

Senate Bill 602

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CHAPTER 407

AN ACT to amend 38.24 (2) (o), (7) (a) and (b) 1 and (7a) (c) 1, as created by chapter 248, laws of 1965, 42.244 (1) and 42.245 (3) (a), as created by chapter 250, laws of 1965, 42.45 (1) (a), 66.901 (11a), as created by chapter 251, laws of 1965, and 66.907 (2) (a) 1 and 66.908 (2) (a), as amended by chapter 251, laws of 1965; and to create 42.45 (1) (co) of the statutes, relating to the elimination of inconsistencies and the clarification of various provisions pertaining to the Wisconsin retirement fund, the state teachers retirement system and teachers annuity and retirement funds in cities of the 1st class.

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

SECTION 1. 38.24 (2) (o), (7) (a) and (b) 1 and (7a) (c) 1 of the statutes, as created by chapter 248, laws of 1965, are amended to read:

38.24 (2) (o) "Final average compensation" means the monthly rate of compensation obtained by dividing: a) the member's total compensation subject to required deposits *and any compensation which would have been subject to required deposits if not exempted pursuant to sub. (14) (d)* for the 5 fiscal years in which such compensation was the highest during the 10 fiscal years preceding both the June 30 nearest the date of termination of his membership teaching and the June 30 following or coincident

with his 70th birthday or July 1, 1966, if later, by b) 12 times the number of years of his creditable service for such 5 years. If a member has such compensation for less than 5 such fiscal years his final average compensation is the rate obtained by dividing his total compensation for all such years by 12 times the total number of years of his creditable service therefor. Final average compensation shall be determined separately with respect to each separate period of membership teaching. A separate period of membership teaching shall be deemed to have ended each time a member has not engaged in membership teaching for a period in excess of 2 school years, unless on authorized leave of absence, or has been granted an annuity or separation benefit. For purposes of this paragraph and sub. (7a) (a) 2 only, the phrase "2 school years" shall be defined by rule of the board, but in no event shall a period of 2 school years include more than 28 consecutive calendar months.

(7) (a) There is created, as of the effective date of this subsection ~~(1965) September 9, 1965~~, as a part of each retirement fund created pursuant to this section a formula group, to be composed of: a) any combined group or separate group member, except any member who on such date is a member receiving an annuity, who ~~between such effective date and at any time on and after September 9, 1965, but prior to December 1, 1965,~~ is employed in membership teaching and, ~~unless exempted from making a required deposit by sub. (14) (d),~~ makes a required deposit pursuant to sub. (11), and who elects in accordance with this subsection to become a member of the formula group; b) any combined group or separate group member who on the effective date of this subsection ~~(1965) September 9, 1965~~, is on authorized leave of absence, and who elects in accordance with this subsection to become a member of the formula group, but no such election shall be effective unless and until such member resumes membership teaching ~~after such date concurrently with the termination of such leave of absence;~~ c) any member who is a member of the system on the effective date of this subsection ~~(1965) September 9, 1965~~, but who is not eligible for an election under a) or b) herein, who within 90 days from the last day of the month in which he first engages in membership teaching after the effective date of this subsection ~~(1965) September 9, 1965~~, elects in accordance with this subsection to become a member of the formula group, but his participation as a member of the formula group shall not include or relate to any benefit, compensation or employment for any period prior to the effective date of this subsection ~~(1965) September 9, 1965~~; d) any person who becomes a member of the system after November 30, 1965. For purposes of s. 66.99 each member of the formula group shall also be classified as a member of the combined group or of the separate group, as determined pursuant to sub. (3); such classification shall also be applicable with respect to any benefit, compensation or employment which is not includable for formula group purposes.

(b) 1. Participation in the formula group shall not be effective, as to any member who becomes a member of such group, before July 1, 1966, or the beginning date of his retirement annuity under ~~s. 42.245 sub. (7a) (b)~~ if earlier.

(7a) (c) 1. If, before attaining age 65, a formula group member who has made required deposits for not less than a school year during each of 5 fiscal years within the 84-month period preceding the occurrence of disability, becomes unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration, and furnishes due proof thereof, ~~and if the teaching service of the member was terminated because of such disability,~~ such member shall be paid a disability annuity during the continuance of such disability. ~~The teaching service of a member shall not be considered to have been~~

terminated because of disability if a member has engaged in any employment other than membership teaching between the date the disability occurred and the date of approval by the board of his application for a retirement annuity. The board may at any time, but not more than once in any fiscal year, and only until the member has attained age 65, require proof of the continuance of such disability, and if the member fails to furnish satisfactory proof thereof, or if it appears at any time that the member has become able to engage in any substantial gainful activity, such annuity shall be reduced to the amount of the retirement annuity to which he would be entitled under par. (b), notwithstanding the age 55 requirement expressed therein.

SECTION 2. 42.244 (1) of the statutes, as created by chapter 250, laws of 1965, is amended to read:

42.244 (1) There is created as of ~~the effective date of this section (1965) September 11, 1965,~~ as a part of the system a formula group, to be composed of: (a) Any combined group or separate group member, except any member who on ~~the effective date of this section (1965) September 11, 1965,~~ is a member receiving an annuity or a member whose annuity is being withheld pursuant to s. 42.242 (6) or 42.49 (13), who ~~between such effective date and~~ *at any time on and after September 11, 1965, but prior to December 1, 1965,* is employed as a teacher in Wisconsin teaching and makes a required deposit pursuant to s. 42.40, and who elects in accordance with this section to become a member of the formula group; (b) any combined group or separate group member who on ~~the effective date of this section (1965) September 11, 1965,~~ is on authorized leave of absence, and who elects in accordance with this section to become a member of the formula group, but no such election shall be effective unless and until such member resumes employment as a teacher in Wisconsin teaching ~~after such date concurrently with the termination of such leave of absence;~~ (c) any member who is a member of the system on ~~the effective date of this section (1965) September 11, 1965,~~ but who is not eligible for an election under (a) or (b) herein, who within 90 days from the last day of the month in which he is first employed as a teacher in Wisconsin teaching ~~after the effective date of this section (1965) September 11, 1965,~~ elects in accordance with this section to become a member of the formula group, but his participation as a member of the formula group shall not include or relate to any benefit, compensation or employment for any period prior to ~~the effective date of this section (1965) September 11, 1965;~~ and (d) any person who becomes a member of the system after November 30, 1965. For purposes of s. 66.99 each member of the formula group shall also be classified as a member of the combined group or of the separate group, as determined pursuant to s. 42.241; such classification shall also be applicable with respect to any benefit, compensation or employment which is not includable for formula group purposes.

SECTION 3. 42.245 (3) (a) of the statutes, as created by chapter 250, laws of 1965, is amended to read:

42.245 (3) (a) If, before attaining age 65, a formula group member who has made required deposits for not less than a school year during each of 5 fiscal years within the 84-month period preceding the occurrence of disability, becomes unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration, and furnishes due proof thereof, *and if the teaching service of the member was terminated because of such disability,* such member shall be paid a disability annuity during the continuance of such

disability. *The teaching service of a member shall not be considered to have been terminated because of disability if a member has engaged in any employment other than Wisconsin teaching between the date the disability occurred and the date of approval by the board of his application for a retirement annuity.* The board may at any time, but not more than once in any fiscal year, and only until the member has attained age 65, require proof of the continuance of such disability, and if the member fails to furnish satisfactory proof thereof, or if it appears at any time that the member has become able to engage in any substantial gainful activity, such annuity shall be reduced to the amount of the retirement annuity to which he would be entitled under sub. (2), notwithstanding the age 50 requirement expressed therein.

SECTION 4. 42.45 (1) (a) of the statutes is amended to read:

42.45 (1) (a) Except as provided in pars. (b) ~~and~~, (c), (en) and (co), the state deposit on behalf of each teacher who is required to make deposits under s. 42.40 (1) or (2) shall be an amount equal to the following percentage upon the required deposit made by such teacher during the fiscal year, namely, to 50% of the required deposit add 5% of the required deposit for each year of teaching experience excluding the year for which deposit is made, ~~provided that~~ but the total shall not exceed 200% of the required deposit, ~~provided, that~~. In computing the state deposit, any amount of required deposit on account of any amount of annual compensation in excess of \$3,000 shall be disregarded in applying the above percentages. If the teacher received compensation for service as a teacher in the public schools, the state colleges or the university, for not less than a school year during the fiscal year, the state deposit shall be increased by \$25.

SECTION 5. 42.45 (1) (co) of the statutes is created to read:

42.45 (1) (co) For any fiscal year beginning after June 30, 1965, during which a teacher who is not a member of the formula group becomes a member of the combined group pursuant to s. 42.241 (12a), the state deposit on behalf of such teacher shall be equal to the required deposit made by such teacher under s. 42.40, but the state contribution for any fiscal year beginning after June 30, 1966, with respect to a member of the formula group who during such year becomes a member of the combined group pursuant to s. 42.241 (12a) shall be determined under s. 42.46 (3).

SECTION 6. 66.901 (11a) of the statutes, as created by chapter 251, laws of 1965, is amended to read:

66.901 (11a) "Formula final rate of earnings" means, with respect to retirement annuities computed pursuant to s. 66.906 (2) (c), the monthly rate of earnings obtained by dividing a) the participant's total earnings received from a participating municipality *after the commencement of his creditable service and during the 5 calendar years in which such earnings were the highest during the 10 calendar years (excluding any year more than 5 years prior to the effective date) preceding both 1) the date of his separation from the service of that municipality and 2), the 5th anniversary (or the 3rd anniversary if a protective occupation participant) of his normal retirement date or January 1, 1966, if later, by b) the number of months of service creditable to him for such 5 years. If a participant has earnings for less than 5 such calendar years his final rate of earnings is the rate obtained by dividing his total earnings for all such years by the total number of months of his creditable service therefor. Other provisions of this subsection notwithstanding, formula final rate*

of earnings means, with respect to any retirement annuity computed for a participant pursuant to s. 66.906 (2) (c) 3. b, one-twelfth of the annual statutory compensation or salary which would have been payable to such participant during the month preceding the last month in which such participant was a participating employe in a position or office specified in s. 66.906 (2) (c) 3. b if he had not been prohibited by law from receiving an increase in such compensation or salary during his term of office.

SECTION 7. 66.907 (2) (a) 1 of the statutes, as amended by chapter 251, laws of 1965, is amended to read:

66.907 (2) (a) 1. Any protective occupation participant who is a participating employe who has not attained age 60 and any other participating employe who has not attained age 65 and is totally disabled, either mentally or physically, by a disability which is likely to be permanent. A person shall not be deemed to be disqualified solely because he is able to perform the duties of any position for which the compensation does not exceed \$1,200 in any calendar year. "Totally disabled" means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected ~~to~~ to result in death or to be of permanent duration. The participating municipality shall certify to the fund that the participating employe is unable to continue in employment because of a total disability of such a nature as to reasonably prevent performance of the duties of any position and as a consequence is not entitled to any earnings from such municipality. For the purposes of this subsection a participant shall, within the limitations of s. 66.903 (1) (b), be considered to be a participating employe on leave of absence, notwithstanding the fact that no formal leave of absence is in effect, if no other employment has intervened since service for the participating municipality and if the termination of active service for the participating municipality was due to such disability. For the purposes of this subsection a participant who is an official elected by the voters shall be considered as a participating employe for 30 days after the cessation of his earnings as an elected official.

SECTION 8. 66.908 (2) (a) of the statutes, as amended by chapter 251, laws of 1965, is amended to read:

66.908 (2) (a) Upon the death of a participant whose beneficiary to whom the death benefit is payable is a spouse, parent, child (including legally adopted child), grandchild, brother or sister of such participant the amount equal to the accumulated normal and additional credits of such participant on the date of his death, plus the sum of the accumulated prior service credits and municipality credits in his account at the date of his death if prior to December 31, 1965, or otherwise the amount of such accumulated prior service and municipality credits at December 31, 1965, compounded to the first day of the month in which such death occurs, at the effective rates of interest as determined from year to year, or in the case of such amounts segregated in the variable annuity division, at the rates of net gain or loss credited or debited to individual accounts in the variable annuity division, except that the total accumulated municipality and prior service credits so compounded used to provide the total death benefit shall not exceed such respective credits which could have been used to provide an annuity for the deceased participant ~~to~~ at the time of his death, assuming that such an annuity could have been granted to him at such time. No benefit shall be payable under this paragraph unless such participant at the date of his death was: 1) A participating employe; or 2) A participant who is receiving a benefit under s. 66.191, but who is not an annuitant; or 3) A participant, other than an annuitant,

who had prior or current service credit, or both, for at least 60 calendar quarter years as a participating employe, or 4) A participant who is currently contributing to the state teachers retirement system or the Milwaukee teachers retirement fund. For the purposes of this paragraph, a participant is deemed a participating employe on the date of his death if he is then an applicant for a retirement annuity whose application has been received within 30 days after termination of employment and who would have been entitled to such annuity had he lived, and a participant is deemed a participating employe on leave of absence, subject to the limitations of s. 66.903 (1) (b), if the participating municipality for which he last performed services as a participating employe has not filed notice of the termination of his employment, notwithstanding the fact that no formal leave of absence is in effect. If the death of a participating employe on leave of absence arises from employment by any employer other than such participating municipality his employment shall be deemed to have terminated and he shall not be considered a participating employe on the date of his death.

Approved November 23, 1965.
