiving a retirement annuity, or a disability annuitant who has attained his or her normal retirement date, is employed by a temporary help agency, as defined in s. 102.01 (2) (f), which enters into a contract with a participating employer to provide services, and the participant is expected to provide services for the participating employer in a capacity of at least one–half of what is considered full–time employment by the department, as determined by rule, the participant's annuity shall be terminated and no annuity payment shall be payable until after the participant no longer provides employee services for the participating employer.

Basford, Sarah

From: Soper, John
Sent: Tuesday, April 16, 2013 4:19 PM
To: LRB.Legal
Subject: Draft Review: LRB -0500/2 Topic: Rehired WRS Annuitants

Please Jacket LRB -0500/2 for the ASSEMBLY.