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Assembly Bill 5

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CHAPTER 386 , Laws of 1981

AN ACT to repeal 40.05 (2) (e); to renumber 40.25 (6) (a) 4 and 5; to renumber and amend 36.30 (1); to consolidate, renumber and amend 40.25 (6) (a) 2 and 3; to amend 25.17 (14) (intro.), 40.02 (17) (b), (20) and (49), 40.03 (2) (k), 40.04 (3) (a), 40.05 (2) (b) to (d) and (f) 6 and (4) (a) (intro.) and 1 and (c), 40.06 (3), 40.22 (6), 40.23 (1) (d) and (e) and (2) (b) 3, 40.25 (2) and (6) (a) 3, as renumbered, 40.63 (8) (c) and (h) (intro.) and (9) (b) and (c) 3 and 40.72 (5); and to create 40.06 (6) of the statutes, relating to revisions of the laws governing the Wisconsin retirement system and granting rule-making authority.

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

SECTION 1. 25.17 (14) (intro.) of the statutes, as affected by chapter 96, laws of 1981, is amended to read:

25.17 (14) (intro.) The investment board shall, as of ~~November 30~~ December 31 of each year, make and file with the department of employe trust funds a report of the value of the assets of the fixed retirement investment trust and of the variable retirement investment trust, determined as of that date at market value for the variable retirement investment trust and on the following basis for the fixed retirement investment trust:

SECTION 2. 36.30 (1) of the statutes, as affected by chapter 96, laws of 1981, is renumbered 36.30 and amended to read:

36.30 Sick leave. Leave of absence for faculty and academic staff personnel with pay, owing to sickness, shall be regulated by rules of the board, ~~consistent with the sick leave program established under s. 230.35 (2)~~ except that unused sick leave shall accumulate from year to year.

SECTION 3. 40.02 (17) (b), (20) and (49) of the statutes, as affected by chapter 96, laws of 1981, are amended to read:

40.02 (17) (b) Each participating employe in the Wisconsin retirement system whose creditable service terminates on or after January 1, 1982, who was previously a participant in the Wisconsin retirement fund and who has not received a separation benefit may receive creditable service equal to the period of service during any qualifying period under s. 41.02 (6) (c), 1969 stats., s. 66.901 (4) (d), 1967 stats., or under any predecessor statute, but not to exceed 6 months. The additional creditable service shall be granted at ~~the time an application is received for an annuity~~ upon application by the employe if the applicant pays to the department a lump sum payment equal to 5% of one-twelfth of the employe's highest earnings in a single annual earnings period multiplied by the number of months of creditable service granted under this paragraph. That amount shall be credited and treated as an employe ~~normal~~ required contribution for all purposes of the Wisconsin retirement system.

(20) "Dependent" means the spouse, minor child, including stepchildren of the current marriage, dependent on the employe for support and maintenance, or child of any age, including stepchildren of the current marriage, if handicapped to an extent requiring continued dependence. For group health insurance purposes only, "dependent" ~~also means an unmarried child, including stepchildren of the current marriage, dependent on the insured employe or the surviving spouse of an insured employe for support and maintenance until the end of the calendar year in which the child attains age 19 or, if the child is a full-time student in any school, age 25~~ the department may adopt by rule a different definition of "dependent" than the one otherwise provided in this subsection for each group insurance plan.

(49) "Retired employe" means a former insured employe who is not a participating employe and who is retired on an immediate or disability annuity or who receives a lump sum payment under s. 40.25 (1) which would have been an immediate annuity if paid as an annuity or who is an eligible employe under sub. (25) (b) 6.

SECTION 4. 40.03 (2) (k) of the statutes, as affected by chapter 96, laws of 1981, is amended to read:

40.03 (2) (k) May determine an amount, and the procedure for establishing the amount, of OASDHI benefits for any person using any information the department has available in its records and any assumptions as to data not in the department's records as deemed appropriate for estimating the benefits unless the person establishes, through a certification of the person's social security earnings record or actual benefit amount, a different amount payable ~~after applying all covered earnings of the person in the last year of participating employment.~~ In the case of any participant whose earnings are not subject to Titles II and XVIII of the federal social security act by reason of eligibility for a choice provided by statute, it is conclusively assumed in making the estimate, regardless of the person's actual federal social ~~securities~~ security earnings record, that 50% of those earnings are and were subject to Titles II and XVIII of the federal social security act. The secretary may require the person to provide the department with a certification of the person's social security earnings record or benefit amount as a condition for receiving benefits under this chapter. If a participant does not receive the OASDHI benefit for which the person is or will be eligible by reason of failure to apply for the benefit or by virtue of the suspension of the benefit the participant will nevertheless be deemed to have received the OASDHI benefit amount for purposes of any benefit computation under this chapter.

SECTION 5. 40.04 (3) (a) of the statutes, as affected by chapter 96, laws of 1981, is amended to read:

40.04 (3) (a) All earnings, profits or losses of the fixed retirement investment trust and the net gain or loss of the variable retirement investment trust shall be distributed annually on ~~November 30~~ December 31 to each participating account in the same ratio as each account's average daily balance within the respective trust bears to the total average

daily balance of all participating accounts in that trust. For the fixed retirement investment trust the amount to be distributed shall be the then balance of the current income account plus 7% of the then balance of the transaction amortization account. For the variable retirement investment trust the amount to be distributed shall be the excess of 1) the increase within the period in the value of the assets of the trust resulting from income from the investments of the trust and from the sale or appreciation in value of any investment of the trust, over 2) the decrease within the period in the value of the assets resulting from the sale or the depreciation in value of any investments of the trust.

SECTION 6. 40.05 (2) (b) to (d) of the statutes, as affected by chapter 96, laws of 1981, are amended to read:

40.05 (2) (b) Contributions shall be made by each participating employer for creditable prior service in ~~amounts~~ a percentage of the earnings of each participating employe, but with a separate percentage rate determined for each of the categories and subcategories for which separate rates are determined under par. (a), determined as of January 1, 1982, or the employer's effective date of participation if later, to be sufficient to amortize as a level percent of payroll over a period of 37 years from that date, the prior service liability of the employer on that date determined under ss. 41.105 (1) (c) and (d), 42.46 (3) (a) and 42.89 (6) (a), 1979 stats., but adjusted to reflect the effect of other provisions of chapter 96, laws of 1981. In determining the ~~amounts payable~~ percentages under this paragraph, it shall be assumed that the covered payroll of each employer will increase at the rate of 4% per year following January 1, 1982, or the employer's effective date of participation if later. Advance contributions of amounts determined by any participating employer may be made for the purpose of reducing that employer's then existing prior service liability.

(c) The ~~amounts and~~ percentage rates determined under this subsection shall become effective as of the beginning of the calendar year to which they are applicable and shall remain in effect during the calendar year, except that the secretary, upon the written certification of the actuary, may change any ~~amount~~ percentage determined under par. (b) during any calendar year for the purpose of reflecting ~~in the amount~~ any reduced obligation which results from any payment of advance contributions.

(d) The amount of each employer's monthly contribution shall be the sum of ~~one-twelfth of the annual amount determined under par. (b)~~, plus the amount the amounts determined by applying the proper percentage ~~rate rates~~ as determined in accordance with ~~par. pars.~~ (a) and (b) to the total of all earnings paid to participating employes on each payday.

SECTION 7. 40.05 (2) (e) of the statutes, as affected by chapter 96, laws of 1981, is repealed.

SECTION 8. 40.05 (2) (f) 6 of the statutes, as affected by chapter 96, laws of 1981, amended to read:

40.05 (2) (f) 6. If the employer who becomes responsible for any part of the liability of the previous employer is not a participating employer the contributions required to liquidate the allocated liability shall be made by the successor employer ~~as provided in par. (e) in equal quarterly payments sufficient to liquidate the allocated liability over the remainder of the amortization period.~~

SECTION 9. 40.05 (4) (a) (intro.) and 1 and (c) of the statutes, as affected by chapter 96, laws of 1981, are amended to read:

40.05 (4) (a) (intro.) For health insurance each insured employe and insured retired employe shall contribute the balance of the required premium amounts after applying required employer contributions, if any. Employers shall pay contributions as required by this paragraph for each insured employe who is ~~not a retired employe~~ currently employed and has not been on a leave of absence for more than 3 months effective on the first day of the 7th month commencing after the date the insured employe commences employment

with the state. Employers shall pay contributions as required by this paragraph for an insured employe who is an eligible employe under s. 40.02 (25) (a) 2 effective on the date the employe becomes an eligible employe. Except as otherwise provided in accordance with a collective bargaining agreement under subch. V of ch. 111 or s. 230.12, the employer shall pay for its insured employes who are not retired employes currently employed:

1. For eligible insured part-time employes in permanent part-time positions or, including those in project positions as defined in s. 230.27 (1), who work less than 1,044 hours per year, an amount equal to 45 % of the gross premium for the standard health insurance coverage established by the group insurance board.

(c) The employer shall contribute toward the payment of premiums for the plan established under s. 40.52 (3) not more than the percentage of premium paid by the employer for health insurance coverage under par. (a) 2.

SECTION 10. 40.06 (3) of the statutes, as affected by chapter 96, laws of 1981, is amended to read:

40.06 (3) Interest shall be charged on accounts receivable from any employer if the remittance and any corresponding report are not received by the department in the manner and within the time limit fixed by rule or statute at the rate of ~~one percent~~ 0.04 % for each ~~month or fraction of a month, compounded day~~, from the due date to the date received by the department with a minimum charge of \$3, and the interest or minimum charge shall be paid immediately to the department. If the amount is not paid within 30 days after it is payable, the amount shall be collected as provided under sub. (4).

SECTION 11. 40.06 (6) of the statutes is created to read:

40.06 (6) Notwithstanding ss. 16.52 (2) and 40.02 (22) (a), fiscal year coding adjustments may be made for contributions received after August 1 for earnings paid for services rendered in the previous fiscal year, so that the amount of the contributions received and earnings paid are substantially reflected in the annual earnings period to which they apply.

SECTION 12. 40.22 (6) of the statutes, as affected by chapter 96, laws of 1981, is amended to read:

40.22 (6) Notwithstanding subs. (1) to (5), if an employe's employment with an employer terminates after a period of service of less than 20 working days, the employe is not eligible for retirement coverage for that period of service. This subsection does not affect an employe's eligibility for insurance coverage for that period of service.

SECTION 13. 40.23 (1) (d) and (e) and (2) (b) 3 of the statutes, as affected by chapter 96, laws of 1981, are amended to read:

40.23 (1) (d) An application may be filed not more than 90 days prior to the date of termination of employment but no payment shall be made until ~~written confirmation is received from the employer that~~ the employment has in fact terminated. The date of receipt of an application filed prior to termination is deemed to be the day after termination.

(e) Whenever it is determined that an annuity effective date is incorrect ~~because the final employment termination date is subsequent to that originally reported~~, the annuity effective date shall be corrected and any related computational and payment adjustments shall be made.

(2) (b) 3. For each participant ~~except elected sheriffs~~, subject to Titles II and XVIII of the federal social security act, for service as a protective occupation participant, 1.8 %.

SECTION 14. 40.25 (2) of the statutes, as affected by chapter 96, laws of 1981, is amended to read:

40.25 (2) If all requirements for payment of a retirement annuity are met except attainment of age 55 or age 50 for protective occupation participants, a separation benefit may be paid, if the participant's written application for a separation benefit is received by the department prior to the participant's 55th birthday or 50th birthday for protective occupation participants, in an amount equal to the additional and employe required contribution accumulations of the participant on the date the application for a separation benefit is received approved.

SECTION 15. 40.25 (6) (a) 2 and 3 of the statutes, as affected by chapter 96, laws of 1981, are consolidated, renumbered 40.25 (6) (a) 2 and amended to read:

40.25 (6) (a) 2. Applications for reestablishment of creditable service must include all creditable service that has been forfeited. ~~3. The except that the number of years which may be reestablished under this subsection may not be greater than the creditable service of the participating employe at the date of application, or 10 years, whichever is smaller.~~

SECTION 16. 40.25 (6) (a) 4 and 5 of the statutes, as affected by chapter 96, laws of 1981, are renumbered 40.25 (6) (a) 3 and 4, and 40.25 (6) (a) 3, as renumbered, is amended to read:

40.25 (6) (a) 3. The participating employe applying for forfeited creditable service under this subsection shall pay to the fund an amount equal to the employe's statutory contribution on earnings under s. 40.05 (1) (a) for each year of forfeited service to be reestablished, based upon the participating employe's final average earnings in effect at the time of, determined as if the employe retired on the date the department receives the application. The required amount shall be paid in a lump sum payment or in instalments with interest as provided by rule. No employer may pay any amount payable under this subsection on behalf of any participating employe.

SECTION 17. 40.63 (8) (c) and (h) (intro.) and (9) (b) and (c) 3 of the statutes, as affected by chapter 96, laws of 1981, are amended to read:

40.63 (8) (c) The applicable percentage under s. 40.23 (2) (b) for an executive participating employe is 1.3% for assumed service between ages 62 and 65.

(h) (intro.) If an applicant dies prior to the date a decision regarding the approval or disapproval of an application for a disability benefit becomes final under sub. (5), the application is deemed to have been approved prior to the applicant's death if:

(9) (b) If a disability annuitant, prior to attaining age 65 the normal retirement date for the annuitant's former participant classification, receives earnings or other earned income from any source whatsoever for personal services, including services performed on a contractual basis, the annuity shall be suspended, except for any amount provided by additional contributions, and no payment shall be payable after the first of the month in which the earnings or earned income received during any calendar year exceed the amount established under sub. (11), and shall be suspended immediately except that if payment was being made under sub. (4) and the annuity may only be suspended if the annuitant is employed in a law enforcement or fire fighting capacity by any employer and then the suspension shall be effective immediately. The suspended amount shall be reinstated on January 1 following the date of suspension, or, if earlier, on the first day of the 2nd month following the termination of personal services. An amount, which is reinstated in any calendar year, other than on January 1 of the calendar year, shall again be suspended for any subsequent month in the calendar year following a month in which the disability annuitant receives any amount of earnings or earned income for personal services. The department may request any earnings or compensation information as it deems necessary to implement the provisions of this paragraph and par. (c).

(c) 3. The annuitant refuses to submit information regarding earnings or compensation as requested by the department. ~~The department may request any earnings or compensation information as it deems necessary to implement the provisions of this paragraph and par. (b).~~

SECTION 18. 40.72 (5) of the statutes, as affected by chapter 96, laws of 1981, is amended to read:

40.72 (5) The amount of insurance specified under sub. (4) shall be adjusted when the person again becomes an employe of an employer participating in the group life insurance plan and while employed again the person shall pay premiums under s. 40.05 (6) for the insurance.

SECTION 19. **Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections 40.25 (6)(a) 4, as affected by chs. 96 and (this act), laws of 1981	Old Cross-References subd. 4	New Cross-References subd. 3
