

1989 Senate Bill 148

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1989 WISCONSIN ACT 13

AN ACT *to repeal* 40.02 (42) (c) and (f) and 40.80 (3); *to renumber and amend* 40.23 (2m) (f); *to amend* 25.17 (14) (a), (c), (f) and (g), 25.17 (15), 40.02 (1), 40.02 (7), 40.02 (42) (a), (b), (d) and (g), 40.02 (45), 40.04 (3) (a), 40.04 (4) (b), 40.05 (1) (a) (intro.), 40.05 (2) (a) and (b), 40.05 (2) (bm) and (br), 40.05 (2) (i), 40.05 (2m), 40.05 (5) (b) 4, 40.06 (1) (b), 40.23 (1) (am) 2, 40.23 (2m) (b), 40.24 (6), 40.25 (3), 40.25 (6) (b) 1, 40.26 (1), 40.26 (2) (b) and (c), 40.41 (6) (f), 40.52 (3), 40.62 (2), 40.63 (1) (intro.), 40.63 (10), 40.70 (6) (b), 111.84 (1) (b) and 111.93 (3); *to repeal and recreate* 40.22 (1) to (4) and 40.23 (1) (a); and *to create* 40.02 (17) (f), 40.04 (4) (a) 2m, 40.05 (2) (bt), 40.05 (2n), 40.23 (2m) (f) 2 to 4, 40.23 (2m) (fm), 40.23 (2m) (g), 40.25 (2m), 111.91 (1) (cm) and 111.91 (2) (g) of the statutes; and *to affect* 1983 Wisconsin Act 141, section 19 (3), **relating to:** the Wisconsin retirement system, fixed retirement investment trusts, transferring funds, the applicability of laws governing certain public employe benefits to state employes who are covered by a collective bargaining agreement, and providing for a study.

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

SECTION 1. 25.17 (14) (a), (c), (f) and (g) of the statutes are amended to read:

25.17 (14) (a) Bonds ~~shall be valued at par.~~ Other and other evidences of debt and loans secured by mortgages having a fixed term and rate shall be valued at market value, except that if the investment board determines that a market value cannot readily be determined such items shall be valued at the outstanding principal balance.

(c) Real property which is leased to others shall be valued at market value, except that if the investment board determines that market value cannot readily be assigned such real property shall be valued at cost ~~less the total of principal paid to date.~~

(f) With respect to all securities under pars. (a) to (e), the amount of any ~~premium or discount at time of purchase,~~ gain or loss at time of sale or other disposition, premium on call or redemption, commitment or standby fee, profit or loss on residual value, scrap value, fire or casualty award, condemnation award, adjustment in book value, or other gains or losses shall be transferred to the

transaction amortization account of the fixed retirement investment trust under s. 40.04 (3).

(g) With respect to all securities under pars. (a) to (e), the amount of any dividend, interest income including accrued interest, accrued interest received or accrued interest paid, arrears of interest or any other adjustment in interest shall be transferred to the current income account of the fixed retirement investment trust under s. 40.04 (3).

SECTION 2. 25.17 (15) of the statutes is amended to read:

25.17 (15) For purposes of the power and authority of the investment board to make investments, the "admitted assets" of the fixed retirement investment trust or the variable retirement investment trust shall be the total valuation of the assets of such trust as set forth in the last report made pursuant to sub. (14), except for common stocks, plus the purchase price of any investments, other than common stocks, made subsequent to such last report, minus the admitted asset value of any asset sold, other than common stocks, subsequent to such last report, plus the market value of the common stocks of the trust on the last day of the preceding month. Any percentage

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limitation or permission respecting the power and authority of the investment board to make investments shall be calculated as each occasion for investment occurs and upon the admitted assets of the trust at that time.

SECTION 3. 40.02 (1) of the statutes is amended to read:

40.02 (1) "Accumulation" means the total employe required contributions or employer required contributions or additional contributions as increased or decreased by application of investment earnings at each year's effective rate.

SECTION 4. 40.02 (7) of the statutes is amended to read:

40.02 (7) "Assumed rate" means the probable average effective rate expected to be earned for the fixed annuity division on a long-term basis. The assumed rate shall be a rate of 7.5% and the actuarial assumption for across-the-board salary increases for the purpose of valuing the liabilities of the Wisconsin retirement system shall be 1.9% less than the assumed rate unless due to changed economic circumstances the actuary recommends and the board approves a different rate. ~~For years in which separate effective rates were determined for the state teachers retirement system, the Wisconsin retirement fund and the Milwaukee teachers retirement fund, the effective rates of the Wisconsin retirement fund shall be used.~~ The assumed rate for a calendar year shall be used for all calculations of required contributions and reserves for participants, except as provided in s. 40.04 (4) (a) 2. and 2m, and the amount of any lump sum benefit paid instead of an annuity, except it shall not be used for any purpose for which the assumed benefit rate is to be used under sub. (6).

SECTION 5. 40.02 (17) (f) of the statutes is created to read:

40.02 (17) (f) Notwithstanding any other law or rule, any participating employe whose service includes Wisconsin teaching service performed before July 1, 1966, for which required contributions were made under the applicable statutes and rules of the former state teachers retirement system and for which the number of days of teaching service in a fiscal year was fewer than 120, shall receive creditable service for that service in an amount equal to the total number of teaching days credited during the fiscal year divided by 165 days.

SECTION 6. 40.02 (42) (a), (b), (d) and (g) of the statutes are amended to read:

40.02 (42) (a) The date on which a participant attains the age of 55 years for a protective occupation participant who terminates covered employment before July 1, 1990, or, for a protective occupation participant who terminates covered employment on or after July 1, 1990, the date on which the participant attains the age of 54 years if the participant has accumulated less than 25 years of creditable service or the age of 53 years if the participant

has accumulated at least 25 years of creditable service, except as provided in par. (g).

(b) The date on which ~~the a~~ participant attains the age of 62 years for an elected official ~~or for any participant who has accumulated at least 30 years of creditable service or an executive participating employe, except as provided in par. (g).~~

(d) The date on which a participant attains the age of 65 years for any participant not subject to par. (a); or (b) ~~or (e)~~, except as provided ~~by pars. (f) and~~ in par. (g).

(g) The date applicable to the participant under pars. (a) to (f) ~~(d)~~ at the earlier of either the date it is necessary to make any determination or to take any action relative to the participant for purposes of the retirement system or the date of termination of employment of the participant, notwithstanding the fact that a participant may have been in one or more different employment categories at any previous time except for the purpose of calculating an annuity. For the purpose of calculating an annuity, the normal retirement date for each category provided by pars. (a) to (d) applies to service which is subject to that category ~~unless an earlier normal retirement date applies to the creditable service under par. (f).~~ For the purpose of calculating a retirement benefit for an executive participating employe qualifying only under s. 40.02 (30) (b), 1985 stats., a normal retirement date of the date the executive participating employe attains the age of 62 years shall be applied to creditable service of the executive participating employe for which par. (d) would otherwise apply except the number of creditable service years to which that normal retirement date shall be applied under this paragraph may not exceed the number of executive service years of the executive participating employe.

SECTION 7. 40.02 (42) (c) and (f) of the statutes are repealed.

SECTION 8. 40.02 (45) of the statutes is amended to read:

40.02 (45) "Participant" means any person included within the provisions of the Wisconsin retirement system by virtue of being or having been a participating employe whose account has not been closed under s. 40.25 (1) ~~or~~ (2) or (2m).

SECTION 9. 40.04 (3) (a) of the statutes 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 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% ~~20%~~ of the then balance of the transaction amortization account. For the variable

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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 10. 40.04 (4) (a) 2m of the statutes is created to read:

40.04 (4) (a) 2m. Debited, if a participant terminates covered employment on or after January 1, 1990, and applies for a benefit under s. 40.25 (2) or (2m), with an amount equal to the amount by which the fixed annuity division interest credited on or after January 1, 1990, to employe required contributions, exceeds the interest crediting at an annual rate of 3% on each prior year's closing balance.

SECTION 11. 40.04 (4) (b) of the statutes is amended to read:

40.04 (4) (b) Whenever a payment under s. 40.25 ~~(2)~~ ~~or~~ (4), an annuity or a death benefit is computed, the prior year's closing balance of all employe contribution accumulations and any accounts maintained for individual participants shall be credited with interest for each full month elapsing between the first day of the calendar year and the annuity effective date or the month in which the payment of a benefit under s. 40.25 ~~(2)~~ ~~or~~ (4) is approved at one-twelfth of the assumed benefit rate. The interest so credited shall be charged to the interest earnings for the current year and shall be paid out or transferred with the amount to which it was so credited.

SECTION 12. 40.05 (1) (a) (intro.) of the statutes is amended to read:

40.05 (1) (a) (intro.) Except as provided in par. (b) and sub. (2n):

SECTION 13. 40.05 (2) (a) and (b) of the statutes are amended to read:

40.05 (2) (a) Each participating employer shall make contributions for current service determined as a percentage of the earnings of each participating employe, determined as though all employes of all participating employers were employes of a single employer, but with a separate percentage rate determined for ~~each~~ of the employe occupational categories specified under s. 40.23 (2m) ~~(e)~~. A separate percentage shall also be determined for subcategories within each category determined by the department to be necessary for equity among employers.

(b) Contributions shall be made by each participating employer for unfunded prior service liability in a percentage of the earnings of each participating employe. A separate percentage rate shall be determined for ~~each~~ of the employe occupational categories under s. 40.23 (2m) ~~(e)~~ as of the employer's effective date of participation. The rates shall be sufficient to amortize as a level percent of payroll over a period of 40 years from the later of that date

or January 1, 1986, the unfunded prior service liability for the categories of employes of each employer determined under s. 40.05 (2) (b), 1981 stats., increased to reflect any creditable prior service granted on or after January 1, 1986, increased to reflect the effect of 1983 Wisconsin Act 141 and increased at the end of each calendar year after January 1, 1986, by interest at the assumed rate on the unpaid balance at the end of the year.

SECTION 14. 40.05 (2) (bm) and (br) of the statutes are amended to read:

40.05 (2) (bm) Contributions under par. (b) for each category of employe shall be made ~~until the end of the 40-year amortization period~~ or until full payment of that employer's unfunded prior service liability for all categories is made, ~~whichever is earlier~~.

(br) The contribution under par. (b) by an employer in any calendar year ~~before the end of the 40-year amortization period~~, or before full payment of the unfunded prior service liability determined under par. (bm) ~~if earlier~~, may not be less than the dollar amount determined to be necessary in the first calendar year of the amortization schedule established by par. (b).

SECTION 15. 40.05 (2) (bt) of the statutes is created to read:

40.05 (2) (bt) The department may reallocate prior service liability from one employer to another and adjust as necessary the contribution rates established under par. (b) to reflect transfers of responsibilities and employes among different employers.

SECTION 16. 40.05 (2) (i) of the statutes is amended to read:

40.05 (2) (i) If an annuity is calculated under s. 40.02 (42) (f), 1987 stats., the employer shall pay to the department the difference, as determined by the department, between the actuarial cost of the annuity which would have been paid if the employer had not elected under s. 42.245 (2) (bm), 1979 stats., or s. 42.78 (2) (bm), 1979 stats., or s. 40.02 (42) (f) 2, 1987 stats., and the actual cost of the annuity payable. The amount payable shall be paid to the department in 3 equal annual payments, plus interest at the effective rate unless the employer pays the full amount due. Each annual payment is due and shall be included with the first payment made under s. 40.06 (1) in each fiscal year after the annuity effective date. The amount so paid shall be credited as employer required contributions.

SECTION 17. 40.05 (2m) of the statutes is amended to read:

40.05 (2m) **BENEFIT ADJUSTMENT CONTRIBUTION.** ~~In~~ Except as provided in sub. (2n), in addition to the amounts under subs. (1) and (2), a benefit adjustment contribution equal to ~~one percent~~ 1% of earnings shall be paid by or for participating employes whose formula rate is determined under s. 40.23 (2m) (e) 1. and 3. This contribution shall be deducted from each payment of earnings to participating employes unless the employer pro-

vides through its compensation provisions or agreements that all or part of the contribution will be paid by the employer. For benefit purposes, this contribution shall be treated as if it were an employer required contribution regardless of whether the employer or the employee pays the contribution.

SECTION 18. 40.05 (2n) of the statutes is created to read:

40.05 (2n) CONTRIBUTION RATE ADJUSTMENT. (a) If the board, on the advice of the actuary, determines that an increase or decrease in contribution rates is necessary for any annual period after 1989, the board, on the advice of the actuary, shall adjust contribution rates in the following manner:

1. One-half of the increase or decrease in contribution rates shall be provided for by an increase or decrease in employer contributions under sub. (2) (a) and (am), except as provided in subd. 3.

2. One-half of the increase or decrease in contribution rates shall be provided for by an increase or decrease in benefit adjustment contributions under sub. (2m), except as provided in subd. 3 or par. (b).

3. Any increase in contribution rates required after 1989 that results from benefit improvements under 1989 Wisconsin Act ... (this act), which would otherwise increase employer contribution rates over the 1989 rate shall be provided for by an increase in benefit adjustment contributions under sub. (2m). Notwithstanding sub. (2m), an employer may not pay for all or part of any increase in benefit adjustment contributions that is required under this subdivision.

(b) If under par. (a) 2. a decrease in benefit adjustment contributions under sub. (2m) would reduce the amount under sub. (2m) to less than zero, the employee contribution rates under sub. (1) shall be decreased.

SECTION 19. 40.05 (5) (b) 4. of the statutes is amended to read:

40.05 (5) (b) 4. The accrual and crediting of sick leave shall be determined in accordance with ss. 13.121 (4), 36.30, 230.35 (2), and 757.02 (5) and subch. V of ch. 111.

SECTION 20. 40.06 (1) (b) of the statutes is amended to read:

40.06 (1) (b) Each employer shall withhold the amounts specified from any payment of earnings to an employee whose status as a participating or insured employee has not yet been determined under s. 40.22 (1) (b) and shall refund the amount withheld directly to the employee if it is subsequently determined that the employee does not qualify as a participating or insured employee.

SECTION 21. 40.22 (1) to (4) of the statutes are repealed and recreated to read:

40.22 (1) Except as provided in subs. (2) and (2m), each employee currently in the service of, and receiving earnings from, a state agency or other participating

employer shall be included within the provisions of the Wisconsin retirement system as a participating employee of that state agency or participating employer.

(2) No person may be included within, or receive benefits from, the Wisconsin retirement system for any service if any of the following conditions apply:

(a) The employee is not expected to work at least one-third of what is considered full-time employment by the department, as determined by rule.

(b) The employee's expected duration of employment is less than one year.

(c) The employee is excluded from participation by s. 40.21 (3) or (4).

(d) The employee is subject to s. 40.19 (4) provided that contributions and benefits shall be paid as provided by that subsection.

(e) The employee is subject to a contract involving the furnishing by the person of more than the person's personal services.

(f) The employee is a member of a retirement system of a 1st class city and was an employee of a vocational, technical and adult education district created under ch. 38 on the date the district was created.

(g) The employee is appointed by the university under s. 36.19 as a student assistant or employee in training or is appointed by a school or other education system in which the person is regularly enrolled as a student and is attending classes to perform services incidental to the person's course of study at that school or education system.

(h) The employee is teaching while on leave from an educational institution not a part of the university of Wisconsin system, if the person is a visiting professor, visiting associate professor, visiting assistant professor or visiting lecturer at the university and if the employment at the university is all within 12 consecutive calendar months. If the employment at the university is continued beyond the 12-month period the person shall, at the start of the 13th consecutive calendar month of employment, come under the system for future service.

(i) The employee contributes to the employee retirement system of the county of Milwaukee if the person was contributing to that system on September 10, 1959.

(j) The employee is employed by a transportation system in a position that is excluded from the Wisconsin retirement system and is included in another retirement system under s. 66.944.

(k) The employee is eligible to receive similar benefits from any other state covering the same service and earnings.

(L) The employee is employed after the person becomes an annuitant, unless the service is after the annuity is terminated under s. 40.26.

(2m) An employee who is not expected to work at least one-third of what is considered full-time employment by the department, as determined by rule, shall become a participating employee if he or she is subse-

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quently employed by the state agency or other participating employer for either of the following periods:

(a) At least one year for at least one-third of what is considered full-time employment by the department, as determined by rule.

(b) At least 600 hours in the immediately preceding 12-month period.

(3) A person who qualifies as a participating employe shall be included within, and shall be subject to, the Wisconsin retirement system effective on one of the following dates:

(a) The employer's effective date of participation if the person is an employe of that employer on the employer's effective date and has met all requirements for inclusion on or prior to that effective date.

(b) The first day after completion of one year of employment for at least one-third of what is considered full-time employment by the department, as determined by rule, if the person becomes a participating employe under sub. (2m) after the employer's effective date of participation.

(c) The first day of employment if the person is a participating employe not covered under par. (a) or (b).

(3m) Any employe who becomes a participating employe shall continue to be a participating employe notwithstanding sub. (2) (a) or (b) for periods of subsequent employment with that state agency or other participating employer unless the employment with the state agency or other participating employer is terminated for 12 or more consecutive calendar months or unless the employe receives a benefit under s. 40.23, 40.25 (1), (2) or (2m) or 40.63.

(4) For purposes of s. 40.02 (25), a person who is employed by a state agency shall be deemed to have become a state employe on the date the person becomes a participating state employe. No participating employe may be included under s. 40.52 (3).

SECTION 22. 40.23 (1) (a) of the statutes is repealed and recreated to read:

40.23 (1) (a) Except as provided in par. (am), any participant who has attained age 55, and any protective occupation participant who has attained age 50, on or before the annuity effective date shall be entitled to a retirement annuity in accordance with the actuarial tables in effect on the effective date of the annuity if the participant submits an application for a retirement annuity on a form furnished by the department and all of the following apply:

1. The participant is separated, regardless of cause, and continues to be separated either until the annuity effective date, or until 30 days after the application is received by the department, whichever is later, from all employment meeting the qualifications for inclusion specified in s. 40.22 for any participating employer.

2. The participant is not on authorized leave of absence from any participating employer.

3. If the participant is initially employed on or after January 1, 1990, the participant has creditable service in at least 5 calendar years.

SECTION 23. 40.23 (1) (am) 2 of the statutes is amended to read:

40.23 (1) (am) 2. Any participant who has attained age 55 and who is a participant because of employment other than part-time service as an elected official and who is also a participating employe because of part-time service as an elected official may, after termination of all covered employment other than service as a part-time elected official, waive further participation under the fund for his or her current, and any future, part-time service as an elected official. Any election under this paragraph is irrevocable and is effective beginning the day after the date of election. Notwithstanding par. (a), any participant initially employed before January 1, 1990, who elects under this paragraph may receive a retirement annuity for all service under the fund credited to the participant to the date he or she elects. Notwithstanding par. (a), any participant initially employed on or after January 1, 1990, who elects under this paragraph may receive a retirement annuity for all service under the fund credited to the participant to the date he or she elects only if the participant has creditable service in at least 5 calendar years. The date a participant elects under this paragraph is deemed to be the date of separation from the last participating employer by which that participant was employed.

SECTION 24. 40.23 (2m) (b) of the statutes is amended to read:

40.23 (2m) (b) Except as provided in s. 40.26, subject to the limitations under section 415 of the internal revenue code, as defined for the current taxable year under s. 71.02 (2) (d) 71.01 (6), the initial amount of the normal form annuity shall be an amount ~~which equals~~ equal to 65%, or 85% for participants whose formula rate is determined under par. (e) 4., of the participant's final average earnings plus the amount which can be provided under pars. (c) and (d) or, if less, shall be in the monthly amount equal to the sum of the amounts determined under pars. (c), (d) and (e) as modified by par. (f) and in accordance with the actuarial tables in effect on the annuity effective date. If the participant has creditable service under both par. (e) 4. and another category under par. (e), the percent applied under this paragraph shall be determined by multiplying the percent that each type of creditable service is of the participant's total creditable service ~~times by~~ by 85% and 65%, respectively, and adding the results, except that the resulting benefit may not be less than the amount of the normal form annuity that could be paid based solely on the creditable service under par. (e) 4.

SECTION 25. 40.23 (2m) (f) of the statutes is renumbered 40.23 (2m) (f) 1. and amended to read:

40.23 (2m) (f) 1. If the annuity effective date is before the normal retirement date of the participant, the

annuity amount computed under par. (e) shall be reduced by 0.4% for each full month, and for each partial month including at least 15 days, before the participant's normal retirement date, except as provided in subs. 2 to 4.

SECTION 26. 40.23 (2m) (f) 2. to 4. of the statutes are created to read:

40.23 (2m) (f) 2. For a participant who terminates covered employment on or after July 1, 1990, and whose annuity is computed under par. (e) 1. or 2., the 0.4% reduction of the annuity amount under subd. 1 shall be reduced by subtracting from the 0.4% an amount equal to 0.001111% for each month of creditable service, except as provided in subs. 3 and 4.

3. Subdivision 2 shall not apply to those months specified in subd. 1 that precede the date on which the participant attains the age of 57.

4. The resulting percentage by which the annuity amount is reduced under subd. 2 may not be less than zero.

SECTION 27. 40.23 (2m) (fm) of the statutes is created to read:

40.23 (2m) (fm) Notwithstanding s. 40.02 (17) (intro.), for purposes of determining creditable service under par. (f) 2., participants with at least 0.75 of a year of creditable service in any annual earnings period shall be treated as having one year of creditable service for that annual earnings period. To be eligible for the treatment provided by this paragraph, the participant must have earned only a partial year of creditable service in at least 5 of the 10 annual earnings periods immediately preceding the annual earnings period in which the participant terminated covered employment, and the participant must notify the department of the applicability of this paragraph to the participant's service. The participant is not eligible for the treatment provided by this paragraph if such notification is provided by the participant later than 60 days after the participant's annuity effective date. This paragraph does not apply to service credited under s. 40.02 (15) or to creditable service as a teacher.

SECTION 28. 40.23 (2m) (g) of the statutes is created to read:

40.23 (2m) (g) The employer may pay to the department part or all of the costs of the actuarial reduction applicable to a participating employe under par. (f), and the actuarial reduction for the amount paid may not be applied under par. (f), if all of the following conditions are met:

1. The employer has elected to pay part or all of the costs of the required actuarial reduction, the action is effective after June 30, 1990, and the employer has not taken any action to rescind the election.

2. The participant voluntarily terminates employment with the employer after June 30, 1990, and after the employer elects under subd. 1.

3. The employer pays to the department the difference, as determined by the department, between the actu-

arial cost of the annuity which would have been paid if the employer had not elected under subd. 1 and the actuarial cost of the annuity payable. The amount so paid shall be credited as employer current service contributions under s. 40.05 (2) (a), and shall be included with the first payment made under s. 40.05 (2) after the department notifies the employer of the amount due.

SECTION 29. 40.24 (6) of the statutes is amended to read:

40.24 (6) If a participant's annuity is not effective until after the participant's normal retirement date under s. 40.02 (42) (a) to ~~(e)~~ (d) and the participant elects an optional annuity form, the monthly amount of annuity provided by conversion of the benefit computed under s. 40.23 (2m) (e) to the optional form elected shall not be less than the monthly amount of annuity which would have been paid had the participant retired immediately upon attaining the participant's normal retirement date under s. 40.02 (42) (a) to ~~(e)~~ (d) and elected the same optional form of annuity and the same beneficiary. It shall be assumed for purposes of calculating the amount of an annuity under this subsection that all of the participant's earned annuity was earned prior to the participant's normal retirement date, but the department shall use the beneficiary's actual age on the effective date of the annuity.

SECTION 30. 40.25 (2m) of the statutes is created to read:

40.25 (2m) Notwithstanding sub. (2), if a participant who is initially employed on or after January 1, 1990, terminates employment and does not have creditable service in at least 5 calendar years, a separation benefit may be paid if the participant submits a written application to the department for a separation benefit in an amount equal to the additional and employe required contribution accumulations of the participant on the date that the application for a separation benefit is approved. For the purposes of this subsection there are no age requirements for receiving a separation benefit.

SECTION 31. 40.25 (3) of the statutes is amended to read:

40.25 (3) Upon administrative approval of payment of an amount under either sub. (1) ~~or~~ (2) or (2m), the participant's account shall be closed and there shall be no further right, interest or claim on the part of the former participant to any benefit from the Wisconsin retirement system except as provided by subs. (5) and (6). Any former participant who is subsequently employed by any participating employer shall be treated as a new participating employe for all purposes of this chapter. New accumulations of contributions and credits and the computation of any future benefits shall bear no relationship to any accumulations and credits paid as single sums under sub. (1) ~~or~~ (2) or (2m).

SECTION 32. 40.25 (6) (b) 1. of the statutes is amended to read:

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40.25 (6) (b) 1. Forfeited because of payment of an amount under sub. (2) or (2m); or

SECTION 33. 40.26 (1) of the statutes is amended to read:

40.26 (1) Except as provided in s. 40.23 (1) (am) ~~and except for participants who have attained an age that is one year less than the age at which an excise tax would otherwise be levied under section 4974 of the internal revenue code, as defined for the current taxable year under s. 71.02 (2) (d), if a participant receiving a retirement annuity, or a disability annuitant who has attained his or her normal retirement date, receives earnings after January 1, 1982, subject to s. 40.05 (1), or which would be subject to s. 40.05 (1) except for the exclusions specified in ss. 40.02 (54) (a), 40.21 (3) and (4) and 40.22 (4) (2), the annuity shall be terminated and no payment shall be payable after the month in which the total earnings subject to s. 40.05 (1), or which would be subject to s. 40.05 (1) except for the exclusions specified in ss. 40.02 (54) (a), 40.21 (3) and (4) and 40.22 (2), received in any annual earnings period exceeds an amount equal to 36 times the participant's final average earnings divided by 5, increased each January 1 after the annuity effective date by the prior year's salary index, ignoring fractions of a dollar.~~

SECTION 34. 40.26 (2) (b) and (c) of the statutes are amended to read:

40.26 (2) (b) The amount of the annuity payments, excluding any portion originally provided by additional contributions, which would have been paid under the terminated annuity, if the annuity had been a straight life annuity, prior to the participant's normal retirement date or prior to the annuity termination date, whichever would first occur, shall be credited to a memorandum account which is subject to s. 40.04 (4) (a) 2 and 2m and (c).

(c) Except as provided in pars. (a) and (b), the retirement account shall be reestablished as if the terminated annuity had never been effective, including crediting of interest ~~at the effective rate~~ and of any contributions made and creditable service earned during the period the annuity was in force.

SECTION 35. 40.41 (6) (f) of the statutes is amended to read:

40.41 (6) (f) Services in a position eligible for participation in the Wisconsin retirement system only by virtue of s. 40.22 (4) (a) (2m). This exclusion does not apply to any employe who is a teacher, who is a participating employe in the Wisconsin retirement system or whose employer has adopted a resolution under sub. (1).

SECTION 36. 40.52 (3) of the statutes is amended to read:

40.52 (3) The group insurance board, after consulting with the board of regents of the university of Wisconsin system, shall establish the terms of a health insurance plan for graduate assistants, and for employes-in-training designated by the board of regents, who are employed

on at least a one-third full-time basis and for teachers who are employed on at least a one-third full-time basis by the university of Wisconsin system with an expected duration of employment of at least 6 months but less than ~~2 years~~ one year.

SECTION 37. 40.62 (2) of the statutes is amended to read:

40.62 (2) Sick leave accumulation shall be determined in accordance with ss. 13.121 (4) ~~and~~ 36.30, 230.35 (2), ~~and~~ 757.02 (5) ~~and subch. V of ch. 111~~ and the rules of the department.

SECTION 38. 40.63 (1) (intro.) of the statutes is amended to read:

40.63 (1) (intro.) ~~Any~~ Notwithstanding the requirement for creditable service in at least 5 calendar years for retirement annuities under s. 40.23 (1) (a) and (am), any participating employe is entitled to a disability annuity from the Wisconsin retirement system, beginning on the date determined under sub. (8) if, prior to attaining his or her normal retirement date, the person:

SECTION 39. 40.63 (10) of the statutes is amended to read:

40.63 (10) Upon termination of an annuity in accordance with sub. (9), each participant whose annuity is so terminated shall, as of the beginning of the calendar month following termination, be credited with additional contributions equal to the then present value of the portion of the terminated annuity which was originally provided by the corresponding type of additional contributions. Except for additional contributions, the retirement account of the participant shall be reestablished as if the terminated annuity had never been effective, including crediting of interest ~~at the effective rate~~ and of any contributions and creditable service earned during the period the annuity was in force.

SECTION 40. 40.70 (6) (b) of the statutes is amended to read:

40.70 (6) (b) Notwithstanding par. (a), if an employe terminates all employment for participating employers under this subchapter and under subch. II and terminates his or her retirement account under s. 40.25 (1) ~~or~~ (2) or (2m), any previously filed waiver under this section shall not be effective if the individual again becomes an employe of a participating employer under this subchapter.

SECTION 41. 40.80 (3) of the statutes is repealed.

SECTION 42. 111.84 (1) (b) of the statutes is amended to read:

111.84 (1) (b) ~~To~~ Except as otherwise provided in this paragraph, to initiate, create, dominate or interfere with the formation or administration of any labor or employe organization or contribute financial support to it. ~~However, it~~ Except as provided in ss. 40.02 (22) (e) and (25) (b) 8. and 40.23 (1) (f) 4., no change in any law affecting any benefit, plan or account under ch. 40 and no action by the employer that is authorized by such a law constitutes

a violation of this paragraph unless an applicable collective bargaining agreement specifically prohibits the change or action. No such change or action affects the continuing duty to bargain collectively regarding any benefit, plan or account under ch. 40 to the extent required by s. 111.91. It is not an unfair labor practice for the employer to reimburse state employees at their prevailing wage rate for the time spent during the employee's regularly scheduled hours conferring with the employer's officers or agents and for attendance at commission or court hearings necessary for the administration of this subchapter. Professional supervisory or craft personnel may maintain membership in professional or craft organizations; however, as members of such organizations they shall be prohibited from those activities related to collective bargaining in which the organizations may engage.

SECTION 43. 111.91 (1) (cm) of the statutes is created to read:

111.91 (1) (cm) Except as provided in ss. 40.02 (22) (e) and (25) (b) 8. and 40.23 (1) (f) 4., all laws governing any benefit, plan or account under ch. 40 and all actions of the employer that are authorized under any such law which apply to nonrepresented individuals employed by the state shall apply to similarly situated employees, unless otherwise specifically provided in a collective bargaining agreement that applies to those employees.

SECTION 44. 111.91 (2) (g) of the statutes is created to read:

111.91 (2) (g) An increase in benefit adjustment contribution rates under s. 40.05 (2n) (a) 3.

SECTION 45. 111.93 (3) of the statutes is amended to read:

111.93 (3) Except as provided in ss. 40.05, 40.80-~~(3)~~ 111.91 (1) (cm) and 230.88 (2) (b), if a collective bargaining agreement exists between the employer and a labor organization representing employees in a collective bargaining unit, the provisions of that agreement shall supersede the provisions of civil service and other applicable statutes, as well as rules and policies of the board of regents of the university of Wisconsin system, related to wages, fringe benefits, hours and conditions of employment whether or not the matters contained in those statutes, rules and policies are set forth in the collective bargaining agreement.

SECTION 46. 1983 Wisconsin Act 141, section 19 (3) is repealed.

SECTION 47. Nonstatutory provisions. (1) EARLY RETIREMENT. (a) Notwithstanding section 40.02 (42) of the statutes, as affected by this act, upon election on or after the effective date of this paragraph, the normal retirement date for any participating employe who is a participant under section 40.23 (2m) (e) 1. or 2. of the statutes and who terminates covered employment before July 1, 1990, shall be the date on which the participant attains the age of 55 years or the date on which the partici-

pant attains the age that equals the remainder of 62 minus the amount beyond 23 years of the participant's creditable service, whichever is later.

(b) Notwithstanding section 40.02 (42) of the statutes, as affected by this act, upon election on or after the effective date of this paragraph, the normal retirement date for any participating employe who is a participant under section 40.23 (2m) (e) 3. or 4. of the statutes and who terminates covered employment before July 1, 1990, shall be the date on which the participant attains the age of 50 years or the date on which the participant attains the age that equals the remainder of 55 minus the amount beyond 23 years of the participant's creditable service, whichever is later.

(c) For purposes only of determining the normal retirement date under this subsection, participants with at least 0.75 of a year of creditable service in any annual earnings period shall be treated as having one year of creditable service for that annual earnings period. To be eligible for the treatment provided by this paragraph, the participant must have earned only a partial year of creditable service in at least 5 of the 10 annual earnings periods immediately preceding the annual earnings period in which the participant terminated covered employment, and the participant must notify the department of employe trust funds of the applicability of this paragraph to the participant's service. The participant is not eligible for the treatment provided by this paragraph if such notification is provided by the participant later than 60 days after the participant's annuity effective date. This paragraph does not apply to service credited under section 40.02 (15) of the statutes or to creditable service as a teacher.

(d) If a participant whose normal retirement date is determined under this subsection qualifies for a disability annuity under section 40.63 of the statutes, the participant's normal retirement date under section 40.02 (42) of the statutes, as affected by this act, shall be used, and the participant's normal retirement date under this subsection shall not be used, for purposes of determining the effective date and the amount of the disability annuity under section 40.63 (8) of the statutes.

(e) A participant's normal retirement date under section 40.02 (42) of the statutes, as affected by this act, shall be used, and a participant's normal retirement date under this subsection shall not be used, for purposes of section 40.24 (6) of the statutes, as affected by this act.

(2) TRANSFER OF FUNDS; REDUCTION OF EMPLOYER UNFUNDED ACCRUED LIABILITIES. As of the last day of the first full month occurring after the effective date of this subsection, \$500,000,000 shall be distributed from the transaction amortization account of the fixed retirement investment trust to the appropriate reserves of the fixed retirement investment trust in an amount equal to a percentage of the total distribution determined by dividing each reserve's balance on the prior January 1 by the total

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balance of the fixed retirement investment trust on the prior January 1. The resulting increase in the employer accumulation reserve shall, on recommendation of the actuary, be first applied to funding any liabilities created by this act, and the balance shall be equitably allocated among employers that were participating employers under the Wisconsin retirement system on December 31, 1985, based on each employer's share of the total covered payroll in 1985. The individual employer unfunded prior service liability amounts and rates may be adjusted, a new 40-year amortization period shall be established to reflect this distribution, and liabilities may be reallocated between current and prior service liabilities as recommended by the actuary to meet the objective of stabilizing future total contribution rates.

(3) **STUDY.** (a) A special committee shall study the rationale for and feasibility of restructuring the Wisconsin retirement system to reflect one or more of the following concepts:

1. Providing for the management, control and full fiduciary responsibility for the Wisconsin retirement system by public employe representatives.

2. Reconstructing the retirement boards to reflect the control and management of the Wisconsin retirement system by public employe representatives, but maintaining the responsibility for the investment of pension assets with the investment board.

3. Establishing a retirement board with responsibility for establishing benefit levels and options under the management of public employe representatives, and establishing any unfunded accrued liability of the Wisconsin retirement system as a liability of the public employe members.

4. Continuing coverage of present employer and employe participants under a restructured Wisconsin retirement system that continues to be a qualified public

pension plan for purposes of the federal internal revenue code.

5. Limiting employer obligations solely to paying a permanent fixed contribution rate expressed as a percentage of public employe base pay, and representing current prevailing taxpayer costs relative to the Wisconsin retirement system.

6. Prohibiting employes from bargaining for higher employer contribution rates to the Wisconsin retirement system, but allowing a retirement board to require or to increase employe contributions to the system.

7. Redesigning the process of providing postretirement pension increases and postretirement health insurance for newly hired employes.

(b) The special committee shall include the following members:

1. The cochairs of the retirement research committee.

2. Two members of the retirement research committee who are appointed by the cochairs of that committee.

3. Four members appointed by the governor.

(c) The special committee shall be staffed by the staff of the retirement research committee, and shall report any findings and recommendations supported by at least 5 of its 8 members to the retirement research committee and to the chief clerk of each house of the legislature for distribution to the legislature, not later than July 1, 1991.

SECTION 48. Initial applicability. (1) **EMPLOYEE TRUST FUNDS.** The treatment of sections 40.22 (1) to (4) and 40.52 (3) of the statutes first applies to participating employes who are teachers on the July 1 after the effective date of this subsection and to all other participating employes on the January 1 after the effective date of this subsection.

(2) **INVESTMENT BOARD.** The treatment of section 25.17 (14) (g) of the statutes first applies on the date designated by the investment board, but not later than December 31, 1989.