



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4936/1
MIM:emw

2021 SENATE BILL 701

November 11, 2021 - Introduced by Senators SMITH, BEWLEY, ROYS, RINGHAND, AGARD and LARSON, cosponsored by Representatives POPE, EMERSON, B. MEYERS, ANDRACA, CONLEY, CONSIDINE, SHANKLAND, VRUWINK, SUBECK, HESSELBEIN, SPREITZER, DOYLE, STUBBS, BOWEN, SINICKI and SHELTON. Referred to Committee on Government Operations, Legal Review and Consumer Protection.

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:** rehired annuitant
3 teachers in the Wisconsin Retirement System.

Analysis by the Legislative Reference Bureau

Under current law, certain people who receive a retirement or disability annuity from the Wisconsin Retirement System (WRS) and 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 person 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 as a contractor 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 if 1) the person retired from WRS-covered employment as a teacher; 2) at least 30 days have elapsed from the date the person left WRS-covered employment with a school district; 3) the person is hired as a teacher; 4) at the time the person initially retires from a school district, the person does not have an agreement with any school district to return to employment as a teacher or a contractor providing employee services as a teacher; and 5) 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 a WRS teacher annuitant who is either hired as a teacher or provides employee

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services as a teacher with a school district that is a participating employer to return to work as a teacher 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 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 (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.

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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) Subsections (1) to (5) do not apply to a participant who applies for an
10 annuity or lump sum payment during the period in which at least 30 days have
11 elapsed between the participant's termination of employment as a teacher with a
12 school district that is a participating employer and becoming a teacher as an
13 employee or contractor providing employee services with any school district that is
14 a participating employer if all of the following conditions are met:

15 (a) At the time the participant terminates his or her employment as a teacher
16 with a school district, the participant does not have an agreement with any school
17 district that is a participating employer to return to employment as a teacher or enter
18 into a contract to provide employee services as a teacher for the school district.

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

21 **SECTION 6. Initial applicability.**

22 (1) REHIRED TEACHER ANNUITANTS. The treatment of s. 40.26 (7) first applies to
23 participating employees under the Wisconsin Retirement System who terminate

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SECTION 6

1 covered employment under the Wisconsin Retirement System on the effective date
2 of this subsection.

3 (END)