

1987 Assembly Bill 711

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1987 Wisconsin Act 83

AN ACT to amend 40.02 (22) (a), 40.04 (10), 40.05 (4) (b), 40.05 (4) (br), 230.12 (10) (c), 230.36 (1) and 757.02 (5); and to create 40.02 (22) (f), 40.02 (25) (b) 10 and 40.05 (4) (bL) of the statutes, relating to sick leave conversion for certain state employees, pay increase limitations for state employees and payment in case of injury suffered during hazardous state employment.

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

SECTION 1. 40.02 (22) (a) of the statutes is amended to read:

40.02 (22) (a) Except as provided in pars. (b), (c), (d) and (e) and (f), means the gross amount paid to an employe as salary or wages, including amounts provided through deferred compensation or tax shelter agreements, for personal services rendered to or for an employer, or which would have been available for payment to the employe except for the employe's election that part or all of the amount be used for other purposes and also includes the money value, as determined by the employer, of any board, lodging, fuel, laundry and other allowances provided for the employe in lieu of money. For purposes of this paragraph, the gross amount shall be determined prior to deductions for taxes, insurance premiums, retirement contributions or deposits, charitable contributions or similar amounts and shall be considered received as of the date when the earnings would normally be payable by the employer. For reporting and computation purposes, fractions of a dollar shall be disregarded in determining annual earnings.

SECTION 2. 40.02 (22) (f) of the statutes is created to read:

40.02 (22) (f) Does not mean credits for payment of health insurance premiums converted from accumulated unused sick leave for:

1. A participating employe who is an employe of this state and who qualifies for a duty disability under s. 40.65, as provided under s. 40.05 (4) (b); or

2. A participating employe who is an employe of this state and who qualifies for benefits under s. 40.63 as a result of a work-related injury or disease, as provided under s. 40.05 (4) (bL).

SECTION 3. 40.02 (25) (b) 10 of the statutes is created to read:

40.02 (25) (b) 10. Any participating employe who is an employe of this state and who qualifies for a duty disability under s. 40.65.

SECTION 4. 40.04 (10) of the statutes is amended to read:

40.04 (10) An accumulated sick leave conversion account shall be maintained within the fund, to which shall be credited all money received under s. 40.05 (4)

(b), (bL) and (bm) for health insurance premiums, as dividends or premium credits arising from the operation of health insurance plans and from investment income on any reserves established in the fund for health insurance purposes for retired employes and their surviving dependents. Premium payments to health insurers authorized in s. 40.05 (4) (b), (bL) and (bm) shall be charged to this account. This subsection does not prohibit the direct payment of premiums to insurers when appropriate administrative procedures have been established for direct payments.

SECTION 5. 40.05 (4) (b) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

40.05 (4) (b) Except as provided under par. (bp), accumulated unused sick leave under ss. 13.121 (4), 36.30, 230.35 (2) and 757.02 (5) and subch. V of ch. 111 of any eligible employe shall, at the time of death, upon qualifying for an immediate annuity or for a lump sum payment under s. 40.25 (1) or upon termination of creditable service and qualifying as an eligible employe under s. 40.02 (25) (b) 6 or 10, be converted, at the employe's current basic pay rate, to credits for payment of health insurance premiums on behalf of the employe or the employe's surviving insured dependents. The full premium for any eligible employe who is insured at the time of retirement, or for the surviving insured dependent of an eligible employe in the event of death, shall be deducted from the credits until the credits are exhausted and paid from the account under s. 40.04 (10), and then deducted from annuity payments, if the annuity is sufficient. The department shall provide for the direct payment of premiums by the insured to the insurer if the premium to be withheld exceeds the annuity payment. The employe may elect to delay initiation of deductions for up to 5 years after the date of retirement if that employe is covered by a comparable health insurance plan or policy between the date of retirement and the time the employe elects to initiate deductions from his or her sick leave credits. A health insurance plan or policy is considered comparable if it provides hospital and medical benefits which are substantially equivalent to the standard health insurance plan established under s. 40.52 (1).

SECTION 6. 40.05 (4) (bL) of the statutes is created to read:

40.05 (4) (bL) Notwithstanding par. (b), the accumulated unused sick leave of a participating employe who is an employe of this state and who is eligible for a disability annuity under s. 40.63 shall be converted, at the employe's current basic pay rate, to credits for payment of health insurance premiums on behalf of the employe if a determination is made that the disability, as described in s. 40.63 (1) (b), for which the employe is eligible for benefits under s. 40.63 is work-related and occurred while under the employment of the state. A disability is work-related if it occurs while a participating employe is under the employment of the state and if the participating employer is liable under s. 102.03. An employe who is eligible for a disability under s. 40.63 must apply to the department of industry, labor and human relations to receive a determination of eligibility under this paragraph. Appeals from the eligibility decision shall follow the procedures under ss. 102.16 to 102.26. The full premium for any eligible employe under this paragraph shall be deducted from the credits until the credits are exhausted and paid from the account under s. 40.04 (10).

SECTION 7. 40.05 (4) (br) of the statutes is amended to read:

40.05 (4) (br) 1. Employers shall pay contributions that shall be sufficient to pay for the present value of the present and future benefits authorized under ~~par. (b)~~ par. (b) and (bL). Subject to subd. 2, the board shall annually determine the contribution rate upon certification by the actuary of the department. The contribution rates determined under this paragraph shall become effective on January 1 of the calendar year in which they are applicable and shall remain in effect during that year, except that in 1985 the contribution rates shall become effective on July 1 and shall remain in effect during the remainder of 1985.

2. Beginning in 1985, the initial contribution rate determined under subd. 1 may not exceed the employer's costs under ~~par. (b)~~ par. (b) and (bL) for the previous calendar year by more than 0.2% of covered payroll. Each subsequent contribution rate determined under subd. 1 may not exceed the employer's costs under this paragraph for the previous calendar year by more than 0.2% of covered payroll.

SECTION 8. 230.12 (10) (c) of the statutes is amended to read:

230.12 (10) (c) *Exceptions.* This subsection does not apply to any person employed by the office of the governor or lieutenant governor, by the university of Wisconsin system except in a position identified under s. 20.923 (4), ~~or (8) or (9)~~, by the legislature except in a position identified under s. 20.923 (4), by a service agency under subch. IV of ch. 13, or by the courts, or to one stenographer employed by each elective ~~constitutional~~ executive officer under s. 230.08 (2) (g).

SECTION 9. 230.36 (1) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

230.36 (1) If a conservation warden, conservation patrol boat captain, conservation patrol boat engineer, state forest ranger, conservation field employe of the department of natural resources who is subject to call for fire control duty, member of the state patrol, state motor vehicle inspector, lifeguard, excise tax investigator employed by the department of revenue, special criminal investigation agent employed by the department of justice, special tax agent, state drivers' license examiner, member of the state fair police department, university of Wisconsin system police officer and other state facilities police officer and patrol officer, security officer, watcher, engineer, engineering aide, building construction superintendent, fire fighter employed at the Wisconsin veterans home, or guard or institutional aide or a state probation and parole officer or any other employe whose duties include supervision and discipline of inmates or wards of the state at a state penal institution, including the Ethan Allen school or while on parole supervision outside of the confines of the institutions, or supervision of persons placed on probation by a court of record, or supervision and care of patients at a state mental institution, and university of Wisconsin hospital and clinics suffers injury while in the performance of his or her duties, as defined in subs. (2) and (3); or any other state employe who is ordered by his or her appointing authority to accompany any employe listed in this subsection while the listed employe is engaged in the duties defined in sub. (3), or any other state employe who is ordered by his or her appointing authority to perform the duties, when permitted, in lieu of the listed employe and while so engaged in the duties defined in sub. (3), suffers injury as defined in sub. (2) the employe shall continue to be fully paid by the employing agency 70% of his or her base salary upon the same basis as paid prior to the injury, with no reduction in sick leave credits, compensatory time for overtime accumulations or vacation and no reduction in the rate of earning sick leave credit or vacation. The full pay shall continue while the employe is unable to return to work as the result of the injury or until the termination of his or her employment upon recommendation of the appointing authority. At any time during the employe's period of disability the appointing authority may order physical or medical examinations to determine the degree of disability at the expense of the employing agency.

SECTION 10. 757.02 (5) of the statutes is amended to read:

757.02 (5) Except for retired judges appointed under s. 753.075, each supreme court justice, court of appeals judge and circuit court judge included under ch. 40 shall accrue sick leave at the rate established under s. 230.35 (2) for the purpose of credits under s. 40.05 (4) (b) and (bL) and for premium payment determinations under s. 40.05 (4) and (5).

SECTION 11. **Initial applicability.** (1) EMPLOY-
MENT RELATIONS DEPARTMENT. (a) *Hazardous duty*
pay. The treatment of section 230.36 (1) of the statutes

first applies to a state employe who suffers injury on
the effective date of this paragraph.
