

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB40)

Received: **5/21/2013** Received By: **rchampag**
Wanted: **Today** Same as LRB:
For: **Legislative Fiscal Bureau** By/Representing: **Zimmerman**
May Contact: Drafter: **rchampag**
Subject: **Employ Pub - employee benefits** Addl. Drafters:
Employ Pub - retirement Extra Copies:

Submit via email: **YES**
Requester's email: **Legislative Fiscal Bureau**
Carbon copy (CC) to:

Pre Topic:

LFB:.....Zimmerman -

Topic:

WRS Rehired Annuitants

Instructions:

See attached

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> |
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| /1 | rchampag 5/29/2013 | evinz 5/22/2013 | rschluet 5/22/2013 | _____ | lparisi 5/22/2013 | | |
| /2 | rchampag 6/3/2013 | evinz 5/30/2013 | jmurphy 5/30/2013 | _____ | sbasford 5/30/2013 | | |
| /3 | rchampag 6/4/2013 | evinz 6/3/2013 | jfrantze 6/3/2013 | _____ | sbasford 6/3/2013 | | |
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| /5 | | evinz 6/5/2013 | jmurphy 6/5/2013 | _____ | mbarman 6/5/2013 | | |

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Jim HES
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Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

May 21, 2013

Joint Committee on Finance

Paper #259

Requirements for Rehired Annuitants (Employee Trust Funds)

[LFB 2013-15 Budget Summary: Page 148, #11]

CURRENT LAW

Under current law, when a Wisconsin Retirement System (WRS) participant terminates employment and receives an annuity he or she may return to covered employment (subject to the 30-day break-in-service requirement). The rehired individual may either: (a) terminate the annuity and again become a WRS participating employee; or (b) continue to receive the annuity in addition to the earned wages from covered employment. If the annuity is not terminated, the employee may not be a participant in the WRS and, in the case of state employment, is not eligible for group insurance benefits provided to participating employees. Further, the employee may not use any of his or her employment service as a rehired annuitant for any WRS purposes. If the rehired employee does terminate his or her annuity, he or she returns to participating-employee status and is eligible for all group insurance benefits provided other participating employees and accumulates additional creditable service under the WRS. Such additional creditable service is applicable to a recalculated retirement annuity when the individual again leaves WRS employment.

GOVERNOR

Modify the required break-in-service provision for rehiring WRS annuitants from 30 to 75 days. Provide that, if a participant receiving a retirement annuity, or a disability annuitant who has attained his or her normal retirement date, is employed in a position in WRS covered employment in which he or she is expected to work at least two-thirds of what is considered full-time employment by the Department of Employee Trust Funds (ETF), the participant's annuity must be terminated and no annuity payment may be payable until after the participant terminates covered employment.

The provisions would first apply to participating WRS employees who terminate covered employment on the effective date of the bill.

DISCUSSION POINTS

1. Some have raised concerns about WRS annuitants returning to employment with a WRS employer and simultaneously receiving an annuity and earnings from post-retirement work. The Legislative Audit Bureau (LAB) was requested to do a study of the issue by the Joint Legislative Audit Committee. The resulting report was entitled *Wisconsin Retirement System (WRS) Annuitants Hired by Employers Participating in the WRS* (Report 12-17, December, 2012).

2. For the state, the LAB reports that, from January, 2007, through March, 2012, the University of Wisconsin System (UW System) and other state agencies hired 2,783 WRS annuitants who had terminated employment from 2007 through 2011. This included 1,881 annuitants hired by the UW System and 902 hired by other state agencies.

3. As noted above, under current law, a rehired annuitant may either: (a) terminate the annuity and again become a WRS participating employee; or (b) continue to receive the annuity in addition to the earned wages from covered employment. The LAB report indicates that only eight annuitants hired by UW System and 18 hired by other state agencies chose to suspend their annuities and become a participating employee in the WRS.

4. The study also found that of the 2,783 state annuitants, 33.2 percent worked for less than six months after being hired, 27.9 percent worked from six to 12 months, and 1.5 percent worked for more than four years after being hired.

5. The findings indicate that 78.8% of state annuitants who worked continuously during their first six months of employment worked fewer hours per week, on average, than they had worked before retirement, while 5.2% worked more hours per week. Annuitants worked an average of 22 hours per week during the first six months after being hired. With respect to wages, 91.7% of annuitants who worked continuously during their first six months of employment and for whom information was available had hourly wages that were the same as or lower than their hourly wages at retirement and 8.3% had higher wages.

6. The LAB survey of local WRS employers (1,169 respondents, including both school districts and local governments) indicated that 2,599 WRS annuitants were hired from January, 2011, through March, 2012. Almost three-fourths of school districts and one-fourth of local governments that responded to the LAB survey indicated they had hired annuitants. Almost 80% indicated that annuitants were hired for their skills and experience. School districts reported that the expected duration of employment for 39.3% of the 1,681 annuitants they hired was 12 months or less. School districts also reported that 40.7% of annuitants were expected to work less than 20 hours per week and that 80.6% were paid hourly wages lower than their hourly wages before retirement.

7. Arguably, the option to hire annuitants is a valued one from the point of view of

WRS employers. Annuitants presumably have the skills and experience to do the required work well. Often, the positions hired are limited-term and part-time, with compensation at or below the annuitant's pre-retirement wage. This allows employers an effective option to fill relatively short-term needs and provides annuitants with valued additional income. However, perception of the rehired annuitant situation changes when rehired annuitants work for long periods of time at relatively high wage rates. The appearance can be one of taking advantage of a system that allows certain individuals to receive two streams of income from public employment simultaneously.

8. Under current law, individuals can receive an annuity only if they are separated for at least 30 days from all employment that is eligible to receive WRS benefits. An annuitant may, however, work within the initial 30-day period in a position that is ineligible for WRS benefits, if the position is at a different WRS-participating employer than the employer from which he or she terminated employment. The LAB report indicates that because questions were raised about whether some individuals return to work before they are statutorily permitted to do so, the auditors determined the separation periods for all 2,783 state agency and UW System annuitants identified in the study. The results of the analysis are as follows:

| <u>Separation Days</u> | <u>Rehired Annuitants</u> | <u>Percentage of Total</u> |
|------------------------|---------------------------|----------------------------|
| 30 or Less* | 14 | 0.5% |
| 31 through 60 | 577 | 20.7 |
| 61 through 90 | 468 | 16.9 |
| 91 through 120 | 376 | 13.5 |
| 121 through 150 | 287 | 10.3 |
| More than 150 | <u>1,061</u> | <u>38.1</u> |
| Total | 2,783 | 100.0% |

*The 14 individuals with separation periods of 30 days or less were employed in LTE positions, but the LAB did not have the necessary data to determine whether these positions were WRS-eligible.

9. This data does not clearly support the concern that some individuals return to work before they are statutorily permitted to do so. The 14 individuals rehired after less than the required 30 days may or may not meet the statutory standard. However, the vast majority of rehired annuitants do meet the standard, with nearly 79% having separation periods of 60 or more days. The LAB concludes that if the Legislature is concerned about this issue, "... it could lengthen the separation period from at least 30 days to 60, 90, or 120 days or more." The provision under the bill to increase the separation period to 75 days is consistent with this approach.

10. The LAB report also notes the difficulties faced by ETF in identifying and investigating termination situations that may be in violation of the required separation period. The Audit Bureau also makes a number of suggestions to improve ETF oversight in this area. According to ETF officials, the 75-day separation period may help in the administration of this these requirements and the Department is supportive of this change.

11. The bill would also provide that, if a participant receiving a retirement annuity, or a disability annuitant who has attained his or her normal retirement date, is employed in a position in WRS covered employment in which he or she is expected to work at least two-thirds of what is considered full-time employment by ETF, the participant's annuity must be terminated and no annuity payment may be payable until after the participant terminates covered employment. As noted above, the appearance of rehired annuitants receiving two streams of income from public employment simultaneously can be viewed negatively. The bill's provision to terminate annuities if the reemployment is at least two-thirds full time is aimed at addressing this situation.

12. The LAB did identify a small number of annuitants who worked for several years after retirement, worked more hours per week than they had worked before retirement, or were paid a higher hourly wage than they had been paid at retirement. These situations raise questions about the intent of these annuitants to truly terminate employment and retire. To address these situations, the Committee may want to approve the Governor's recommendations [Alternative 1], or modify these provisions as discussed below.

Department of Employee Trust Funds Proposal

13. The Department, in response to the AB 40 rehired annuitants provisions, recently conducted an assessment of how a retirement account is reestablished in cases where a rehired annuitant terminates the annuity and again becomes an active participant in the WRS. [The bill would require this to occur if the rehired annuitant is working at least two-thirds of a full-time position.] The current method to accommodate this situation, based on statutory requirements, is technically complex and attempts to give the participant credit for the new service by treating his or her account as if the participant had never previously retired.

14. The Department indicates the calculation of reestablished accounts currently requires manual work by experienced staff that includes many steps that can take multiple days to complete, as well as calculations from the plan's consulting actuary. The current method is problematic because the account that was calculated upon the original retirement is artificially converted into an estimated value intended to represent the individual's account as if he or she had not retired. This account is then used to calculate the annuity at re-retirement. In addition to being difficult to administrate, this process may occasionally produce inequitable results from an actuarial point of view.

15. Based on this analysis of the current method, ETF developed an alternative process that would be easier to administer and is actuarially sound. [ETF officials indicate the WRS actuary has reviewed, and supports, the proposal.] Under the proposed method, if an annuitant is rehired and elects, or is required, to discontinue his or her annuity and again become a WRS participant, the annuity payments to the individual would be suspended. The payments would instead be credited to the participant's employee accumulation account (a WRS account established for all active employees), along with employee and employer WRS contributions relating to creditable service in the rehired position. Upon re-retirement, an annuity payment would be provided that would include: (a) the original annuity amount (which would then be unsuspending); (b) an annuity amount based on the balance in the employee accumulation account from the suspended annuity payments; and (c) an annuity based on the WRS contributions, interest, service, and earnings relating to the

rehired position. These procedures would apply to both required annuity terminations, as provided under the bill, and to voluntary annuity terminations as permitted rehired annuitants under current law.

16. As part of this proposal, the Department would also request that the Secretary of ETF be authorized to promulgate emergency rules relating to these provisions as provided under current law and that the Secretary would not be required to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare, and would not be required to provide a finding of emergency for these promulgated rules.

17. The Committee could adopt the ETF proposal as a modification to the bill's provisions. The Governor's recommendations relating to a required break-in-service of 75 days and to require that the participant's annuity must be terminated, if he or she is expected to work at least two-thirds of what is considered full-time employment, would be unaffected. [Alternative 2]

Assembly Bill 170

18. Others have taken the position that the rehired annuitants issue should be addressed more extensively than is the case with the Governor's recommendation. This position is reflected in 2013 Assembly Bill 170. This bill includes the Governor's provision 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. However, AB 170 would provide that a participant's annuity must be terminated until re-retirement, if the person is appointed to a position in covered employment in which he or she is expected to work at least one-half time (rather than two-thirds time, as recommended by the Governor). In addition, the one-half time termination requirement would also apply to annuitants who enter into a contract to provide employee services, and to annuitants employed by a temporary help agency that enters into a contract to provide services to a WRS employer.

19. The treatment of rehired annuitants following termination of the annuity would also be significantly different than the Governor's provision and current law. Under AB 170, 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 would not be allowed to 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, would be paid to the participant as a lump-sum amount upon the reestablishment of the terminated annuity.

20. The bill would also authorize the Secretary of ETF to promulgate emergency rules relating to these provisions, but the Secretary would not be required to provide evidence that promulgating an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare, and would not be required to provide a finding of emergency for the promulgated rule. The provisions would first apply to a WRS participating employee who terminates covered employment under the WRS on the bill's effective date.

21. Finally, AB 170 would modify the application of a 2011 Wisconsin Act 32 provision that increased the number of hours that an employee must work in order to become a participating employee in the WRS, from one-third to two-thirds of what is considered full-time employment. This modification is already included in AB 40 [see LFB 2013-15 Budget Summary, page 149, #12].

22. If the Committee concludes that the approach specified in AB 170 is preferable, the provisions of that bill could be adopted instead of the Governor's provisions. [This action, however, would not include the AB 170 modification of the application of the 2011 Wisconsin Act 32 provision that increased the number of hours that an employee must work in order to become a participating employee in the WRS (which is a provision in AB 40).] [Alternative 3] Under this alternative, the ETF proposal for handling the reestablishment of retirement accounts for rehired annuitants would not be applicable because AB 170 would not allow WRS participation if an annuity is terminated, and would only permit lump-sum payments of WRS employee-required contributions that are paid by the participant during the period in which the annuity was terminated.

23. Under current law, a bill or amendment that creates or modifies the retirement of, or payment of pensions to, public officers or employees may not be acted on by the Legislature until it has been referred to the Joint Survey Committee on Retirement Systems and the Joint Survey Committee has submitted a written report on the bill or amendment. The report must pertain to the probable costs involved, the effect on the actuarial soundness of the retirement system, and the desirability of the proposal as a matter of public policy. If needed, an actuarial study of the proposal may be obtained. On February 20, 2013, the biennial budget bill (AB 40) was referred to the Joint Survey Committee on Retirement Systems to review two AB 40 provisions: (a) the rehired annuitant provisions discussed in this paper; and (b) provisions relating to WRS eligibility for employees hired on or before July 1, 2011 [LFB 2013-15 Budget Summary: Page 149, #12]. If either the ETF proposal (Alternative 2) or the annuitant provisions of AB 170 (Alternative 3) is adopted by the Joint Committee on Finance, the provision will be included in the review of AB 40 by the Joint Survey Committee on Retirement Systems.

24. In its report, LAB also notes that there are reasons the Legislature could choose to make no modifications to statutes that govern how annuitants are able to return to work for WRS-participating employers. First, the annuitants examined who returned to work for state agencies in recent years generally worked part-time and for less than one year. This indicates that most rehired annuitants did not intend to work extensively while receiving their annuities. Further, most annuitants were paid either the same hourly wage or a lower hourly wage than they had been paid at retirement. In addition, employers indicate that annuitants possess skills and experience that are valued, provide an important option to meet needs until permanent replacements are hired, and often help to train new staff. School districts also highly value rehired annuitants to serve as substitute teachers.

25. It can be argued that these benefits outweigh the relatively small number of questionable situations that may occur under current law provisions. Therefore, the Governor's provision could be deleted. [Alternative 4]

26. Finally, the Committee could delete the Governor's provisions, but adopt the ETF

proposal on the administration of rehired annuitants who choose to end their annuities during the period of re-employment. [Alternative 5]

ALTERNATIVES

1. Approve the Governor's recommendation to modify the required break-in-service provision for rehiring WRS annuitants from 30 to 75 days. Provide that, if a participant receiving a retirement annuity, or a disability annuitant who has attained his or her normal retirement date, is employed in a position in WRS covered employment in which he or she is expected to work at least two-thirds of what is considered full-time employment by the Department of Employee Trust Funds (ETF), the participant's annuity must be terminated and no annuity payment may be payable until after the participant terminates covered employment. The provisions would first apply to participating WRS employees who terminate covered employment on the effective date of the bill.

2. Modify the Governor's recommendation by providing that, if a participant receiving a retirement annuity, or a disability annuitant who has attained his or her normal retirement date, is employed in a position in WRS covered employment in which he or she is expected to work at least two-thirds of what is considered full-time employment by the Department of Employee Trust Funds, the annuity would be suspended, including any amount provided by additional contributions, and no annuity payment would be payable after the month in which the participant files with the Department a written election to be included within the provisions of the Wisconsin Retirement System as a participating employee.

Provide that, upon suspension of an annuity, the retirement account of the participant whose annuity is suspended would be established on the following basis: (a) the amount of the annuity payments that would have been paid under the suspended annuity, from the original annuity suspension date to the subsequent retirement date, would be credited to a memorandum account; and (b) upon becoming a participating employee, a subsequent retirement account would be established and would include the memorandum account amounts specified above (the suspended annuity payments), interest, and any contributions made, and creditable service earned, during the subsequent participating employment.

Provide that, upon the subsequent retirement and application for an annuity, the suspended annuity would be reinstated and the subsequent annuity of a former annuitant would be computed as an original annuity, based upon the participant's attained age on the effective date of the subsequent annuity, in an optional form as elected by the participant. The subsequent annuity would be initiated at the same time the suspended annuity is reinstated.

Repeal current law provisions relating to the termination of annuity payments, reestablishment of retirement accounts, and recomputed annuities for rehired annuitants that are inconsistent with these alternative provisions. Authorize the Secretary of ETF to promulgate emergency rules relating to these provisions as provided under current law. Provide that the Secretary would not be required to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare, and would not be required to provide a finding of emergency for these promulgated rules. Provide that these

provisions would first apply to annuitants who return to employment as participating employees in the Wisconsin Retirement System on the effective date of the bill.

3. Consistent with the provisions of 2013 Assembly Bill 170, modify the required break-in-service provision for rehiring WRS annuitants from 30 to 75 days. Provide that, if a participant receiving a retirement annuity, or a disability annuitant who has attained his or her normal retirement date, is employed in 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 ETF, as determined by rule, the participant's annuity is required to be terminated and no annuity payment may be payable until after the participant terminates covered employment.

Provide 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 and he or she is expected to work at least one-half of what is considered full-time employment by ETF, as determined by rule, the participant's annuity is required to be terminated and no annuity payment shall be payable until after the participant no longer provides employee services under the contract.

Provide 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, as defined in statute, which enters into a contract with a participating WRS 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 ETF, as determined by rule, the participant's annuity is required to be terminated and no annuity payment may be payable until after the participant no longer provides employee services for the participating employer.

Provide that a participant who terminates an annuity 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. Provide that all employee-required WRS contributions that are paid by a participant who terminates an annuity, 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.

Authorize the Secretary of ETF to promulgate emergency rules relating to these provisions, but provide that the Secretary would not be required to provide evidence that promulgating an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare, and would not be required to provide a finding of emergency for the promulgated rule. The provisions would first apply to a WRS participating employee who terminates covered employment under the WRS on the bill's effective date.

4. Delete provision.

5. Delete provision. Provide that, if a participant receiving a retirement annuity, or a disability annuitant who has attained his or her normal retirement date, is employed in a position in WRS covered employment and chooses to again become a WRS participating employee, the

annuity would be suspended, including any amount provided by additional contributions, and no annuity payment would be payable after the month in which the participant files with the Department a written election to be included within the provisions of the Wisconsin Retirement System as a participating employee.

Provide that, upon suspension of an annuity, the retirement account of the participant whose annuity is suspended would be established on the following basis: (a) the amount of the annuity payments that would have been paid under the suspended annuity, from the original annuity suspension date to the subsequent retirement date, would be credited to a memorandum account; and (b) upon becoming a participating employee, a subsequent retirement account would be established and would include the memorandum account amounts specified above (the suspended annuity payments), interest, and any contributions made, and creditable service earned, during the subsequent participating employment.

Provide that, upon the subsequent retirement and application for an annuity, the suspended annuity would be reinstated and the subsequent annuity of a former annuitant would be computed as an original annuity, based upon the participant's attained age on the effective date of the subsequent annuity, in an optional form as elected by the participant. The subsequent annuity would be initiated at the same time the suspended annuity is reinstated.

Repeal current law provisions relating to the termination of annuity payments, reestablishment of retirement accounts, and recomputed annuities for rehired annuitants that are inconsistent with these alternative provisions. Authorize the Secretary of ETF to promulgate emergency rules relating to these provisions as provided under current law. Provide that the Secretary would not be required to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare, and would not be required to provide a finding of emergency for these promulgated rules. Provide that these provisions would first apply to annuitants who return to employment as participating employees in the Wisconsin Retirement System on the effective date of the bill.

Prepared by: Art Zimmerman

EMPLOYEE TRUST FUNDS

LFB Summary Items for Which No Issue Paper Has Been Prepared

| <u>Item #</u> | <u>Title</u> |
|---------------|---|
| 1 | Standard Budget Adjustments |
| 4 | Counseling Services |
| 5 | Statewide Wellness Initiative |
| 8 | Modification of Group Insurance Board Authority |
| 9 | State Employee Health Insurance Premiums |
| 10 | State Craft Employee Health Insurance Premium Contributions |
| 12 | Wisconsin Retirement System Eligibility for New Hires |
| 13 | State Agency Data Sharing with the Department of Revenue |
| 14 | Internal Revenue Code Update of Retirement and Employee Benefit Law |

EMPLOYEE TRUST FUNDS

Substitute Motion for Rehired Annuitants
[LFB Paper #259]

07

Motion:

Move to modify the two-thirds threshold provision under the Governor's recommendation to 1,392 hours annually. Adopt the ETF administrative proposal as described in Alternative 2 of Paper #259. In addition, provide 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 1,392 hours annually, 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.

Note:

The motion would modify the bill's two thirds provision to 1,392 hours annually, and would also apply the 1,392 hours termination requirement to participants contracting with a WRS employer.





State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0500/2
RAC:jld:ph

2013 ASSEMBLY BILL 170

April 25, 2013 - Introduced by Representatives STROEBEL, NASS, STRACHOTA, KUGLITSCH, SPIROS, SANFELIPPO, BERNIER, KNODL, MURPHY, CRAIG, THIESFELDT, LEMAHIEU, KLENKE, ENDSLEY, SCHRAA, KNUDSON, KAPENGA and RICHARDS, cosponsored by Senators DARLING, GROTHMAN, GUDEX and VUKMIR. Referred to Committee on Ways and Means.

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 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.

ASSEMBLY BILL 170***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.

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 contracts with a participating employer

ASSEMBLY BILL 170

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.

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

ASSEMBLY BILL 170**SECTION 2**

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

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

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

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

14 40.26 (1m) (a) If a participant receiving a retirement annuity, or a disability
15 annuitant who has attained his or her normal retirement date, is employed in a
16 position in covered employment in which he or she is expected to work at least
17 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 terminates covered
20 employment.

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

1,392 hours per year

suspended

ASSEMBLY BILL 170

1 payment shall be payable until after the participant no longer provides employee
2 services under the contract.

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

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

12 40.26 (2) (intro.) Upon termination of an annuity under sub. (1) or (1m), the
13 retirement account of the participant whose annuity is so terminated shall be
14 reestablished on the following basis:

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

16 40.26 (2) (c) Except as provided in pars. (a) ~~and~~, (b), and (d), the retirement
17 account shall be reestablished as if the terminated annuity had never been effective,
18 including crediting of interest and of any contributions made and creditable service
19 earned during the period the annuity was in force.

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

21 40.26 (2) (d) 1. Notwithstanding s. 40.02 (17) and (33), a participant who
22 terminates an annuity under sub. (1m) may not receive any creditable service during
23 the period in which the annuity was terminated, nor may any earnings received
24 during the period in which the annuity was terminated be used for purposes of
25 recalculating the participant's final average earnings.

ASSEMBLY BILL 170**SECTION 7**

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

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

7 40.26 (5) (intro.) If a participant applies for an annuity or lump sum payment
8 during the period in which less than ~~30~~ 75 days have elapsed between the
9 termination of employment with a participating employer and becoming a
10 participating employee with any participating employer, all of the following shall
11 apply:

12 **SECTION 9. Nonstatutory provisions.**

13 (1) PROMULGATION OF EMERGENCY RULES FOR REENTRY INTO SERVICE. The secretary
14 of employee trust funds may use the procedure under section 227.24 of the statutes
15 to promulgate rules under section 40.26 (1m) of the statutes, as created by this act,
16 but not to exceed the period authorized under section 227.24 (1) (c) of the statutes,
17 subject to extension under section 227.24 (2) of the statutes. Notwithstanding
18 section 227.24 (1) (a), (2) (b), and (3) of the statutes, the secretary is not required to
19 provide evidence that promulgating a rule under this subsection as an emergency
20 rule is necessary for the preservation of the public peace, health, safety, or welfare
21 and is not required to provide a finding of emergency for a rule promulgated under
22 this subsection.

23 **SECTION 10. Initial applicability.**

24 (1) The treatment of section 40.26 (1), (1m), (2) (intro.), (c), and (d), and (5)
25 (intro.) of the statutes first applies to participating employees under the Wisconsin

ASSEMBLY BILL 170

1 Retirement System who terminate covered employment under the Wisconsin

2 Retirement System on the effective date of this subsection.

3 (END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2253/2
RAC:eev:rs

2013 BILL

1 **AN ACT to repeal** 40.26 (2) (a), 40.26 (4) and 40.73 (1) (e); **to amend** 40.04 (4) (a)
2 1., 40.04 (4) (a) 3., 40.04 (4) (c), 40.04 (5) (d), 40.04 (6), 40.08 (1m) (f) 2., 40.22
3 (2) (L), 40.23 (1) (am) 3., 40.23 (2) (intro.), 40.26 (1), 40.26 (2) (intro.), 40.26 (2)
4 (b) and 40.26 (2) (c); and **to repeal and recreate** 40.26 (3) of the statutes;
5 **relating to:** reestablished accounts under the Wisconsin retirement system
6 and providing an exemption from emergency rule procedures.

Analysis by the Legislative Reference Bureau

Under current law, when an annuitant in the Wisconsin Retirement System (WRS) elects to return to covered employment under the WRS as a participating employee, the individual's annuity is terminated and the original annuity account is reestablished as if the individual had never retired in the first place. When the rehired annuitant subsequently terminates covered employment at a later date, a new retirement annuity is calculated with an offset for any annuity payments the employee may have previously received when he or she was initially an annuitant.

This bill establishes a new process for calculating the amounts a rehired annuitant may receive in a subsequent annuity. Under the bill, when an annuitant returns to covered employment under the WRS as a participating employee, the individual's original annuity is suspended, rather than terminated, and a new annuity account is established for the second period of employment. When the rehired annuitant subsequently terminates any period of reemployment and applies

BILL

for a retirement annuity, the original annuity is reactivated and a new annuity is calculated under the same guidelines as the original annuity for the second period of employment. This annuity is credited with accumulated amounts from a memorandum account that provides for an actuarially sound, equitable benefit amount.

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

2 40.04 (4) (a) 1. Credited with all employee contributions made under s. 40.05
3 (1), all employer additional contributions made under s. 40.05 (2) (g) 1., all additional
4 contributions under s. 40.05 (2) (g) 2. and all contribution accumulations
5 reestablished under s. ~~40.26~~ or 40.63 (10).

6 **SECTION 2.** 40.04 (4) (a) 3. of the statutes is amended to read:

7 40.04 (4) (a) 3. Debited by the amount available in any participant's account
8 for funding a benefit elected by the participant or the participant's beneficiary. When
9 the amount available has been applied to funding the benefit, no further right to the
10 amounts, or to corresponding creditable service and employer contribution
11 accumulations, shall exist other than the right to the annuity or benefit so granted
12 except as provided in s. ~~40.26~~ or 40.63 (10).

13 **SECTION 3.** 40.04 (4) (c) of the statutes is amended to read:

14 40.04 (4) (c) Whenever a participant's account is reestablished under s. ~~40.26~~
15 ~~(2)~~ or 40.63 (10), in lieu of interest credits as provided in par. (a), any balances
16 remaining in the account at the end of the calendar year in which reestablished shall
17 be credited with interest at one-twelfth the assumed benefit rate for the year for each

BILL

1 full month between the date the account was reestablished and the end of the
2 calendar year.

3 **SECTION 4.** 40.04 (5) (d) of the statutes is amended to read:

4 40.04 (5) (d) Credited as of the date of termination of any annuity under s. 40.26
5 or 40.63 (9) (c) with the excess of the then present value of the terminated annuity
6 over the aggregate amount of credits reestablished in the accounts of the participant.

7 **SECTION 5.** 40.04 (6) of the statutes is amended to read:

8 40.04 (6) An annuity reserve shall be maintained within the fund to which shall
9 be transferred amounts equal to the present value as of the date of commencement
10 of annuities granted under this chapter. The reserve shall be increased by
11 investment earnings at the effective rate and shall be reduced by the aggregate
12 amount of annuity payments and death benefits paid with respect to the annuities
13 and by the present value at the date of termination of annuities terminated in
14 accordance with s. 40.08 (3), ~~40.26~~ or 40.63 (9) (c).

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

16 40.08 (1m) (f) 2. Subject to subd. 3., if the participant is an annuitant on the
17 decree date, the annuity shall be recomputed using the total value of the participant's
18 account determined under par. (b) reduced by the total of the alternate payee share
19 transferred under par. (e) 1., in accordance with the actuarial tables in effect and
20 using the participant's age on the decree date. The decree date shall be the effective
21 date of recomputation. If the optional annuity form before division of the
22 participant's account under par. (b) was not a joint and survivor annuity with the
23 alternate payee as the named survivor, the same annuity option with no change in
24 the remaining guarantee period, if any, shall be continued upon recomputation to the
25 participant. The present value of the alternate payee's share of the annuity after

BILL**SECTION 6**

1 division shall be paid to the alternate payee as a straight life annuity based on the
2 age of the alternate payee on the decree date. The alternate payee's annuity shall
3 have the same remaining guarantee period, if any, as the participant's annuity. If
4 the optional annuity form before division of the participant's account under par. (b)
5 was a joint and survivor annuity with the alternate payee as the named survivor, the
6 present value of the annuity after division shall be paid to both the participant and
7 the alternate payee as a straight life annuity based upon their respective ages on the
8 decree date. ~~If the participant's account is reestablished under s. 40.26 (2) after the~~
9 ~~decree date, the memorandum account created under s. 40.26 (2) (b) shall be adjusted~~
10 ~~by the total of the alternate payee share computed under this subdivision. If the~~
11 ~~participant's account is reestablished under s. 40.63 (10) after the decree date, the~~
12 ~~amounts and creditable service reestablished shall be reduced by an amount equal~~
13 ~~to the percentage of the alternate payee share computed under this subdivision.~~

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

15 40.22 (2) (L) The employee is employed by a participating employer after the
16 person becomes an annuitant, unless the service is after the annuity is ~~terminated~~
17 suspended under s. 40.26.

18 **SECTION 8.** 40.23 (1) (am) 3. of the statutes is amended to read:

19 40.23 (1) (am) 3. No participant who elects under subd. 2. may have his or her
20 annuity ~~terminated~~ suspended under s. 40.26 (1) because of earnings received for
21 any part-time services as an elected official.

22 **SECTION 9.** 40.23 (2) (intro.) of the statutes is amended to read:

23 40.23 (2) (intro.) Except as provided in ~~ss. s. 40.19 (2) and 40.26~~, this subsection
24 applies only to participants who are not participating employees after March 9, 1984.
25 The retirement annuity in the normal form shall be an annuity payable for the life

BILL

1 of the annuitant with a guarantee of 60 monthly payments. Except as provided in
2 sub. (3) and ~~s. 40.26~~, the initial monthly amount of the normal form annuity shall be
3 the amount which, when added to the OASDHI benefit, equals 85% of the
4 participant's final average earnings plus the amount which can be provided under
5 pars. (a) and (c) and adjusted under pars. (d) and (e) or, if less, shall be in the monthly
6 amount equal to the sum of the amounts determined under pars. (a), (b) and (c) as
7 modified by pars. (d) and (e) and in accordance with the actuarial tables in effect on
8 the annuity effective date.

9 **SECTION 10.** 40.26 (1) of the statutes is amended to read:

10 40.26 (1) Except as provided in ss. 40.05 (2) (g) 2. and 40.23 (1) (am), if a
11 participant receiving a retirement annuity, or a disability annuitant who has
12 attained his or her normal retirement date, receives earnings that are subject to s.
13 40.05 (1) or that would be subject to s. 40.05 (1) except for the exclusion specified in
14 s. 40.22 (2) (L), the annuity shall be ~~terminated~~ suspended, including any amount
15 provided by additional contributions, and no annuity payment shall be payable after
16 the month in which the participant files with the department a written election to
17 be included within the provisions of the Wisconsin retirement system as a
18 participating employee.

19 **SECTION 11.** 40.26 (2) (intro.) of the statutes is amended to read:

20 40.26 (2) (intro.) Upon ~~termination~~ suspension of an annuity under sub. (1), the
21 retirement account of the participant whose annuity is so ~~terminated~~ suspended
22 shall be ~~reestablished~~ established on the following basis:

23 **SECTION 12.** 40.26 (2) (a) of the statutes is repealed.

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

BILL**SECTION 13**

1 40.26 (2) (b) Crediting of amounts under suspended annuity. The amount of
2 the annuity payments, ~~excluding any portion originally provided by additional~~
3 ~~contributions~~, which would have been paid under the ~~terminated~~ suspended annuity,
4 if the ~~annuity had been a straight life annuity, prior to the participant's normal~~
5 ~~retirement date or prior to~~ from the original annuity termination suspension date,
6 ~~whichever would first occur to the subsequent retirement date~~, shall be credited to
7 a memorandum account which is subject to ~~s. ss.~~ ss. 40.04 (4) (a) 2., 2g. and 2m. and (c)
8 and 40.08 (1m). ~~If the annuity was recomputed under s. 40.08 (1m) because of a~~
9 ~~qualified domestic relations order, the memorandum account established under this~~
10 ~~paragraph shall be adjusted as provided under s. 40.08 (1m) (f) 2.~~

11 **SECTION 14.** 40.26 (2) (c) of the statutes is amended to read:

12 40.26 (2) (c) ~~Except as provided in pars. (a) and (b), the~~ Establishment of
13 subsequent retirement account. Upon becoming a participating employee, a
14 subsequent retirement account shall be ~~reestablished as if the terminated annuity~~
15 ~~had never been effective~~ established, including any amounts in a memorandum
16 account under par. (b), crediting of interest, and of any contributions made and
17 creditable service earned during the period the annuity was in force subsequent
18 participating employment.

19 **SECTION 15.** 40.26 (3) of the statutes is repealed and recreated to read:

20 40.26 (3) Upon subsequent retirement and application for an annuity, the
21 suspended annuity shall be reinstated and the subsequent annuity of a former
22 annuitant shall be computed as an original annuity, based upon the participant's
23 attained age on the effective date of the subsequent annuity, in an optional form as
24 elected by the participant under s. 40.24. The subsequent annuity shall be initiated
25 at the same time the suspended annuity is reinstated.

BILL

1 **SECTION 16.** 40.26 (4) of the statutes is repealed.

2 **SECTION 17.** 40.73 (1) (e) of the statutes is repealed.

3 **SECTION 18. Nonstatutory provisions.**

4 (1) PROMULGATION OF EMERGENCY RULES FOR REESTABLISHED ACCOUNTS. The
5 secretary of employee trust funds may use the procedure under section 227.24 of the
6 statutes to promulgate rules under section 40.26 of the statutes, as affected by this
7 act, but not to exceed the period authorized under section 227.24 (1) (c) of the
8 statutes, subject to extension under section 227.24 (2) of the statutes.
9 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the secretary
10 is not required to provide evidence that promulgating a rule under this subsection
11 as an emergency rule is necessary for the preservation of the public peace, health,
12 safety, or welfare and is not required to provide a finding of emergency for a rule
13 promulgated under this subsection.

14 **SECTION 19. Initial applicability.**

15 (1) This act first applies to annuitants under the Wisconsin retirement system
16 who return to covered employment as participating employees in the Wisconsin
17 retirement system on the effective date of this subsection.

18

(END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBb0151/1

RAC:.....

RMR

Leev

LFB:.....Zimmerman – WRS Rehired Annuitants

**FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 40**

1 At the locations indicated, amend the bill as follows:

2 1. Page 452, line 3: after that line insert:

3 “SECTION 716b. 40.04 (4) (a) 1. of the statutes is amended to read:

4 40.04 (4) (a) 1. Credited with all employee contributions made under s. 40.05
5 (1), all employer additional contributions made under s. 40.05 (2) (g) 1., all additional
6 contributions under s. 40.05 (2) (g) 2. and all contribution accumulations
7 reestablished under s. ~~40.26~~ or 40.63 (10).

8 History: 1981 c. 96, 386; 1983 a. 27, 141, 247, 504; 1987 a. 27, 83; 1989 a. 13, 14, 31, 355; 1991 a. 39, 141, 152, 269; 1995 a. 88, 89, 225, 240; 1997 a. 26, 69; 1999 a. 11; 2001 a. 16; 2003 a. 33; 2005 a. 153.

8 SECTION 716d. 40.04 (4) (a) 3. of the statutes is amended to read:

9 40.04 (4) (a) 3. Debited by the amount available in any participant’s account
10 for funding a benefit elected by the participant or the participant’s beneficiary. When
11 the amount available has been applied to funding the benefit, no further right to the

1 amounts, or to corresponding creditable service and employer contribution
2 accumulations, shall exist other than the right to the annuity or benefit so granted
3 except as provided in s. ~~40.26~~ or 40.63 (10).

History: 1981 c. 96, 386; 1983 a. 27, 141, 247, 504; 1987 a. 27, 83; 1989 a. 13, 14, 31, 355; 1991 a. 39, 141, 152, 269; 1995 a. 88, 89, 225, 240; 1997 a. 26, 69; 1999 a. 11; 2001 a. 16; 2003 a. 33; 2005 a. 153.

4 **SECTION 716f.** 40.04 (4) (c) of the statutes is amended to read:

5 40.04 (4) (c) Whenever a participant's account is reestablished under s. ~~40.26~~
6 ~~(2)~~ or 40.63 (10), in lieu of interest credits as provided in par. (a), any balances
7 remaining in the account at the end of the calendar year in which reestablished shall
8 be credited with interest at one-twelfth the assumed benefit rate for the year for each
9 full month between the date the account was reestablished and the end of the
10 calendar year.

History: 1981 c. 96, 386; 1983 a. 27, 141, 247, 504; 1987 a. 27, 83; 1989 a. 13, 14, 31, 355; 1991 a. 39, 141, 152, 269; 1995 a. 88, 89, 225, 240; 1997 a. 26, 69; 1999 a. 11; 2001 a. 16; 2003 a. 33; 2005 a. 153.

11 **SECTION 716h.** 40.04 (5) (d) of the statutes is amended to read:

12 40.04 (5) (d) Credited as of the date of termination of any annuity under s. ~~40.26~~
13 ~~or~~ 40.63 (9) (c) with the excess of the then present value of the terminated annuity
14 over the aggregate amount of credits reestablished in the accounts of the participant.

History: 1981 c. 96, 386; 1983 a. 27, 141, 247, 504; 1987 a. 27, 83; 1989 a. 13, 14, 31, 355; 1991 a. 39, 141, 152, 269; 1995 a. 88, 89, 225, 240; 1997 a. 26, 69; 1999 a. 11; 2001 a. 16; 2003 a. 33; 2005 a. 153.

15 **SECTION 716j.** 40.04 (6) of the statutes is amended to read:

16 40.04 (6) An annuity reserve shall be maintained within the fund to which shall
17 be transferred amounts equal to the present value as of the date of commencement
18 of annuities granted under this chapter. The reserve shall be increased by
19 investment earnings at the effective rate and shall be reduced by the aggregate
20 amount of annuity payments and death benefits paid with respect to the annuities
21 and by the present value at the date of termination of annuities terminated in
22 accordance with s. 40.08 (3), ~~40.26~~ or 40.63 (9) (c)."/>.

History: 1981 c. 96, 386; 1983 a. 27, 141, 247, 504; 1987 a. 27, 83; 1989 a. 13, 14, 31, 355; 1991 a. 39, 141, 152, 269; 1995 a. 88, 89, 225, 240; 1997 a. 26, 69; 1999 a. 11; 2001 a. 16; 2003 a. 33; 2005 a. 153.

1 **2.** Page 456, line 25: after that line insert:

2 “**SECTION 733m.** 40.08 (1m) (f) 2. of the statutes is amended to read:

3 40.08 (1m) (f) 2. Subject to subd. 3., if the participant is an annuitant on the
4 decree date, the annuity shall be recomputed using the total value of the participant’s
5 account determined under par. (b) reduced by the total of the alternate payee share
6 transferred under par. (e) 1., in accordance with the actuarial tables in effect and
7 using the participant’s age on the decree date. The decree date shall be the effective
8 date of recomputation. If the optional annuity form before division of the
9 participant’s account under par. (b) was not a joint and survivor annuity with the
10 alternate payee as the named survivor, the same annuity option with no change in
11 the remaining guarantee period, if any, shall be continued upon recomputation to the
12 participant. The present value of the alternate payee’s share of the annuity after
13 division shall be paid to the alternate payee as a straight life annuity based on the
14 age of the alternate payee on the decree date. The alternate payee’s annuity shall
15 have the same remaining guarantee period, if any, as the participant’s annuity. If
16 the optional annuity form before division of the participant’s account under par. (b)
17 was a joint and survivor annuity with the alternate payee as the named survivor, the
18 present value of the annuity after division shall be paid to both the participant and
19 the alternate payee as a straight life annuity based upon their respective ages on the
20 decree date. ~~If the participant’s account is reestablished under s. 40.26 (2) after the~~
21 ~~decree date, the memorandum account created under s. 40.26 (2) (b) shall be adjusted~~
22 ~~by the total of the alternate payee share computed under this subdivision. If the~~
23 ~~participant’s account is reestablished under s. 40.63 (10) after the decree date, the~~

1 amounts and creditable service reestablished shall be reduced by an amount equal
2 to the percentage of the alternate payee share computed under this subdivision.”. ✓

History: 1981 c. 96, 391; 1983 a. 290; 1985 a. 182 s. 57; 1987 a. 309; 1989 a. 31, 218; 1991 a. 141, 152; 1995 a. 302, 414; 1997 a. 35, 110, 125, 191, 237; 1999 a. 162; 2001 a. 61; 2003 a. 320; 2005 a. 153, 387; 2005 a. 443 s. 265; 2007 a. 131 ss. 12 to 16, 26; 2007 a. 226; 2009 a. 28, 180.

3 **3.** Page 458, line 14: after that line insert:

4 “**SECTION 737m.** 40.22 (2) (L) of the statutes is amended to read:

5 40.22 (2) (L) The employee is employed by a participating employer after the
6 person becomes an annuitant, unless the service is after the annuity is ~~terminated~~
7 suspended under s. 40.26.”. ✓

History: 1981 c. 96, 386; 1989 a. 13; 1991 a. 152; 1993 a. 399; 1995 a. 216; 1997 a. 69, 110; 1999 a. 150 s. 672; 2001 a. 104; 2009 a. 15, 28; 2011 a. 32.

8 **4.** Page 458, line 22: after that line insert:

9 “**SECTION 738d.** 40.23 (1) (am) 3. of the statutes is amended to read:

10 40.23 (1) (am) 3. No participant who elects under subd. 2. may have his or her
11 annuity ~~terminated~~ suspended under s. 40.26 (1) because of earnings received for
12 any part-time services as an elected official.

History: 1981 c. 96, 386; 1983 a. 141, 267, 391; 1987 a. 309, 372; 1987 a. 403 s. 256; 1989 a. 13; 1989 a. 56 s. 259; 1991 a. 152; 1995 a. 225, 302, 414; 1997 a. 35, 69; 1999 a. 11; 2003 a. 33; 2005 a. 153, 154; 2007 a. 96; 2009 a. 28; 2011 a. 10, 32.

13 **SECTION 738p.** 40.23 (2) (intro.) of the statutes is amended to read:

14 40.23 (2) (intro.) Except as provided in ~~ss. s. 40.19 (2) and 40.26~~, this subsection
15 applies only to participants who are not participating employees after March 9, 1984.
16 The retirement annuity in the normal form shall be an annuity payable for the life
17 of the annuitant with a guarantee of 60 monthly payments. Except as provided in
18 sub. (3) ~~and s. 40.26~~, the initial monthly amount of the normal form annuity shall be
19 the amount which, when added to the OASDHI benefit, equals 85% of the
20 participant’s final average earnings plus the amount which can be provided under
21 pars. (a) and (c) and adjusted under pars. (d) and (e) or, if less, shall be in the monthly
22 amount equal to the sum of the amounts determined under pars. (a), (b) and (c) as

1 modified by pars. (d) and (e) and in accordance with the actuarial tables in effect on
2 the annuity effective date.” ✓

History: 1981 c. 96, 386; 1983 a. 141, 267, 391; 1987 a. 309, 372; 1987 a. 403 s. 256; 1989 a. 13; 1989 a. 56 s. 259; 1991 a. 152; 1995 a. 225, 302, 414; 1997 a. 35, 69; 1999 a. 11; 2003 a. 33; 2005 a. 153, 154; 2007 a. 96; 2009 a. 28; 2011 a. 10, 32.

3 **5.** Page 461, line 1: delete lines 1 to 9 and substitute: ✓

4 “SECTION ~~746m.~~ 40.26 (1) of the statutes is amended to read:

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

History: 1981 c. 96; 1983 a. 255, 267, 290, 538; 1987 a. 138, 372; 1989 a. 13, 218; 1991 a. 141, 152, 315; 1993 a. 213; 1995 a. 302; 1999 a. 11.

14 **6.** Page 461, line 18: delete lines 18 to 21 and substitute: ✓

15 “SECTION ~~748b.~~ 40.26 (2) (intro.) of the statutes is amended to read:

16 40.26 (2) (intro.) Upon ~~termination~~ suspension of an annuity under sub. (1) or
17 (1m), the retirement account of the participant whose annuity is so ~~terminated~~
18 suspended shall be ~~reestablished~~ established on the following basis:

History: 1981 c. 96; 1983 a. 255, 267, 290, 538; 1987 a. 138, 372; 1989 a. 13, 218; 1991 a. 141, 152, 315; 1993 a. 213; 1995 a. 302; 1999 a. 11.

19 **SECTION 748d.** 40.26 (2) (a) of the statutes is repealed.

20 **SECTION 748f.** 40.26 (2) (b) of the statutes is amended to read:

21 40.26 (2) (b) Crediting of amounts under suspended annuity. The amount of
22 the annuity payments, ~~excluding any portion originally provided by additional~~
23 ~~contributions~~, which would have been paid under the ~~terminated~~ suspended annuity,

Move
to
p. 7
where
shown

Move to p. 7

strike

1 if the annuity had been a straight life annuity, prior to the participant's normal
 2 retirement date or prior to from the original annuity termination suspension date,
 3 ~~whichever would first occur to the subsequent retirement date~~, shall be credited to
 4 a memorandum account which is subject to s. ss. 40.04 (4) (a) 2., 2g. and 2m. and (c)
 5 and 40.08 (1m). If the annuity was recomputed under s. 40.08 (1m) because of a
 6 ~~qualified domestic relations order, the memorandum account established under this~~
 7 ~~paragraph shall be adjusted as provided under s. 40.08 (1m) (f) 2.~~

History: 1981 c. 96; 1983 a. 255, 267, 290, 538; 1987 a. 138, 372; 1989 a. 13, 218; 1991 a. 141, 152, 315; 1993 a. 213; 1995 a. 302; 1999 a. 11.

SECTION 748h. 40.26 (2) (c) of the statutes is amended to read:

9 40.26 (2) (c) ~~Except as provided in pars. (a) and (b), the~~ *Establishment of*
 10 *subsequent retirement account.* Upon becoming a participating employee, a
 11 subsequent retirement account shall be reestablished as if the terminated annuity
 12 ~~had never been effective~~ established, including any amounts in a memorandum
 13 account under par. (b), crediting of interest, and ~~of~~ any contributions made and
 14 creditable service earned during the period ~~the annuity was in force~~ subsequent
 15 participating employment.

History: 1981 c. 96; 1983 a. 255, 267, 290, 538; 1987 a. 138, 372; 1989 a. 13, 218; 1991 a. 141, 152, 315; 1993 a. 213; 1995 a. 302; 1999 a. 11.

SECTION 748j. 40.26 (3) of the statutes is repealed and recreated to read:

17 40.26 (3) Upon subsequent retirement and application for an annuity, the
 18 suspended annuity shall be reinstated and the subsequent annuity of a former
 19 annuitant shall be computed as an original annuity, based upon the participant's
 20 attained age on the effective date of the subsequent annuity, in an optional form as
 21 elected by the participant under s. 40.24. The subsequent annuity shall be initiated
 22 at the same time the suspended annuity is reinstated.

SECTION 748L. 40.26 (4) of the statutes is repealed." ✓

7. Page 461, line 11: after "(1m)" insert "(a)". ✓

1 **8.** Page 461, line 14: delete the material beginning with that line and ending
2 with “(2r)” on line 15 and substitute “1,392 hours per year”.

3 **9.** Page 461, line 15: delete “terminated” and substitute “suspended”.

4 **10.** Page 461, line 17: after that line insert:

5 “(b) If a participant receiving a retirement annuity, or a disability annuitant
6 who has attained his or her normal retirement date, enters into a contract to provide
7 employee services with a participating employer and he or she is expected to work
8 at least 1,392 hours per year, the participant’s annuity shall be suspended and no
9 annuity payment shall be payable until after the participant no longer provides
10 employee services under the contract.”.

Insert here
from page 5 and 6
(item # 6)

11 **11.** Page 464, line 21: after that line insert:

12 “SECTION 754m. 40.73 (1) (e) of the statutes is repealed.”.

13 **12.** Page 1019, line 4: after that line insert:

3L

14 “(p) PROMULGATION OF EMERGENCY RULES FOR REESTABLISHED ACCOUNTS. The
15 secretary of employee trust funds may use the procedure under section 227.24 of the
16 statutes to promulgate rules under section 40.26 of the statutes, as affected by this
17 act, but not to exceed the period authorized under section 227.24 (1) (c) of the
18 statutes, subject to extension under section 227.24 (2) of the statutes.
19 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the secretary
20 is not required to provide evidence that promulgating a rule under this subsection
21 as an emergency rule is necessary for the preservation of the public peace, health,
22 safety, or welfare and is not required to provide a finding of emergency for a rule
23 promulgated under this subsection.”.

24 **13.** Page 1058, line 22: after that line insert:

1

“(?) REESTABLISHED ACCOUNTS UNDER THE WISCONSIN RETIREMENT SYSTEM. The

2

treatment of sections 40.04 (4) (a) 1 and 3. and (c), (5) (d), and (6), 40.08 (1m) (f) 2.,

3 40.22 (2) (L), 40.23 (1) (am) 3. and (2) (intro.), 40.26 (1) (as it relates to the suspension

4 of accounts), (2) (intro.) (as it relates to the suspension of accounts), (a), (b), and (c),

5 (3), and (4), and 40.73 (1) (e) of the statutes first applies to annuitants under the

6

Wisconsin retirement system who return to covered employment as participating

7

employees in the Wisconsin retirement system on the effective date of this

8 subsection.”

9

(END)

EMPLOYEE TRUST FUNDS

Modification to Rehired Annuitant Motion #352
[LFB Paper #259]

04

Motion:

Move to modify Motion #352 to specify, for employees defined under s. 40.02(55) of the statutes, that the two-thirds threshold provision applicable to employees expected to work full-time during a school term, or university employees expected to work full-time during the Fall and Spring academic semesters, be set at 1,044 hours annually.

Require the Department of Employee Trust Funds to promulgate rules to appropriately reflect the two-thirds threshold for any employee expected to work full-time for periods in addition to the school term or, for universities, the Fall and Spring academic semesters. Authorize the Secretary of ETF to promulgate emergency rules relating to these provisions as provided under current law. Provide that the Secretary would not be required to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare, and would not be required to provide a finding of emergency for these promulgated rules.

Note:

Motion #352, adopted by the Committee on May 21, 2013, modified the two-thirds threshold provision under the Governor's recommendation to 1,392 hours annually. Under Motion #352, the 1,392 hour threshold would apply to all rehired annuitants who retire on or after the effective date of the bill.

This motion would apply to school district teachers and administrative staff, and university instructional faculty, academic staff, and administrators. The motion would establish the two-thirds threshold for such rehired employees at 1,044 hours annually during an approximately nine-month school year. The 1,392 hour threshold would still apply to non-teacher annuitants. Because certain teachers and administrative personnel work additional hours outside the school term, or the Fall and Spring academic semesters at the university, ETF would be authorized to develop rules to appropriately reflect the two-thirds threshold for such personnel.

For public and charter schools a school term is defined in statute as meaning the time commencing with the first school day and ending with the last school day that the schools of a school district are in operation for attendance of pupils in a school year, other than for the operation of summer classes.

The motion reflects the definition of teacher under s. 40.02(55) of the statutes. The definition includes any employee engaged in the exercise of any educational function for compensation in the public schools, charter schools, or the university in instructing or controlling pupils or students, or in administering, directing, organizing or supervising any educational activity. The definition also includes any person employed as a librarian by any school board in a library in any school under its jurisdiction, including a charter school, whose qualifications as a librarian are at least equal to the minimum librarian qualifications prescribed by the state superintendent of public instruction. Finally, the definition also includes any person employed as a full-time social center, community house, adult education or recreation director, instructor or other employee employed by the board of school directors of the City of Milwaukee, who possesses the qualifications required for employment as a teacher.