



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-2040/1
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2023 ASSEMBLY BILL 1018

January 26, 2024 - Introduced by Representatives WITTKE, KITCHENS, BROOKS, DUCHOW, BEHNKE, GOEBEN, GUSTAFSON, MELOTIK, MOSES, MURPHY, MURSAU, NEYLON, O'CONNOR, ROZAR, BALDEH, CONLEY, MYERS, STEFFEN and NOVAK, cosponsored by Senators KNODL, WANGGAARD, FEYEN, QUINN and FELZKOWSKI. Referred to Committee on Local Government.

1 **AN ACT** *to repeal* 40.26 (5m), 40.26 (6) and 323.19 (3); *to amend* 40.22 (1), 40.22
2 (2m) (intro.), 40.22 (2r) (intro.), 40.22 (3) (intro.), 40.26 (1m) and 40.26 (5)
3 (intro.); and *to create* 40.04 (5) (am) and 40.26 (7) and (8) of the statutes;
4 **relating to:** rehired annuitants 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; 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 allows such a person, who is hired by a WRS employer as an employee or to provide employee services, to not suspend his or her annuity for up to 60 months. The bill also requires participating employers that hire such annuitants to make payments to ETF equal to what they would have paid as required contributions for each rehired annuitant if the rehired annuitant had suspended his or her annuity. Under the bill, these payments are deposited in the employer reserve account.

If the person does not terminate the annuity and does not become an active WRS-participating employee, in the case of state employment, the person is not eligible for group insurance benefits provided to active WRS-participating

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employees and may not use any of his or her service in the new position for any WRS purposes. If the person opts to again become an active WRS-participating employee, the person is eligible for all group insurance benefits provided to other participating employees and may accumulate additional years of creditable service under the WRS for the new period of WRS-covered employment.

The bill also repeals two obsolete provisions related to return to WRS-covered employment by WRS annuitants during the public health emergency declared on March 12, 2020, by executive order 72, which ended on May 13, 2020.

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.** 40.04 (5) (am) of the statutes is created to read:

2 40.04 (5) (am) Credited all employer payments made under s. 40.26 (8).

3 **SECTION 2.** 40.22 (1) of the statutes is amended to read:

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

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

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

17 **SECTION 4.** 40.22 (2r) (intro.) of the statutes is amended to read:

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1 40.22 **(2r)** (intro.) Except as otherwise provided in s. 40.26 ~~(6)~~ (7), an employee
2 who was not a participating employee before July 1, 2011, who is not expected to work
3 at least two-thirds of what is considered full-time employment by the department,
4 as determined by rule, and who is not otherwise excluded under sub. (2) from
5 becoming a participating employee shall become a participating employee if he or she
6 is subsequently employed by the state agency or other participating employer for
7 either of the following periods:

8 **SECTION 5.** 40.22 (3) (intro.) of the statutes is amended to read:

9 40.22 **(3)** (intro.) Except as otherwise provided in s. 40.26 ~~(6)~~ (7), a person who
10 qualifies as a participating employee shall be included within, and shall be subject
11 to, the Wisconsin retirement system effective on one of the following dates:

12 **SECTION 6.** 40.26 (1m) of the statutes is amended to read:

13 40.26 **(1m)** (a) Except as otherwise provided in sub. ~~(6)~~ (7), if a participant
14 receiving a retirement annuity, or a disability annuitant who has attained his or her
15 normal retirement date, is employed in a position in covered employment in which
16 he or she is expected to work at least two-thirds of what is considered full-time
17 employment by the department, as determined under s. 40.22 (2r), the participant's
18 annuity shall be suspended and no annuity payment shall be payable until after the
19 participant terminates covered employment.

20 (b) Except as otherwise provided in sub. ~~(6)~~ (7), if a participant receiving a
21 retirement annuity, or a disability annuitant who has attained his or her normal
22 retirement date, enters into a contract to provide employee services with a
23 participating employer and he or she is expected to work at least two-thirds of what
24 is considered full-time employment by the department, as determined under s. 40.22
25 (2r), the participant's annuity shall be suspended and no annuity payment shall be

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1 payable until after the participant no longer provides employee services under the
2 contract.

3 **SECTION 7.** 40.26 (5) (intro.) of the statutes is amended to read:

4 40.26 (5) (intro.) ~~Except as otherwise provided in sub. (5m), if~~ If a participant
5 applies for an annuity or lump sum payment during the period in which less than 75
6 days have elapsed between the termination of employment with a participating
7 employer and becoming a participating employee with any participating employer,
8 all of the following shall apply:

9 **SECTION 8.** 40.26 (5m) of the statutes is repealed.

10 **SECTION 9.** 40.26 (6) of the statutes is repealed.

11 **SECTION 10.** 40.26 (7) and (8) of the statutes are created to read:

12 40.26 (7) Beginning on the effective date of this subsection [LRB inserts
13 date], a participant may elect to not suspend his or her retirement annuity or
14 disability annuity under sub. (1m) for up to a total of 60 months, if the participant
15 applies for an annuity or lump sum payment after at least 75 days have elapsed since
16 the participant's termination of employment with a participating employer and prior
17 to becoming an employee with a participating employer if all of the following
18 conditions are met:

19 (a) The participant terminates his or her employment with a participating
20 employer after July 2, 2013.

21 (b) At the time the participant terminates his or her employment with a
22 participating employer, the participant does not have an agreement with any
23 participating employer to return to employment or enter into a contract to provide
24 employee services for a participating employer and complies with 26 CFR 1.401-1

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1 (a) (2) (i) and requirements set by the federal department of the treasury for bona fide
2 separation from service.

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

5 40.26 (8) Each participating employer who hires an annuitant who has elected
6 to not suspend his or her annuity under sub. (7) shall make payments to the
7 department that are equal to the amount of contributions that would have been
8 required to be paid for that employee under s. 40.05 (2) (a). All payments under this
9 subsection shall be credited to the account under s. 40.04 (5) (am).

10 **SECTION 11.** 323.19 (3) of the statutes is repealed.

11 (END)