



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5791/1
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2023 ASSEMBLY BILL 1098

February 20, 2024 - Introduced by LAW REVISION COMMITTEE. Referred to
Committee on Rules.

1 **AN ACT** *to amend* 40.05 (1) (b) 1a., 40.23 (1) (bm) and 40.63 (7) of the statutes;
2 **relating to:** contributions by protective occupation participants and
3 separation from service for retirement benefits under the Wisconsin
4 Retirement System (suggested as remedial legislation by the Department of
5 Employee Trust Funds).

Analysis by the Legislative Reference Bureau

This bill corrects a reference to a date for the purposes of contributions to the Wisconsin Retirement System by county jailers who are first certified as protective occupation participants for purposes of the WRS on or after January 1, 2024, in a county that did not classify county jailers as protective occupation participants before that date.

Under current law, if an application for long-term disability benefits or an application for a disability annuity by a participant who is at least minimum retirement age under the WRS is denied, and the applicant applies for a regular annuity, the effective date of the annuity is set as the date on which the disability benefits or disability annuity would have been effective. Federal law prohibits a participant in a qualified retirement plan, such as the WRS, from having a benefit effective date that is before the participant has a bona fide separation from service. The bill sets the effective date for a regular retirement annuity for participants whose application for long-term disability benefits or a disability annuity is denied as the later of the date that would have been the effective date of that annuity or those benefits or the day after the participant's separation from service.

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For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Employee Trust Funds and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 40.05 (1) (b) 1a. of the statutes, as created by 2023 Wisconsin Act
2 4, is amended to read:

3 40.05 (1) (b) 1a. Contributions under par. (a) 7. that are made by county jailers
4 who are first certified as protective occupation participants on or after January 1,
5 2024, and who are employed in a county that did not classify county jailers as
6 protective occupation participants on ~~July 1, 2022~~ January 1, 2024, shall be treated
7 as employee contributions.

NOTE: This SECTION changes a date for purposes of contributions to the Wisconsin Retirement System made by county jailers who were not classified as protective occupation participants before that date.

8 **SECTION 2.** 40.23 (1) (bm) of the statutes is amended to read:

9 40.23 (1) (bm) If an application by a participant age 55 or over, or by a protective
10 occupation participant age 50 or over, for long-term disability insurance benefits is
11 disapproved under rules promulgated by the department, the date which would have
12 been the effective date for the insurance benefits, or the day after the date of
13 separation from the last participating employer, whichever is later, shall be the
14 retirement annuity effective date if requested by the applicant within 60 days of the
15 disapproval or, if the disapproval is appealed, within 60 days of the final disposition
16 of the appeal.

NOTE: This SECTION establishes that if certain participants in the Wisconsin Retirement System apply for long-term disability insurance benefits and the application

