

Senate Bill 678

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Chapter 581

AN ACT to repeal 66.907 (3) (i); to renumber 66.9025; to amend 38.24 (2) (n), (7a) (b) 2. b and 9, 42.243 (5) (c) and (7) (g) 6, 42.244 (1), 42.245 (1) (a), (2) (d) 4 and (h) and (3) (b) 2, 42.40 (6), 42.475, 42.50 (5) (intro. par.) and (b), 66.902 (3) (t), 66.903 (2) (f) 5, 66.9045 (2), (5) and (6), 66.905 (1) (b) and (3), 66.906 (2) (c) 3. a, b, c and d and 66.907 (3) (a); to repeal and recreate 25.17 (14) (b), 66.901 (11a) and (11b) and 66.905 (2) (a); and to create 42.245 (3) (b) 3, 66.901 (22), 66.9025 (2), 66.903 (2) (f) 1a and 66.915 (1) (h) of the statutes, as affected by the laws of 1965, relating to the elimination of inconsistencies and the clarification and modification of various provisions pertaining to the Wisconsin Retirement Fund, the State Teachers Retirement System and the Milwaukee Public School Teachers' Annuity and Retirement Fund.

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

SECTION 1. 25.17 (14) (b) of the statutes is repealed and recreated to read:

25.17 (14) (b) The accrued liability as of said fiscal year end of all participating municipalities under the Wisconsin retirement fund, as cer-

tified by the board of trustees of the Wisconsin retirement fund after determination by the actuary for said fund.

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

38.24 (2) (n) "Membership teaching" means employment as a teacher in the public schools of a city of the 1st class; *provided, that "membership teaching" shall include any period of teaching service before September 1, 1958, for which a teacher would have received credit under sub. (12) if he had remained a member of the separate group.*

(7a) (b) 2. b. The initial amount of annuity in the normal form under subd. 2. a. 1) or 2) shall not exceed the amount which, when added to the primary or disability insurance benefit for which he is eligible, or for which he will be eligible upon attaining the lowest age at which old-age benefits are payable, under the federal old-age and survivors insurance program, equals 75% of the member's final average compensation. If a member does not receive such OASDI amount by reason of his failure to apply therefor or by virtue of the suspension thereof, he will notwithstanding such fact be deemed to receive such amount. If a member fails to establish the amount of, or his eligibility for, such OASDI benefits, determinations thereof shall be made by the board on such basis as the board, by rule, establishes.

SECTION 3. 38.24 (7a) (b) 9 of the statutes, as created by chapter 242, laws of 1965, is amended to read:

38.24 (7a) (b) 9. Notwithstanding the provisions of ~~par. (a)~~ sub. (7) (a), an election to become a member of the formula group may be made at any time prior to December 1, 1965, by any member who made a required deposit pursuant to sub. (11) based on teaching service in the month of May or June, 1965, and who had not received an annuity at any time prior to May 1, 1965. *The election permitted by this subdivision may also be made by any member who would have made a required deposit pursuant to sub. (11) based on teaching service in the month of May or June, 1965, if not exempted from making such deposit by sub. (14) (d), if such election is made not more than 60 days after the effective date of this amendment (1965).* Any member so electing shall be subject to all provisions applicable to members of the formula group, including the right to have his retirement annuity adjusted in accordance with the provisions of subd. 7, any provision thereof to the contrary notwithstanding.

SECTION 4. 42.243 (5) (c) and (7) (g) 6 of the statutes are amended to read:

42.243 (5) (c) Earnings will be credited to the individual accounts in the retirement deposit fund only on amounts which have been on deposit for the full year except that, whenever a member's deposit accumulation, or state deposit accumulation, or both, are to be paid out in a single sum as a death benefit pursuant to sub. (7) (d) or s. 42.50, or are transferred to the annuity reserve fund pursuant to s. 42.48, interest shall be credited to the amount to be so paid out or transferred for each 3-month period which has elapsed since the preceding June 30 at one-fourth of the rate at which earnings were apportioned on such June 30. The interest so credited shall be charged to the earnings for the current fiscal year and shall be paid out or transferred with the amount to which it was so credited. *Earnings credited pursuant to this paragraph shall be excluded from the determination of the excess or deficiency resulting from participation in the variable annuity division as required by s. 42.245 (2) (b) 1 or (d) 4.*

(7) (g) 6. The first payment of an annuity under this paragraph shall not be made before the 50th birthday anniversary of the member unless

he has qualified for a disability annuity under s. 42.242 (4), ~~42.245 (3)~~ or 42.49 (9).

SECTION 5. 42.244 (1) of the statutes, as amended by chapter 407, laws of 1965, is amended to read:

42.244 (1) There is created as of 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 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 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 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 concurrently with the termination of such leave of absence; (c) any member who is a member of the system on September 11, 1965, but who is not eligible for an election under (a) or (b) ~~herein~~, *who prior to July 1, 1966, or*, who within 90 days from the last day of the month in which he is first employed as a teacher in Wisconsin teaching after 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 ~~September 11, 1965;~~ *July 1, 1966;* 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 6. 42.245 (1) (a) and (2) (d) 4 of the statutes, as created by chapter 250, laws of 1965, are amended to read:

42.245 (1) (a) Creditable service shall be expressed in years and such fractions thereof as the board determines. The creditable service of each member any time prior to July 1, 1966, shall be the number of years of service as a teacher in Wisconsin teaching (including prior service) theretofore creditable to him pursuant to the applicable statutes and rules, provided that military service meeting the requirements of s. 42.45 ~~(2)~~ ~~or~~ (3) shall be included for any such period for which the member makes deposits as provided by s. 42.45 (4). The creditable service of a member with respect to teaching after June 30, 1966, shall be the number of years of subsequent service as a teacher in Wisconsin teaching until such service as a teacher is terminated, but not including any period subsequent to the June 30 following or coincident with his 70th birthday. The board shall fix and determine by proper rules and regulations how much teaching in any year is equivalent to one year of creditable service. Military service after June 30, 1966, shall be creditable on the same basis as military service prior thereto.

(2) (d) 4. An amount equal to the excess, if any, of a) the accumulation from the required deposits of the member over b) the accumulation therefrom which would have resulted if the accumulation therefrom in the variable annuity division at June 30, 1966, had been transferred to, and all subsequent deposits had been made in, the fixed annuity division. If a) is less than b), the accumulation under either subd. ~~2 or 3~~ ~~or~~ 4 shall be reduced by the amount of such deficiency.

SECTION 7. 42.245 (2) (h) of the statutes, as created by chapter 242, laws of 1965, is amended to read:

42.245 (2) (h) Notwithstanding the provisions of ~~sub. (1) s. 42.244,~~ an election to become a member of the formula group may be made at any time prior to ~~December 1, 1965,~~ July 1, 1966, by any member who made a required deposit pursuant to s. 42.40 based on teaching service in the month of May or June, 1965, *who was not eligible to make an election to participate in the formula group pursuant to s. 42.244 (1) (a), (b) or (c) or who did not become a member of the formula group pursuant to s. 42.244 (1) (d),* and who had not received an annuity at any time prior to May 1, 1965. Any member so electing shall be subject to all provisions applicable to members of the formula group, including the right to have his retirement annuity adjusted in accordance with the provisions of par. (g), any provision thereof to the contrary notwithstanding.

SECTION 8. 42.245 (3) (b) 2 of the statutes, as created by chapter 250, laws of 1965, is amended to read:

42.245 (3) (b) 2. The ~~sum of the amount of the annuity that can be purchased by the accumulation from additional deposits on the date the disability annuity begins, if the member so elects,~~ plus the lesser of the following amounts: 50% of the final average compensation, or 1½% of the final average compensation multiplied by the number of years of creditable service, including in the latter assumed service between the date the disability occurred and the 65th birthday of the member. Whenever the annuitant becomes eligible for disability benefits or for old-age benefits as a retired worker under the federal old-age and survivors insurance system, the amount of his disability annuity, other than any amount attributable to his additional deposits, shall be reduced by 20% of the amount thereof, but in no event shall such reduction lower the disability annuity below that which could have been provided under subd. 1. Such reduction shall be effective with the annuity payment for the 8th month after the annuity begins except during such period as the disability annuitant furnishes evidence to the fund that he is not eligible for benefits from the federal old-age and survivors insurance system. Any annuity payable under this paragraph shall not be subject to optional modification. All available required deposit accumulations, state deposit accumulations and state contributions shall be applied to the cost of any annuity provided under this paragraph.

SECTION 9. 42.245 (3) (b) 3 of the statutes is created to read:

42.245 (3) (b) 3. In addition to a disability annuity a member may elect to receive his additional deposits in the fixed annuity division in a lump sum or in the form of an annuity in any of the optional forms set forth in s. 42.49 (2) (a) to (e), but additional deposits in the variable annuity division may be received only in the form of an annuity in any of the optional forms set forth in s. 42.243 (7) (g).

SECTION 10. 42.40 (6) of the statutes, as created by chapter 250, laws of 1965, is amended to read:

42.40 (6) Effective July 1, 1966, each member of the formula group shall make a deposit in the retirement deposit fund equal to 4½% of all compensation received for teaching service performed by such teacher which is subject to contributions under s. 66.99, plus 7% of such compensation not subject to such contributions, but no deposit shall be required with respect to compensation for teaching service subsequent to the June 30 following or coincident with the 70th birthday of any such member; *but each member of the formula group who performs services in connection with an activity carried on co-operatively by the federal government and*

the state or any political subdivision thereof, which services have been determined not to be subject to s. 66.99, shall for purposes of this subdivision and s. 42.20 (17) be deemed to be subject to s. 66.99 with respect to such services.

SECTION 11. 42.475 of the statutes as amended by chapter 250, laws of 1965, is amended to read:

42.475 Whenever a member's deposit accumulation, state deposit accumulation or an amount in the state accumulation fund is to be paid out as a death benefit pursuant to s. 42.50, or is transferred to the annuity reserve fund pursuant to s. 42.48, interest shall be credited to the amount to be so paid out or transferred for each 3-month period which has elapsed since the preceding June 30 at one-fourth of the rate at which earnings were apportioned on such June 30. The interest so credited shall be charged to the earnings for the current fiscal year and shall be paid out or transferred with the amount to which it was so credited. *Interest credited pursuant to this section shall be excluded from the determination of the excess or deficiency resulting from participation in the variable annuity division as required by s. 42.245 (2) (b) 1 or (d) 4.*

SECTION 12. 42.50 (5) (intro. par.) and (b) of the statutes, as created by chapter 250, laws of 1965, are amended to read:

42.50 (5) (intro. par.) Upon the death of a member of the formula group receiving a disability annuity under s. 42.245, a death benefit shall be payable to his beneficiary in the amount of the excess, if any, of the accumulations from member ~~additional and~~ required deposits applied to provide the annuity over the aggregate amount of *disability* annuity payments received by the member. If the beneficiary or beneficiaries to whom a death benefit is payable is or are a wife, minor child, or dependent husband designated as beneficiary on the date the disability annuity was approved, the death benefit shall not be less than:

(b) If such death occurs on or after the 65th birthday of the member, the excess, if any, of the accumulations from member ~~additional and~~ required deposits applied to provide the annuity over the aggregate amount of *disability* annuity payments received by the member after his 65th birthday.

SECTION 13. 66.901 (11a) of the statutes, as amended by chapter 407, laws of 1965, is repealed and recreated to read:

66.901 (11a) "Formula final rate of earnings" means, with respect to retirement annuities computed pursuant to s. 66.906 (2) (c):

(a) 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; or

(b) If so elected by a participant, formula final rate of earnings means, but only 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 14. 66.901 (11b) of the statutes, as created by chapter 251, laws of 1965, is repealed and recreated to read:

66.901 (11b) "Final excess OASDI earnings" means, with respect to retirement annuities computed pursuant to s. 66.906 (2) (c):

(a) The monthly rate of earnings obtained by dividing a) the participant's total earnings for the 5 calendar years, or such lesser period, determined pursuant to sub. (11a) (a), in excess of the amounts subject to contributions under s. 66.99, by b) the number of months of service creditable for such years, but such monthly rate shall not exceed the amount by which the formula final rate of earnings of the participant exceeds \$550; or

(b) If a participant has elected to have his formula final rate of earnings determined in accordance with sub. (11a) (b), final excess OASDI earnings means, but only with respect to any retirement annuity computed pursuant to s. 66.906 (2) (c) 3. b, the monthly rate of earnings equal to the excess of a) the formula final rate of earnings over b) the greater of one-twelfth of the maximum annual amount of earnings subject to contributions under s. 66.99 during the month preceding the last month in which a participant was a participating employe in a position or office specified in s. 66.906 (2) (c) 3. b, or \$550.

(c) Final excess OASDI earnings of any participant not subject to s. 66.99 shall be determined as if he were subject to s. 66.99.

SECTION 15. 66.901 (22) of the statutes is created to read:

66.901 (22) "Accrued liability" means the present value at any time of the future contributions payable by a participating municipality as determined pursuant to s. 66.905 (2) (a).

SECTION 15m. 66.902 (3) (t) of the statutes is amended to read:

66.902 (3) (t) Each participant who was a participating employe of the state on January 1, ~~1963~~ 1966, shall be given ~~prior service credit creditable service~~, as of the date he became a participant such date, for all service as a member of the legislature and all service as a state constitutional officer elected by vote of the people, which has not previously been credited under any other provision of law. ~~The computation of such prior service credit shall be based on his earnings during the last 3 years of service as a legislator~~ The amendment of this paragraph by chapter 581, laws of 1965 (this act) shall not affect any rights created or action taken pursuant to this paragraph prior to the effective date of such amendment.

SECTION 16. 66.9025 of the statutes, as affected by chapter 323, laws of 1965, is renumbered 66.9025 (1).

SECTION 16m. 66.9025 (2) of the statutes is created to read:

66.9025 (2) Notwithstanding the provisions of section 3 of chapter 323, laws of 1965, sub. (1) shall become effective on the first day of the first calendar quarter year which commences after a written agreement between the executive director and the federal government has been concluded, whereby the federal government shall have agreed to make deductions pursuant to s. 66.903 (2) (f) from each payment of earnings to national guard technicians who are participating employes.

SECTION 17. 66.903 (2) (f) 1a. of the statutes is created to read:

66.903 (2) (f) 1a. For each participating employe who performs services in connection with an activity carried on co-operatively by the federal government and a participating municipality, which services have been determined not to be subject to s. 66.99, $4\frac{1}{2}\%$ of those earnings for such services which would be subject to contributions under s. 66.99 if such employe was subject to s. 66.99, plus 7% of those earnings for such services which are in excess of the amount which would be subject to contributions under s. 66.99 if such employe was subject to s. 66.99. This subdivision shall take effect January 1, 1966.

SECTION 18. 66.903 (2) (f) 5 of the statutes, as created by chapter 251, laws of 1965, is amended to read:

66.903 (2) (f) 5. No participating employe shall make normal contributions with respect to such earnings ~~paid for service~~ in any period subsequent to the end of the calendar quarter year in which he attains the age of 63 years if he is a protective occupation employe, or the age of 70 years otherwise, and there shall be no municipality contribution for the service for which such earnings were paid.

SECTION 19. 66.9045 (2), (5) and (6) of the statutes, as created by chapter 251, laws of 1965, are amended to read:

66.9045 (2) A participant shall be considered as a separate participant with respect to each separate period of current service for each participating municipality ~~and with respect to service within each of the 4 classes of participating employes described in s. 66.903 (2) (f);~~ but the current service of a participant shall not be considered to have been interrupted by reason of any change of employers arising solely from the operation of s. 66.902 (1c) or 66.905 (6) if both the predecessor and the successor municipality were participating municipalities on the date of such change. A separate period of current service shall be deemed to commence on the date a former participating employe of a municipality again becomes a participating employe of such municipality more than 2 years after the last date for which he was entitled to earnings as a participating employe thereof, but not if such resumption of employment occurs at or prior to the expiration of an authorized leave of absence or prior to the effective date of this subsection (1965). The commencement of a separate period of current service shall not cause the loss of any benefit to which a participant is entitled by virtue of any preceding service with any municipality, nor shall it subject him again to the requirements of s. 66.901 (4) (d).

(5) The computation of the creditable prior service of a person who was an employe on the effective date shall include all previous service for such municipality, including service as an elective or appointive official or as an employe, if such service or employment conformed to the requirements of s. 66.901 (4); *but after December 31, 1965, in no case shall creditable prior service include any service rendered after the end of the calendar quarter year in which a participant attains the age of 63 years if he is a protective occupation participant or the age of 70 years otherwise.*

(6) Each employe of the state who is a participating employe on January 1, ~~1966~~ 1967, shall be granted as of such date creditable service for all service as a member of the legislature ~~which has not been credited under any other provision of law~~ if, prior to such date, the member makes all required contributions which he would have made as a participating employe during such service after January 1, 1957, and prior to the first day of the month in which he became a participating employe, *or if, prior to January 1, 1967, such participating employe refunds to the Wis-*

consin retirement fund for credit to the individual account of such participating employe, the full amount of any separation benefit previously received by such participating employe.

SECTION 20. 66.905 (1) (b) of the statutes is amended to read:

66.905 (1) (b) Advance contributions of such amounts as shall be are determined by any ~~such participating~~ municipality for the purpose of reducing any existing obligation of such municipality ~~for prior or current service.~~

SECTION 21. 66.905 (2) (a) of the statutes, as repealed and recreated by chapter 251, laws of 1965, is repealed and recreated to read:

66.905 (2) (a) The uniform annual amount required, after allowance for anticipated employe separations, at the prescribed rate of interest:

1. To amortize, over the remainder of the period of 40 years following the effective date, the amount of the obligation as of December 31, 1965, for prior service credits granted to the employes of the municipality; and

2. To amortize over the remainder of the period of 40 years following December 31, 1965, or the effective date, if later, the amount by which the then present value of all future benefits of the then participants of the municipality other than benefits financed by employe contributions and benefits financed pursuant to par. (c) exceeds the sum of the then present values of:

- a. All future contributions pursuant to subd. 1;
- b. All future contributions by the municipality with respect to such participants pursuant to par. (b); and
- c. The then balance of the municipality's accumulation account.

SECTION 22. 66.905 (3) of the statutes, as amended by chapter 251, laws of 1965, is amended to read:

66.905 (3) Computations of the rates of municipality contributions for each calendar year shall be made from the information available at the time of making such computation and on such assumptions as the actuary recommends and the board approves from time to time. Such rates shall become effective, after certification by the board, as of the beginning of the calendar year to which they are applicable and shall remain in effect during such year, *except that the executive director upon the written recommendation of the actuary, may change any such rate for any calendar year for the purpose of reflecting in such rate the reduced obligation of any participating municipality which results from the payment of advance contributions pursuant to sub. (1) (b).*

SECTION 23. 66.906 (2) (c) 3. a, b, c and d of the statutes, as created by chapter 251, laws of 1965, are amended to read:

66.906 (2) (c) 3. a. For each participant *for creditable service of a type* not otherwise specified *in this subdivision*, six-sevenths of one per cent of his formula final rate of earnings plus three-sevenths of one per cent of his final excess OASDI earnings, if any;

b. For each participant ~~who was~~ *for creditable service as a supreme court justice, circuit judge, county judge, member of the legislature or state constitutional officer elected by vote of the people*, 1-1/5 of one per cent of his formula final rate of earnings, plus three-fifths of one per cent of his final excess OASDI earnings, if any;

c. For each participant ~~who was~~ *subject to s. 66.99 for creditable service as a protective occupation employe subject to s. 66.99 participant,*

1-1/3 of one per cent of his formula final rate of earnings, plus one-sixth of one per cent of his final excess OASDI earnings, if any;

d. For each participant ~~who was not subject to s. 66.99 for creditable service as a protective occupation employe not subject to s. 66.99 participant~~, 1³/₄ of one per cent of his formula final rate of earnings, less one-fourth of one per cent of his final excess OASDI earnings, if any.

SECTION 24. 66.907 (3) (a) of the statutes is amended to read:

66.907 (3) (a) Each participating employe who is a ~~conservation warden, conservation patrol boat captain, conservation patrol boat engineer, conservation airplane pilot, state forest ranger, member of the state traffic patrol, state motor vehicle inspectors, policeman, fireman, and each employe of the conservation commission who is designated by the conservation director as being subject to forest fire control or warden duty~~ *protective occupation participant* shall be entitled to the special disability benefits provided by this subsection if he meets the requirements set forth herein.

SECTION 25. 66.907 (3) (i) of the statutes is repealed.

SECTION 26. 66.915 (1) (h) of the statutes is created to read:

66.915 (1) (h) Interest shall be credited at the end of the year, at the effective rate from the date of receipt, on all contributions received in accordance with s. 66.905 (1) (b); but all such contributions, for the year in which they are received, shall be excluded from the computation of the mean balance required to be determined pursuant to par. (g).

Approved June 24, 1966.