



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0116/1
MIM:cdc

2021 SENATE BILL 367

May 25, 2021 - Introduced by Senators JACQUE, BALLWEG and WANGGAARD, cosponsored by Representatives BRANDTJEN, BROOKS, DITTRICH, HORLACHER, LOUDENBECK, MILROY, MOSES, MURPHY, MURSAU, RAMTHUN, ROZAR, THIESFELDT, TUSLER and WICHGERS. Referred to Committee on Labor and Regulatory Reform.

1 **AN ACT** *to amend* 40.22 (1), 40.22 (2m) (intro.), 40.22 (2r) (intro.) and 40.22 (3)
2 (intro.); and *to create* 40.26 (7) of the statutes; **relating to:** law enforcement
3 and fire fighter annuitants in the Wisconsin Retirement System who are
4 rehired by a participating employer.

Analysis by the Legislative Reference Bureau

Under current law, certain people who receive a retirement or disability annuity from the Wisconsin Retirement System who are hired by an employer that participates in the WRS must suspend that annuity and may not receive a WRS annuity payment until the employee is no longer in a WRS-covered position. This suspension applies to a person who: 1) has reached his or her normal retirement date; 2) is appointed to a position with a WRS-participating employer, or provides employee services to a WRS-participating employer; and 3) is expected to work at least two-thirds of what is considered full-time employment by the Department of Employee Trust Funds.

This bill creates an exception to this suspension for an annuitant who retired from employment with a participating employer and who is subsequently rehired or provides employee services after retirement, if: 1) the annuitant is a retired law enforcement officer or fire fighter; 2) at the time the person initially retires from covered employment with a participating employer, the person does not have an agreement with any participating employer to return to employment; and 3) the person elects to not become a participating employee at the time the person is rehired or enters into a contract after retirement. In other words, the bill allows an

SENATE BILL 367

annuitant who was a law enforcement officer or fire fighter to return to work with an employer who participates in the WRS, and elect to not become a participating employee for purposes of the WRS, and instead continue to receive his or her annuity.

For further information see the 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 (1) of the statutes is amended to read:

2 40.22 (1) Except as otherwise provided in sub. (2) and s. 40.26 (6) and (7), each
3 employee currently in the service of, and receiving earnings from, a state agency or
4 other participating employer shall be included within the provisions of the Wisconsin
5 retirement system as a participating employee of that state agency or participating
6 employer.

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

8 40.22 (2m) (intro.) Except as otherwise provided in s. 40.26 (6) and (7), an
9 employee who was a participating employee before July 1, 2011, who is not expected
10 to work at least one-third of what is considered full-time employment by the
11 department, as determined by rule, and who is not otherwise excluded under sub. (2)
12 from becoming a participating employee shall become a participating employee if he
13 or she is subsequently employed by the state agency or other participating employer
14 for either of the following periods:

15 **SECTION 3.** 40.22 (2r) (intro.) of the statutes is amended to read:

16 40.22 (2r) (intro.) Except as otherwise provided in s. 40.26 (6) and (7), an
17 employee who was not a participating employee before July 1, 2011, who is not
18 expected to work at least two-thirds of what is considered full-time employment by
19 the department, as determined by rule, and who is not otherwise excluded under sub.

SENATE BILL 367

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

4 **SECTION 4.** 40.22 (3) (intro.) of the statutes is amended to read:

5 40.22 (3) (intro.) Except as otherwise provided in s. 40.26 (6) and (7), a person
6 who qualifies as a participating employee shall be included within, and shall be
7 subject to, the Wisconsin retirement system effective on one of the following dates:

8 **SECTION 5.** 40.26 (7) of the statutes is created to read:

9 40.26 (7) (intro.) As used in this subsection, "law enforcement officer" has the
10 meaning given in s. 165.85 (2) (c). Subsections (1) to (5) do not apply to a participant
11 who applies for an annuity or lump sum payment during the period in which at least
12 75 days have elapsed between the participant's termination of employment and
13 becoming an employee or contractor providing employee services with a
14 participating employer if all of the following conditions are met:

15 (a) The annuitant is a retired law enforcement officer or fire fighter.

16 (b) At the time the participant terminates his or her employment with a
17 participating employer, the participant does not have an agreement with any
18 participating employer to return to employment or enter into a contract to provide
19 employee services for the employer.

20 (c) The participant elects on a form provided by the department to not become
21 a participating employee.

22 **SECTION 6. Initial applicability.**

23 (1) This act first applies to participants under the Wisconsin Retirement
24 System who terminate employment on the effective date of this subsection.

25 (END)