

TITLE VI-A.

Employee Trust Funds.

CHAPTER 40

GENERAL TRUST FUNDS FOR PUBLIC EMPLOYEES.

40 01	Public employe trust fund	40 19	Retired employes
40 10	Group insurance board.	40 20	Municipal employes
40 11	Definitions	40 21	Coverage for new employes
40 12	Group insurance provided.	40 22	Certification of amount.
40 13	Amount of life insurance	40 23	Payments exempt from process.
40 14	Health insurance defined; contracts.	40 24	Disposition of surplus
40 145	Integration of state group health insurance with federal plan for aged.	40 25	Payment of administrative expenses
40 15	Payment of premiums for life insurance.	40 26	Depositing of moneys
40 16	Payment of premiums for health insurance	40 40	Social security for public employes; definitions
40 17	Premium deductions.	40 41	Coverage.
40 18	Cancellation and termination of life or health insurance.	40 42	Financial participation
		40 43	Rules

SUBCHAPTER I. PURPOSE AND STRUCTURE OF FUNDS

40.01 Public employe trust fund. (1) **PURPOSE.** A "public employe trust fund" is created to aid public employes in protecting themselves and their beneficiaries against the financial hardships of old age, disability, death, illness and accident, thereby promoting economy and efficiency in public service by facilitating the attraction and retention of competent employes, by enhancement of employe morale and by providing for the orderly and humane departure from service of employes no longer able to effectively perform their duties. Such fund shall be administered by the department of employe trust funds (hereinafter in this section referred to as "department") and all statutes relating to such fund shall be construed liberally in furtherance of the purposes set forth in this subsection.

(2) **ACCOUNTS.** The following separate accounts and such additional accounts as determined by the department to be useful in achieving the fund's purposes, shall be maintained within the public employe trust fund:

(a) An administrative account from which administrative costs of the department, including charges for services performed by others, shall be paid. Except as otherwise provided in this section, investment income of this fund and

moneys received for services performed or to be performed by the department shall be credited to this account. The secretary of employe trust funds shall, prior to each June 30, estimate the administrative costs to be incurred by the department in the next fiscal year and shall also estimate the investment income which will be credited to this account in such fiscal year. The estimated administrative costs less the estimated investment income shall be equitably allocated, with due consideration being given to the derivation and amount of the investment income, to the several funds and accounts administered by the department. In determining the amount of such allocation adjustments shall be made for any difference in prior years between the actual administrative costs and investment income from that originally estimated under this paragraph. An amount equal to such adjusted allocated costs shall be transferred to this account from moneys available for such purposes under the provisions of the respective fringe benefit plans administered by the department.

(b) A group life insurance account to which shall be credited moneys received from operations of the group life insurance plans under subch. II for life insurance premiums, as dividend or premium credits arising from operation of life insurance plans and from investment income on any reserves established in the public employe trust fund for life insurance purposes.

Premium payments to life insurance carriers shall be charged to this account. This paragraph shall not be deemed to prohibit the direct payment of premiums to insurance carriers when appropriate administrative procedures have been established for such direct payments.

(c) A group health insurance account to which shall be credited moneys received from operation of the group health insurance plans under subch. II for health insurance premiums, as dividend or premium credits arising from operation of health insurance plans and from investment income on any reserves established in the public employe trust fund for health insurance purposes. Premium payments to health insurance carriers shall be charged to this account. This paragraph shall not be deemed to prohibit the direct payment of premiums to insurance carriers when appropriate administrative procedures have been established for such direct payments.

(d) A social security account to which shall be credited all moneys received pursuant to subch. VI from employe and employer social security contributions including any penalties for late transmission of moneys or reports. All disbursements pursuant to subch. VI and s. 20.515(2)(x) shall be charged to this account.

SUBCHAPTER II GROUP INSURANCE

40.10 Group insurance board. (1) **PURPOSE.** A group life and health insurance fund is created for the purpose of providing state employes with group life insurance in amounts based upon their annual earnings and group health insurance for employes and their dependents under plans contributed to and conducted by the state through a group insurance board to improve morale and efficiency in state service.

(2) **METHOD.** The group insurance provided under this subchapter shall be administered in conformity with the rules prescribed by the board.

(a) The group insurance board may take any action deemed advisable and not specifically prohibited, or delegated to some other governmental agency, to carry out the purpose of this section, including, without limitation because of enumeration, rules and actions relating to:

1. Eligibility of active and retired employes to participate, and giving an option not to participate and to withdraw.
2. The payments by employes for such insurance.
3. The time that changes in coverage and payments shall take effect.

4. The terms and conditions of the insurance contract or contracts.

5. The date such program shall be effective.

6. The establishment of standard beneficiary priorities if the employe has not designated a beneficiary to receive the life insurance at his death, or in the event that such designated beneficiary does not survive the employe, and the procedure for filing different beneficiary designations.

7. The kind, amount, and conditions pertaining to benefits available to employes as a result of dividends or premium refunds.

8. The time that coverage shall be effective.

(b) The board shall on behalf of the state enter into a contract or contracts with one or more corporations authorized to transact insurance business in this state or corporations created under ch. 148 or s. 182.032. The group life and health insurance contract or contracts may be of the type which requires payment of premiums which are known to be sufficient to pay losses, costs, benefits and expenses incurred in its operation and which may permit dividends or premium credits to be applied as provided in ss. 40.24, 40.25 and 40.26, or of a type which requires lower initial premiums with the probability of greatly reduced or nonexistent dividends or rate credits.

(c) The group life and health insurance fund shall be construed to be a trust and each member of the group insurance board shall be deemed a trustee.

40.11 Definitions. In this subchapter:

(1) "Board" means the group insurance board.

(2) "Employe" means any person who meets all of the following conditions:

(a) Whose name appears on a regular payroll of the state or any agency controlled by the state and who:

1. Receives earnings for personal services.
2. Is occupying a state position under the Wisconsin retirement fund, the state teachers retirement system or the conservation wardens pension fund and is currently included under such retirement plan in such position or is a member or employe of the legislature, governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent of public instruction, justices of the supreme court, circuit judge, chief clerk or sergeant at arms of the senate or assembly. Persons occupying a state position under the state teachers retirement system shall not qualify until membership thereunder aggregates 6 months, unless previously a participating employe under the Wisconsin retirement fund.

(b) The definition of employe shall not exclude any individual who, while insured for the group life or health insurance, is retired on an immediate annuity, or is retired on a disability annuity. In the case of group life insurance, however, except in case of disability annuity, such retired employe shall have been a state employe for at least 20 years or have attained age 65, or have attained age 60 and been mandatorily retired pursuant to s. 41.11 (1) (a).

1. For the purposes of this subchapter the term retired employe shall include the surviving spouse of an employe who is currently covered by health insurance at the time of death of the employe, and the spouse shall have the same right of health insurance coverage as the deceased employe but without state contribution, under rules adopted by the board, but such inclusion and right as to a widow shall terminate upon her remarriage.

2. For the purposes of this subchapter the term retired employe shall include the surviving spouse of a retired employe who is currently covered by health insurance at the time of death, and the spouse shall have the same right of health insurance coverage as the deceased retired employe but without state contribution, under rules adopted by the board.

(c) No statutory provision shall be construed to exclude any person otherwise eligible under this subchapter because such employe is not a full-time civil service employe.

(d) Subsequent to the effective date of participation by the state or any municipality, no person who has attained age 65 at the time of becoming initially eligible under this subchapter shall be included, but this provision does not exclude from participation in the state's group health and accident insurance plan any member of the legislature who has attained age 65.

(e) For the purposes of this subchapter "employe" includes the blind employes of the Wisconsin workshop for the blind under s. 47.06 as of the beginning of the calendar month following completion of 1,000 hours of service, but such employes shall not be eligible for cessation of premiums because of disability directly or indirectly attributable to blindness. Any such employe may convert insurance coverage only once under the contract.

(3) "Immediate annuity" means an annuity or pension under the Wisconsin retirement fund or the state teachers retirement system or the conservation wardens pension fund which begins to accrue not later than one month after termination of employment.

(4) "Disability annuity" means the same as prescribed in s. 41.13, 41.34, 42.242 (4), 42.245 (3), 42.49 (9) or 66.191.

(5) "Earnings" means the total salary or wages paid to an employe by the state during the previous calendar year. If employment and compensation are not continuous during such period, the earnings shall be determined by rule. For persons covered initially the earnings shall be a projection on an annual basis of the compensation at the time of coverage, which shall continue until there is coverage during a calendar year.

(6) "Dependent" means the spouse of an employe, or an employe's unmarried child under 19 years of age if not a student, or under 23 years if a student as defined by board rule. "Child" includes an adopted child or stepchild who is dependent upon the insured for support and maintenance.

40.12 Group insurance provided. (1) Each employe shall be insured in accordance with this subchapter, unless such employe executes and files with his employing office a written waiver of any such coverage, within the time limit fixed by rule, which shall be transmitted forthwith to the director, or the board may provide a different method of enrollment.

(2) Any employe who has filed a waiver pursuant to sub. (1), or any employe whose insurance terminates pursuant to s. 40.18 (1) by reason of filing such a waiver, shall not thereafter become insured unless prior to his attainment of age 50 and after at least one year has elapsed since the effective date of such waiver, he furnishes evidence of insurability satisfactory to the insurer, at his own expense. If such evidence is approved, such employe shall become insured from the date of such approval.

40.13 Amount of life insurance. (1) Except as provided in sub. (2) or (7), the amount of group life insurance of an employe shall be \$1,000 of insurance for each \$1,000 or part thereof of his earnings, but not in excess of any limitation of amount that may otherwise be provided by law.

(2) The amount of life insurance for any employe who is 65 years of age or over is the lesser of the following:

(a) If he is then insured, the amount of insurance at the age of 65 as computed under sub. (1) reduced by 25% of said amount for each year commencing with his 65th birthday, with a maximum reduction of 75%.

(b) If he is 65 years of age or over when he first becomes insured, the amount as computed under sub. (1) reduced by 25% of said amount for each year commencing with his 65th birthday, with a maximum reduction of 75%.

(3) The amount of life insurance of an employe who prior to age 65 retires on immediate annuity who has been a state employe for not less than 20 years or who has attained age 65 or has attained age 60 and been mandatorily retired pursuant to s. 41.11 (1) (a) shall be the same as if he had not retired and his earnings had continued as at the time of his retirement.

(4) The amount of insurance specified under sub. (3) shall not be changed because such person again becomes an employe, but while so re-employed the person shall pay premiums pursuant to s. 40.15 for such insurance which shall be in lieu of any other insurance provided hereunder.

(5) The amount of insurance of an employe who retires on disability annuity shall be the same as if he had not retired and his earnings had continued as at the time of his retirement.

(6) During a period of disability in which premiums are waived under the terms of the insurance contract the amount of insurance shall be the same as if he had not become disabled and his earnings had continued at the amount thereof at the time of becoming disabled, and the contract may provide that such insurance continues during the continuance of such disability even if the person ceases to be an employe.

(7) An insured employe who is still eligible may elect that the life insurance in effect during the previous year shall not be reduced during subsequent years of employment with the same municipality as defined in s. 41.02 (4). The right to so elect shall apply only where the previous year's employment was with the same employer as at the time of such election. Such election shall be made pursuant to rules established by the board. This subsection is subject to the limitations of sub. (2).

(8) In addition to the insurance provided under sub. (1), insurance may be provided against accidental death and dismemberment as defined by the board in accordance with benefit schedules established by the board.

40.14 Health insurance defined; contracts. (1) As used in this subchapter, "health insurance" means contractual arrangements with one or more 3rd parties for the full or partial payment, which may include indemnity or service benefits or both, of the financial expense incurred as a result of the injury or illness of an insured state employe or insured annuitant or of an insured dependent of such person. Such expense may include hospitalization, surgery and medical care, as well as ancillary items or services. Contracts for payment of the foregoing, plus other related benefits which may be negotiated by the board, shall be made with

corporations licensed to transact disability insurance under s. 201.04 (4), or with corporations organized under and whose contracts are issued in accordance with s. 148.03 or 182.032.

(2) The board by rule shall determine the possible coverage when there is or has been state employment by more than one member of a family.

(3) The board shall provide a plan or plans of standard health insurance coverage which shall include the type of coverage normally referred to as "major medical insurance" and may provide, under the contract or contracts, other coverages optional with each eligible employe and at his expense.

40.145 Integration of state group health insurance with federal plan for aged. It is the policy of the legislature that health insurance benefits under this subchapter be integrated with benefits under federal plans for hospital and health care for the aged. The board is directed to integrate the state health insurance with federal plans for hospital and health care for the aged, and the board shall adopt appropriate rules which, notwithstanding any other provision of this subchapter, may establish exclusions and limitations with respect to benefits and different rates for persons eligible under such federal plans for hospital and health care for the aged in recognition of the utilization by persons within the age limits eligible under the federal program. As part of such integration plan the board may out of premiums collected under this subchapter pay premiums for the federal health insurance for persons covered under state health insurance. Such plan may include special provisions for spouses and other dependents covered under state health insurance where one spouse is eligible under federal plans for hospital and health care for the aged but the others are not eligible because of age or otherwise.

40.15 Payment of premiums for life insurance. (1) There shall be withheld from the earnings payment of each insured employe under the age of 65 and from retirement benefits paid to annuitants under age 65 pursuant to sub. (4) the sum approved by the board, which shall not exceed 60 cents for each \$1,000 of his group life insurance under this subchapter, based upon the last amount of insurance in force during the month for which such earnings are paid. The equivalent premium may be fixed by the board if the annual compensation is paid in other than 12 monthly instalments. Such withholdings shall be remitted to the board by the respective departments or agencies in which such employes are employed and by the respec-

tive retirement systems for insured annuitants, in the manner and within the time limit fixed by rule. All money received by the board under this subchapter shall be deposited with the state treasurer to the credit of s. 20.515 (2) (w).

(2) Beginning with the month in which an insured employe reaches his 65th birthday, no withholdings from his earnings shall be made under this section. Withholdings shall not be made from the earnings of an insured employe during a period of disability in which premiums are waived under the terms of the insurance contract.

(3) Beginning with the month in which an insured employe has attained age 65 and either is retired on an immediate annuity, or has 10 years' service pursuant to s. 40.19 (2), or an insured employe is retired on a disability annuity, no further withholdings from his earnings or retirement benefits shall be made under this section and the cost of life insurance for such employe pursuant to s. 40.13 shall be paid by the state, but the state shall not pay for any month prior to attaining age 65 for which a disability annuity is suspended or terminated, unless such disability still exists, in which event the state shall continue to pay the cost. The disability annuitant shall make contributions for any month for which earnings are paid by the state.

(4) Except as provided under sub. (3), any insured employe who is retired on an immediate annuity and who has been a state employe for not less than 20 years or who is age 60 and is mandatorily retired pursuant to s. 41.11 (1) (a) shall continue to be covered and the premium payment shall be deducted from the appropriate annuity payroll as authorized by s. 41.22 (1) (a), 41.41 or 42.52, if the annuity is sufficient, or such an employe shall continue to be covered if he makes direct payments to continue insurance coverage.

(5) The state shall contribute toward the payment of premiums under this section an amount, which together with the employe's contribution, will equal the gross monthly premium for such employe's insurance. Any contribution which may be required from the state shall be made in accordance with s. 20.865 (1) (d).

(6) The full amount of the premium shall be remitted to the insurance carrier or carriers substantially in accordance with s. 20.921.

40.16. Payment of premiums for health insurance. (1) There shall be withheld from the earnings payment of each insured employe and from the retirement benefit of each insured retired employe (if the annuity is sufficient) the amounts of premium and at the time fixed by the board. Such withholdings shall be remitted

by the respective departments or agencies in which such employes are employed, and by the respective retirement systems from which insured annuitants are paid, in the manner and within the time limit fixed by rule.

(2) The state shall contribute toward the payment of premiums for health insurance under this section an amount equal to 50% of the gross premium for any insured employe, who is not an annuitant or who is not a retired employe qualifying for continued insurance coverage under s. 40.19 (2), and his dependents for the standard health insurance coverage determined by the board. The amount to be contributed by the state under this subsection shall be increased on January 1, 1970, to 75% and on July 1, 1970, to 90% of the premium for the standard health insurance coverage, but such increased contributions by the state shall not be made for teachers, as defined in s. 42.20, in the unclassified service of the state.

(3) Health insurance shall be continued after retirement for any eligible employe who has not elected to discontinue such coverage and the full premium therefor shall be deducted from annuity payments, if the annuity is sufficient. The board shall provide for the direct payment of premiums by the annuitant to the insurer if the premium to be withheld exceeds the annuity payment.

40.17. Premium deductions. For the insurance premium withholding purposes of this subchapter an insured state employe on more than one state payroll or paid from more than one appropriation shall have premium deductions made only under that department, agency or appropriation from which he receives the greater portion of his earnings. For purposes of state contributions s. 20.904 shall be applicable.

40.18. Cancellation and termination of life or health insurance. (1) An insured employe may at any time cancel his life or health insurance by filing a waiver of such coverage with his employing office; similarly an insured retired employe may at any time cancel his life or health insurance by filing a waiver of such coverage with the office of his retirement system. Such waiver shall be transmitted forthwith to the board. Such waiver shall be effective and such insurance shall cease at the end of the calendar month which begins after the waiver is received by such office.

(2) The life and health insurance shall terminate as provided in the contract or contracts therefor, which contract or contracts shall also provide an option for an employe to convert insurance coverage upon termination of employment if covered by such insurance during the

entire 6 months preceding termination or if covered by such insurance from the initial effective date established under s. 40.20 (4), to the date of termination, and provided that such employe has been employed by the same municipality for 6 months prior to termination.

(3) The board may provide for the continuance or suspension of insurance coverage during any month in which no earnings are received and during any leave of absence or period of disability as defined by the board.

40.19 Retired employes. (1) To be eligible for continuance of insurance as a retired employe, an insured employe must (a) be entitled to a disability annuity or (b) be entitled to an immediate annuity and must meet all requirements for annuity including filing of application where necessary whether or not final administrative action has been taken. In the case of group life insurance, however, except in case of disability annuity, such retired employe shall have been a state employe for at least 20 years, or have attained age 65, or have attained age 60 and been mandatorily retired pursuant to s. 41.11 (1) (a).

(2) The requirement for an immediate annuity shall be waived for any person attaining age 65 who has an aggregate of 10 year's service as specified in s. 40.11 (2) (a) 2. This shall also be in effect with respect to group life insurance for all persons who are annuitants on December 1, 1961, and who were insured under the group life insurance program at the time of retirement.

(3) The board may by rule provide that persons who are otherwise eligible and who retire during the calendar year 1959 or subsequently may be eligible.

40.20 Municipal employes. (1) The board shall make the group life insurance provided pursuant to this subchapter available to any municipality as defined in s. 41.02 (4) for the purpose of providing the employes thereof with group life insurance in amounts based upon their annual earnings under a plan contributed to by such municipality, thereby improving morale and efficiency in the public service. The board shall have the option of providing such insurance under a separate contract. Any company authorized to sell life insurance in the state may provide such insurance.

(2) The board may by rule extend the coverage of group life insurance to municipal employes who are participants in a pension or retirement plan underwritten by a private insurance company.

(3) All provisions of this subchapter pertaining to the state and to state employes with respect to group life insurance shall be applicable

to such municipalities as act to be included hereunder and to the employes thereof. Service for the state and for each municipality shall be treated independently, including the 20-year requirements in s. 40.19 (1), except that an aggregate of such service under the state teachers' retirement system shall meet the requirement and except that service for a predecessor municipality shall be treated as service for the participating municipality.

(4) The governing body of any municipality may elect to provide group life insurance pursuant to this subchapter for the employes thereof by the adoption of a resolution in the form prescribed by the board. A certified copy of such resolution shall be filed with the board and if received on or before November 15 in any year shall be effective as of the beginning of the ensuing calendar year.

(5) Whenever any school district is created, the territory of which includes more than one-half of the last assessed valuation of either a school district which was a municipality included under this subchapter at the time of such creation or a city which at the time of such creation was a municipality included under this subchapter and which operated a city school district, the school district so created shall automatically be included under this subchapter from its inception in accordance with rules adopted by the board.

(6) The definition of "employe" shall include:

(a) The personnel of any participating municipality as defined in s. 41.02 (5) who meet the requirements of s. 40.11 other than state employment, or who are included under a retirement plan pursuant to s. 61.65, 62.13 (9) or (10) or 66.80.

(b) In cities of the 1st class and counties having a population of 500,000 or more any person included under a retirement system for such city or county whose current employment or official status has continued for 6 months.

(7) Each municipality shall pay the employer cost for its personnel pursuant to s. 40.15 (5), and may pay any part or all of the premium required to be paid by any employe pursuant to s. 40.15 (1). If a municipality elects to pay the entire premium, it shall notify the board in writing of the month in which such election shall be in effect. Notwithstanding s. 40.12 (2), a waiver of insurance filed by any employe of such municipality shall be revoked and such employe shall be insured commencing on the first day of the month in which such municipal election becomes effective or on the first day of the month next following receipt of notice by the board, whichever is later. The board shall determine the method of administration including the proce-

cedure for the collection of premiums and municipality costs. The board shall provide for pooling the employer costs which shall be determined separately for all employes covered under this section.

(8) A resolution adopted pursuant to sub. (4) shall be in effect only if the board determines that 75% of the eligible personnel in that municipality shall be covered at the time such resolution is effective. If a resolution is nullified by insufficient participation another resolution may be submitted after a lapse of 6 months from the previous filing.

(9) The terms "immediate annuity" and "disability annuity" shall also include any such annuity provided under a retirement system in that municipality as determined by the board.

(10) The governing body of any municipality may repeal any resolution enacted pursuant to sub. (4), to be effective at the end of the calendar year if such rescinding resolution is received by the board 90 days prior to the end of the calendar year, otherwise at the end of the next calendar year.

(11) If any covered employe enters the employment of a different municipality providing insurance hereunder, or of the state, and there is no gap between employments, then coverage shall be continuous and s. 40.18 (2) pertaining to conversion of insurance shall not be applicable except if a waiver is filed.

40.21 Coverage for new employes. In addition to coverage subsequently provided any person who enters employment in which incumbents are eligible for health insurance under this subchapter and who meets all the requirements of s. 40.11 (2) other than the completion of the qualifying period shall be eligible when enrolled pursuant to rule for such health insurance until the end of such qualifying period, but until the end of the qualifying period the full cost of such coverage shall be paid by such person.

40.22 Certification of amount. (1) Whenever any municipality fails to remit within the period fixed by rules promulgated by the board any sum payable pursuant to this subchapter or any interest or minimum fee due under the rules the amount or the estimated amount thereof shall be certified to the department of administration and such shall be included in the next apportionment of state special charges to local units of government and such shall be credited to the board. When the exact amount due is determined and the board has received from any municipality a sum in excess of such amount, the board shall pay such excess amount to the municipality.

(2) If any municipality fails to transmit any report required by this subchapter or by rule established pursuant thereto within 30 days after the date prescribed therefor, the board shall cause such report to be prepared and furnished. Thereupon the board shall submit to the municipality a statement of the expenses incurred in securing such report, including the value of the personal services rendered in the preparation of the same, and shall file a certified copy of such statement with the department of administration. Within 60 days after the receipt of the above statement by the municipality such statement shall be audited as other claims against the municipality are audited and shall be paid into the state treasury and credited to the appropriation made by s. 20.515 (1) (w). In default of payment by the municipality, the amount specified as aforesaid shall become a special charge against the municipality and shall be included in the next apportionment of state special charges and shall be collected, with interest at the rate of 10% per annum from the date such statement was submitted to the municipality, as other charges are certified and collected, and when so collected such amount and said interest shall be credited to the appropriation made by s. 20.515 (1) (w).

40.23 Payments exempt from process. No payment of insurance provided under this subchapter shall be assignable, either in law or equity, or be subject to execution, levy, attachment, garnishment or other legal process.

40.24 Disposition of surplus. The group insurance board shall apportion all excess moneys becoming available to it through operation of the group insurance plans to reduce premium payments in following contract years, to establish reserves to stabilize costs in subsequent years or to purchase additional insurance.

40.25 Payment of administrative expenses. The group insurance board shall certify to the respective insurance carriers for payment to the administrative account under s. 40.01 the amounts determined pursuant to s. 40.01 to be necessary for administrative costs.

40.26 Depositing of moneys. All moneys received by the state pursuant to this subchapter shall be deposited as provided in s. 40.01.

SUBCHAPTER VI. SOCIAL SECURITY FOR PUBLIC EMPLOYEES

40.40 Social security for public employes; definitions. In this subchapter:

40.40 PUBLIC EMPLOYE TRUST FUNDS

688

(1) "Public agency" means the state and any county, city, village, town, school district or other unit of government, or agency or instrumentality of 2 or more thereof which is eligible for inclusion under the federal OASDHI system.

(2) With respect to members of the state teachers retirement system "public agency" means the state, except that for the purposes of s. 40.42 (2), and the applicable portions of s. 40.42 (3) to (5) "public agency" means the employer school district or other local unit of government.

(3) With respect to members of the teachers retirement fund in a city of the 1st class, "public agency" means the state, except that for purposes of s. 40.42 (2) and the applicable portions of s. 40.42 (3) to (5) "public agency" means a city of the 1st class.

(4) "Federal regulations" means the provisions of section 218 of Title II of the social security act enacted by the congress of the United States, and applicable regulations adopted pursuant thereto, and applicable provisions of the U.S. internal revenue code. "OASDHI" means federal old age, survivors, disability and health insurance under Titles II and XVIII of the federal social security act.

(5) "Coverage group" has the meaning given that term by federal regulations.

(6) "Secretary" means the secretary of employe trust funds.

(7) "Director" means the director of the bureau which is responsible for the administration of the public employes social security fund.

40.41 Coverage. (1) Each public agency other than the state may determine to be included under OASDHI through the adoption of a resolution by the governing body thereof with respect to the coverage groups specified in such resolution, which shall also state the effective date of coverage.

(2) Every state employe and state officer while employed in any position which is not included under any retirement system established by statute is included under the agreement authorized by sub. (9) if eligible for inclusion, and all participating municipalities which have acted pursuant to s. 41.05 to be included under the Wisconsin retirement fund are included when the participating employes thereof are eligible, and each city and village is pursuant to ss. 62.13 (9) (e) and (9a) and 61.65 (6) included under the agreement as to policemen, and each public agency affected by s. 41.05 (8) (b) is pursuant thereto included under the agreement as to the employes affected by such paragraph. This subsection is not applicable to services performed in any fireman's position.

(3) Notwithstanding subs. (1), (2) and (9), the persons included under any retirement system, or any coverage group therein permitted under federal regulations, may be included under the federal OASDHI system pursuant to a referendum held in conformity with section 218 (d) (3) of the federal social security act and a certification by the governor pursuant thereto, and the governor may take any and all actions which may be required in connection therewith. In the case of each public agency other than the state, a referendum shall be conducted only upon, and in conformity with, a request submitted by the governing body thereof. The agreement with the secretary of health, education and welfare may be modified to cover any such coverage group.

(4) For the purposes of sub. (3) the members of the combined group of the state teachers retirement system constitute a coverage group. Members of the state teachers retirement system may be included under the federal OASDHI system under sub. (3) only in accordance with s. 42.241.

(5) Effective April 1, 1966, with the exception of the exclusions under sub. (10) the only exclusions covering positions not under a retirement system which shall be in effect under the state-federal agreement pursuant to action taken under sub. (1) shall be those exclusions which are mandatory under federal regulations.

(6) For the purposes of sub. (3) the members of the combined group of a retirement fund created under s. 42.72 constitute a coverage group. Members of any such retirement fund may be included under the federal OASDHI system under sub. (3) only in accordance with s. 42.72.

(7) Effective July 1, 1966, all services performed by teachers in positions covered by the retirement systems under ch. 42, but who are ineligible to be members of such retirement system, shall be covered under the federal OASDHI system if such coverage is not prohibited by federal regulations. This shall not affect the status of members of the separate group of a retirement system under ch. 42 who became members of the separate group by reason of eligibility for a choice in 1957 pursuant to s. 38.24 (3) (d), 1967 Stats. or 42.241 (4), 1967 Stats.

(8) All persons included under the conservation wardens pension fund are subject to this subchapter.

(9) The director with the approval of the secretary shall, pursuant to sub. (2) or upon the submission to him of a certified copy of a resolution adopted by the governing body of any public agency in accordance with sub. (1), execute upon behalf of the state an agreement or modification of an agreement, with the secretary of

health, education and welfare for the inclusion of a coverage group of the employees and officers of such public agency under the federal OASDHI system established by federal regulations in conformity with such resolution or in conformity with sub. (2) and in conformity with federal regulations. The state and each public agency included under such agreement or modification thereof shall be bound by federal regulations, and by rules promulgated under s. 40.43 including any rule requiring payment of interest.

(10) No student or member of a board or commission, except members of governing bodies, shall be included under such agreement when filling a position or office which does not normally require actual performance of duty for at least 600 hours in each year.

40.42 Financial participation. (1) Each public agency included under an agreement made pursuant to this subchapter shall be liable for and shall make the contributions required of an employer under federal regulations.

(2) Each public agency included under such an agreement shall withhold from the persons compensated by such public agency who are covered by such agreement the portion of such compensation required to be withheld under the federal regulations.

(3) The contributions required under sub. (1) and the amounts withheld under sub. (2) shall be remitted by each public agency in conformity with rules promulgated under s. 40.43. The state shall be liable for all such remittances due from public agencies in conformity with the agreement under s. 40.41 (9), and shall make payment of all sums which are due under this subsection and become delinquent.

(4) Whenever any public agency fails to remit within the period fixed by rules promulgated under s. 40.43 any sum payable under sub. (3) or any interest or minimum fee due under the rules, such amount or the estimated amount thereof shall be certified to the department of administration and such shall be included in the next apportionment of state special charges to local units of government. When the exact amount due is determined and a sum in excess of such amount has been received from any public

agency, such excess amount shall be paid to the public agency.

(5) If any public agency fails to transmit any report which it is required to submit by law or by any rule established pursuant thereto for 30 days after the date such report is due, the secretary shall cause such report to be prepared and furnished to him. Thereupon the secretary shall submit to said public agency a statement of the expenses incurred in securing such report, including the value of the personal services rendered in the preparation of the same. Duplicates of such statement shall be filed with the department of administration. Within 60 days after the receipt of the above statement by the public agency such statement shall be audited as other claims against the public agency are audited and shall be paid into the state treasury and credited to the appropriation made by s. 20.515 (1) (w). In default of payment by the public agency, the amount specified as aforesaid shall become a special charge against the public agency and shall be included in the next certification of state taxes and charges and shall be collected, with interest at the rate of 10% per annum from the date such statement was submitted to the public agency, as other charges are certified and collected, and when so collected such amount and said interest shall be credited to the appropriation made by s. 20.515 (1) (w).

(6) All money received by the state pursuant to this section shall be deposited as provided in s. 40.01.

(7) Any money paid into the public employes social security account in error may be refunded upon certification to the department of administration of the name of each public agency entitled to a refund and the amount thereof. Thereupon, and notwithstanding s. 20.913, the department of administration shall draw its warrant for the amount and in favor of the public agency so certified, and the state treasurer shall pay the same and charge it to the public employes social security account created by s. 40.01.

40.43 Rules. The secretary may promulgate rules to carry out the purposes of this subchapter.