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CHAPTER 423

AN ACT to create 42.20 (15m) and 42.243 of the statutes, relating to variable annuities and fixed annuities under the combined group of the state teachers retirement system, and granting rule-making authority.

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

SECTION 1. 42.20 (15m) of the statutes is created to read:

42.20 (15m) "Variable annuity" means any annuity provided by the accumulations in the variable annuity division established pursuant to s. 42.243; and constitutes a contract involving life contingencies providing for the dollar amount of benefits or other contractual payments or values under said section to vary so as to reflect differences which may arise be-

tween the total value of the annuity reserve for variable annuities and the reserve that would be required if such annuities were fixed annuities.

SECTION 2. 42.243 of the statutes is created to read:

42.243 VARIABLE ANNUITIES. (1) (a) *Purpose.* The purpose of this section is to establish a well balanced, broadly diversified investment program so as to provide retirement benefits which will fluctuate as the value and earnings of such investments vary, in relation to changes in the general economy. It is anticipated that greater utilization of equity investments will result in the accumulation of larger deposit reserves during the working years of the member and tend to preserve the purchasing power of the deposits made and the benefits provided, and should provide better protection in periods of inflation.

(b) *Fixed and variable annuity divisions.* There are created within the combined group of the state teachers retirement system 2 divisions known as the variable annuity division and the fixed annuity division.

(c) The term "combined group," as used in this section, means the combined group established under s. 42.241, created by chapter 12, laws of 1957.

(2) DEPOSITS. (a) Each member of the combined group may elect, by written notice filed with the board upon a form furnished by said board, to have 50 per cent of his required deposits and state deposits paid into the retirement deposit fund of the variable annuity division and reserved for the purchase of a variable annuity.

(b) Said election may be made at any time by the member, and shall become effective as to deposits based on earnings after the following June 30 unless the board adopts rules for more frequent elections.

(c) Said election shall constitute a complete waiver and forfeiture of any right of the member to any benefit under s. 42.242 (3) or s. 42.49 (4), (6) and (7).

(d) Said election, once made, is irrevocable.

(e) In the absence of such election the member shall participate in the fixed annuity division only, and his entire required deposit shall be paid into the retirement deposit fund of the fixed annuity division.

(f) Any member of the combined group who has elected under par. (a) to participate in the variable annuity division may also direct, upon a form furnished by the board, that any or all additional deposits subsequently made by or on behalf of said teacher be paid into the retirement deposit fund of the variable annuity division, but the maximum amount of such additional deposits paid into such fund shall be \$5,000 per year.

(3) TRANSFER OF ACCUMULATIONS. Each person who, on January 1, 1958, has a deposit in the retirement deposit fund, and subsequently becomes a participant in the variable annuity division, may direct the board in writing upon a form furnished by the board, that 10 per cent per year, for not to exceed 5 years, of his accumulation in the retirement deposit fund, as of the date he becomes a participant in the variable annuity division, be transferred from the retirement deposit fund of the fixed annuity division to the retirement deposit fund of the variable annuity division. Such election must be made within 2 years after he first becomes eligible to elect participation in the variable annuity division under sub. (2) (a). The first transfer shall be made on July 1 following such election, or earlier at the discretion of the board. If at the time of retirement the transfers as directed under this subsection have not been completed, another transfer equal to one annual transfer may be made at the election of the member. No such transfers shall be made after the commencement of a retirement annuity.

(4) FUNDS. (a) The board shall at all times maintain in the funds of the fixed annuity division assets in accordance with s. 42.33 (1).

(b) The board shall at all times maintain in the funds of the variable annuity division an annuity reserve fund and a retirement deposit fund:

1. The annuity reserve fund shall consist of all transfers made to the annuity reserve fund plus earnings from investments less payments from the fund—the total adjusted for capital gains and losses and for mortality gains and losses. The annuities paid from this fund shall be adjusted annually so that the value of the total required reserve for these annuities, if they were considered as fixed annuities, would, under the mortality and interest assumptions under which they were issued, be within 2 per cent of the amount of this fund.

2. The retirement deposit fund shall consist of the deposits made by or for members plus earnings from investments less withdrawals and transfers from the fund—the total adjusted for capital gains and losses.

(c) The board shall establish and maintain such reserve or surplus funds in the fixed annuity division and in the variable annuity division as the interests of the members and the future solvency of the funds may require. The board shall, as of June 30 of each year, make such valuations of the several funds as are necessary for the purposes of the state teachers retirement system.

(d) Assets of the variable annuity division shall be invested primarily in equities securities which shall include common stocks, real estate or other recognized forms of equities whether or not subject to indebtedness, including securities convertible into common stocks.

(e) After July 1, 1963, all the assets of the fixed annuity division of the combined group shall be invested only in investments which are legal for life insurance companies in Wisconsin under s. 206.34.

(f) The assets in the retirement deposit fund and the annuity reserve fund of the variable annuity division shall be evaluated annually by the state teachers retirement board at a date fixed by the rules of said board. The market value of investments used in this evaluation shall be the value certified by the state of Wisconsin investment board. The state teachers retirement board may make additional evaluations of the fund at times between the annual evaluations if deemed desirable.

(5) EARNINGS—APPORTIONMENT AND CREDITING. (a) *Earnings*. The earnings of the funds of the variable annuity division shall consist of such items as dividends, rents, interest payments and other income derived from investments rather than from changes in capital value of investments. The earnings shall be decreased by the administrative and investment expenses of such funds.

(b) *Apportionment*. As of June 30 of each year the board shall determine the earnings to be apportioned to the several funds of the variable annuity division.

(c) *Crediting*. Earnings will be credited to the individual accounts in the retirement deposit fund only on amounts which have been on deposit for the full year except that, whenever a member's deposit accumulation, or state deposit accumulation, or both, are to be paid out in a single sum, or are transferred to the annuity reserve fund pursuant to s. 42.48, interest shall be credited to the amount to be so paid out or transferred for each 3-month period which has elapsed since the preceding June 30 at one-fourth of the rate at which earnings were apportioned on such June 30. The interest so credited shall be charged to the earnings for the current fiscal year and shall be paid out or transferred with the amount to which it was so credited.

(6) CAPITAL GAINS AND LOSSES. (a) Capital gains for any period shall be the value of the fund as evaluated by the board under sub. (4) (f)

at the end of the period plus the disbursements from the fund during the period (other than for investments or for administrative and investment expenses charged to earnings); less the total of 1. the value of the fund at the beginning of the period, 2. the earnings of the fund during the period, and 3. receipts (other than receipts from investments) during the period. If this quantity is negative, it shall be the capital loss for the period.

(b) *Apportionment.* As of June 30 of each year the board shall determine the capital gains or losses to be apportioned to the several funds.

(c) *Crediting to accounts.* Capital gains and losses will be credited to the individual accounts in the retirement deposit fund only on amounts that have been on deposit for the full year except that:

1. Where transfers from the fixed annuity division have been elected pursuant to sub. (3), such gains and losses may be credited on the basis of full quarters that such transferred funds have been on deposit at the rate of one-quarter of the current year's capital gains and losses.

2. The board may, in order to avoid substantial inequities in case of extraordinary capital gains or losses, allocate a portion of these to deposits or transfers made during the current year.

(7) **BENEFITS.** (a) *Board to fix annuities.* The board shall make such investigations of the mortality, disability, service and compensation experience of the several funds as shall be necessary. On the basis of such investigation the board shall determine, adopt and certify the rates at which the beginning payments on variable annuities shall be made. The rates last adopted by the board shall continue to be the prevailing rates until changed by action of the board.

(b) *Adjustment of variable annuity payments.* Whenever the balance in the annuity reserve fund of the variable annuity division, as of June 30 of any year, exceeds or is less than the then present value of all variable annuities in force, determined in accordance with the rate of interest and approved actuarial tables then in effect, by at least 2 per cent of said present value, the amount of each variable annuity payment shall be proportionately increased or decreased.

(c) *Interim adjustments.* Notwithstanding the provisions of par. (b), the board may, in order to avoid substantial inequities, in the event of extraordinary fluctuation in the market value of the investments, increase or decrease the variable annuity payments at times other than June 30.

(d) *Death benefits.* Death benefits with respect to deposits made by participants in the variable annuity division shall be governed by s. 42.50, except that when such benefit is being paid to someone other than the estate of the member a variable annuity shall be paid in lieu of a single sum payment. Such annuity may be paid to the beneficiary as a variable annuity for a period of not less than 60 months.

(e) *Separation benefits.* Any member who has ceased to be employed as a teacher, and is not on leave of absence from a teaching position, may be paid the accumulation from the member's deposits made in or transferred to the variable annuity division, on filing with the board before the fiftieth birthday anniversary of such member a written request therefor and a full and complete discharge and release of all right, interest or claim on the part of such member to state deposit accumulations which accrued in the variable annuity division as the result of state deposits made in or transferred to the variable annuity division while he was a participant therein. Withdrawal of accumulations from member's deposits in the fixed annuity division shall be governed by s. 42.242 (5).

(f) *Other rights.* Other rights and benefits shall be as nearly consistent with ss. 42.242, 42.49 and 42.50 as the board determines to be

practicable considering the nature of the benefits under the variable annuity division.

(g) *Annuities.* When a member has ceased to be employed as a teacher, and is not on a leave of absence from a teaching position, the accumulation from the member's deposits and state deposits may be applied by the member as a net single premium at the rate certified for beginning payments by the board, to the purchase of a variable annuity, the first payment to be made in such month and year after the application for the variable annuity is received by the board as the member directs, which variable annuity may be:

1. A variable annuity payable monthly to the member during life; or
2. A variable annuity payable monthly to the member during life, with a guaranty of at least 180 monthly payments; and in the event of the death of the member before 180 monthly payments have been made, the remainder of the 180 monthly payments shall be continued to one beneficiary or divided equally, or as the member otherwise specified, between 2 or more beneficiaries designated by the member until payments have been made for 180 consecutive months after such annuity began. Upon the death of any designated beneficiary after he has become entitled to receive monthly payments under this subdivision, the then present value of his benefit shall be paid in a single sum to his estate. Upon the death of the member before payment has been made for 180 months, the then present value of the remainder of such payments shall be paid in a single sum to the estate of the member in cases where no beneficiary was designated or where the member's state was designated as beneficiary. In the event of the death of any designated beneficiary prior to the death of the member, then upon the death of the member, the then present value of the benefit, if any, which would have been payable to said beneficiary, shall be paid in a single sum to the estate of the member; or
3. A variable annuity payable monthly to the member during life, and after death of the member, monthly payments of one-half the monthly amounts which would have been paid to the member if he had lived, to be continued to such beneficiary during life as the member has designated in the original application for a retirement allowance; or
4. A variable annuity payable monthly to the member during life, and after the death of the member, the same monthly payment which would have been paid to the member if he had lived, to be continued to such beneficiary during life as the member has designated in the original application for a retirement allowance; or
5. In such variable life annuity or annuities as the state teachers retirement board approves, but the amount payable monthly to others upon the death of the member shall not be more than the amount which would have been payable monthly to the member if he continued to live.
6. The first payment of an annuity under this paragraph shall not be made before the fiftieth birthday anniversary of the member unless he has qualified for a disability annuity under s. 42.242 (4) or 42.49 (9).

SECTION 3. This act shall take effect on January 1, 1958.

Approved July 20, 1957.