



## 1997 ASSEMBLY BILL 331

May 1, 1997 - Introduced by Representatives JENSEN, HANSON, KREIBICH, OTT, MUSSER, BRANDEMUEHL, POWERS, GROTHMAN, GOETSCH, OLSEN, FREESE, SYKORA, PLALE, KELSO, DUFF, PORTER, ZIEGELBAUER, KEDZIE, M. LEHMAN, RILEY, ALBERS, NASS and UNDERHEIM, cosponsored by Senators GEORGE, FARROW, HUELSMAN, SCHULTZ, ROESSLER, PANZER and PLACHE. Referred to Joint survey committee on Retirement Systems.

1     **AN ACT to amend** 40.02 (25) (b) 6m. a., 40.02 (49), 40.05 (2) (b) and 40.05 (4) (b);  
2             and **to create** chapter 37, 40.02 (25) (a) 7., 40.02 (25) (b) 12., 40.02 (46m), 40.02  
3             (57g) and 40.22 (2) (m) of the statutes; **relating to:** creating a University of  
4             Wisconsin optional retirement system and granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

Under current law, all faculty and academic staff who hold positions at the University of Wisconsin (UW) System, like other state employees, participate in the Wisconsin retirement system (WRS). This bill creates a University of Wisconsin optional retirement system (UWORS) for certain faculty and academic staff at the UW System. Under the bill, faculty and academic staff hired after the UWORS is operational may elect to participate in the UWORS in lieu of participating in the WRS. The key features of the UWORS are as follows:

1. The UWORS is created to provide retirement annuities for certain faculty and academic staff who elect to participate in the UWORS. An employee who elects to become a participating employee in the UWORS may not be a participating employee in the WRS.

2. The UWORS is established as a governmental plan and a qualified plan under the Internal Revenue Code.

3. The UWORS is managed and administered by the board of regents of the UW System. Under the bill, the board of regents is required to contract with an insurance company that is authorized to transact insurance business in this state to provide



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1           **37.01 University of Wisconsin optional retirement system; compliance**  
2           **with federal tax laws.** (1) The University of Wisconsin optional retirement system  
3           is created for the purpose of providing retirement annuities to eligible employees of  
4           the University of Wisconsin System who are not participating employees in the  
5           Wisconsin retirement system.

6           (2) The University of Wisconsin optional retirement system is established as  
7           a governmental plan and as a qualified plan for federal income tax purposes under  
8           section 401 (a) or 403 (a) or (b) of the Internal Revenue Code and shall be so  
9           maintained and administered. No benefit plan authorized under this chapter may  
10          be administered in a manner which violates an Internal Revenue Code provision that  
11          authorizes or regulates that benefit plan or which would cause an otherwise  
12          tax-exempt benefit to become taxable under the Internal Revenue Code.

13           **37.02 Definitions.** In this chapter:

14          (1) “Beginning date” means the date specified in the first contract entered into  
15          by the board under s. 37.07 on which an annuity may be purchased for a participating  
16          employee.

17          (2) “Board” means the board of regents of the University of Wisconsin System.

18          (3) “Eligible employee” means an employee of the University of Wisconsin System  
19          described under s. 20.923 (4), (4m), (5) or (6) (m) or 230.08 (2) (d).

20          (4) “Insurer” has the meaning given in s. 600.03 (27).

21          (5) “Internal Revenue Code” means the Internal Revenue Code, as defined for  
22          the current taxable year under s. 71.01 (6), and applicable regulations adopted under  
23          the Internal Revenue Code, including temporary regulations.

24          (6) “Participating employee” means an eligible employee who is currently in the  
25          service of, or who is on a leave of absence from, the University of Wisconsin System,

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1 who has met the requirements for inclusion within the University of Wisconsin  
2 optional retirement system under s. 37.04 and has elected to join the University of  
3 Wisconsin optional retirement system.

4 (7) "Participating employe in the Wisconsin retirement system" means a  
5 participating employe, as defined in s. 40.02 (46).

6 (8) "Wisconsin retirement system" means the Wisconsin retirement system  
7 established under ch. 40.

8 **37.03 Powers and duties.** The board:

9 (1) Shall manage and administer the University of Wisconsin optional  
10 retirement system.

11 (2) Shall ensure that the University of Wisconsin optional retirement system  
12 complies with the Internal Revenue Code as a qualified plan under section 401 (a)  
13 or 403 (a) or (b) of the Internal Revenue Code for income tax purposes and any benefit  
14 plan under this chapter is administered in a manner consistent with all Internal  
15 Revenue Code provisions that authorize and regulate the benefit plan.

16 (3) Shall promulgate rules necessary for the administration of the University  
17 of Wisconsin optional retirement system.

18 (4) May delegate any powers and duties that the board considers necessary or  
19 desirable for the purpose of administering the University of Wisconsin optional  
20 retirement system.

21 (5) Shall provide for long-term disability insurance for all participating  
22 employes.

23 **37.04 Participation.** (1) Any eligible employe of the University of Wisconsin  
24 System may become a participating employe if all of the following conditions are  
25 satisfied:

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1           (a) The employe is first employed by the University of Wisconsin System on or  
2 after the beginning date.

3           (b) The employe is expected to work at least one-third of what is considered  
4 full-time employment by the board, as determined by rule, and the employe has an  
5 expected duration of employment with the University of Wisconsin System of at least  
6 one year.

7           (c) The employe elects to participate in the University of Wisconsin optional  
8 retirement system by notifying the board in writing, on a form provided by the board,  
9 no later than 60 days after the date of the employe's initial appointment with the  
10 University of Wisconsin System. Subject to sub. (4) (b), an election under this  
11 paragraph to participate in the University of Wisconsin optional retirement system  
12 shall be an irrevocable election during the employe's duration of employment with  
13 the University of Wisconsin System.

14           (d) The employe is not a participating employe in the Wisconsin retirement  
15 system while the employe is a participating employe in the University of Wisconsin  
16 optional retirement system.

17           (e) The employe is not receiving a retirement annuity from the Wisconsin  
18 retirement system.

19           **(2)** An eligible employe who elects to participate in the University of Wisconsin  
20 optional retirement system under sub. (1) shall be considered to have been a  
21 participating employe since the date of the employe's initial appointment with the  
22 University of Wisconsin System.

23           **(3)** If an eligible employe elects to participate in the University of Wisconsin  
24 optional retirement system under this section, but is at the time of election a  
25 participating employe in the Wisconsin retirement system, the board shall notify the

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1 department of employe trust funds in writing that the employe is no longer a  
2 participating employe in the Wisconsin retirement system.

3 (4) (a) Except as provided in par. (b), any eligible employe who elects to  
4 participate in the University of Wisconsin optional retirement system under sub. (1)  
5 may not subsequently become a participating employe in the Wisconsin retirement  
6 system during the period of his or her employment with the University of Wisconsin  
7 System.

8 (b) If a participating employe terminates employment with the University of  
9 Wisconsin System and is subsequently rehired by the University of Wisconsin  
10 System, the employe is not required to become a participating employe. But if the  
11 employe is an eligible employe and satisfies the conditions specified in sub. (1) (b),  
12 (d) and (e), the employe may elect again to become a participating employe. If the  
13 employe elects to become a participating employe, he or she must notify the board  
14 in writing, on a form provided by the board, no later than 60 days after the date of  
15 the employe's subsequent appointment with the University of Wisconsin System.  
16 Any eligible employe who elects to become a participating employe under this  
17 paragraph shall be considered to have been a participating employe since the date  
18 of his or her subsequent appointment with the University of Wisconsin System.

19 **37.06 Contributions.** (1) The board shall remit to the insurer or insurers  
20 under contract with the board under s. 37.07 retirement contributions for each  
21 participating employe that equal the sum of all of the following:

22 (a) An amount that equals the amount of the employe contribution that would  
23 be paid under s. 40.05 (1) for the participating employe if he or she were a  
24 participating employe in the Wisconsin retirement system.

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1 (b) An amount that equals the amount of the employer contribution that would  
2 be paid under s. 40.05 (2) (a) for the participating employe if he or she were a  
3 participating employe in the Wisconsin retirement system.

4 (2) The board shall pay all retirement contributions for participating employes.

5 (3) Participating employes shall be immediately vested in all retirement  
6 contributions paid on their behalf under this section.

7 **37.07 Contracts.** The board shall enter into contracts with one or more  
8 insurers authorized to transact insurance business in this state to provide  
9 retirement annuities to participating employes. The contract shall provide for  
10 retirement annuities that are fixed or variable or a combination thereof. In  
11 determining the insurer with whom the board shall enter into a contract, the board  
12 shall consider all of the following:

13 (1) The ability of the insurer to provide the retirement annuities to  
14 participating employes.

15 (2) The financial stability of the insurer.

16 (3) The desirability of the insurer to the board for the purpose of recruiting and  
17 retaining faculty, as defined in s. 36.05 (8), and academic staff, as defined in s. 36.05  
18 (1).

19 **SECTION 2.** 40.02 (25) (a) 7. of the statutes is created to read:

20 40.02 (25) (a) 7. Any participating employe in the University of Wisconsin  
21 optional retirement system who has been participating under the University of  
22 Wisconsin optional retirement system for a period of at least 6 months prior to  
23 attainment of age 70, not including any period of leave of absence without pay, or any  
24 participating employe in the University of Wisconsin optional retirement system  
25 who immediately prior to becoming a participating employe in the University of

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1 Wisconsin optional retirement system had been participating under the Wisconsin  
2 retirement system for a period of at least 6 months, but only with respect to group  
3 insurance other than long-term disability insurance.

4 **SECTION 3.** 40.02 (25) (b) 6m. a. of the statutes is amended to read:

5 40.02 (25) (b) 6m. a. A retired employe of the state who is receiving a retirement  
6 annuity under this chapter or ch. 37 or has received a lump sum payment under s.  
7 40.25 (1).

8 **SECTION 4.** 40.02 (25) (b) 12. of the statutes is created to read:

9 40.02 (25) (b) 12. Any participating employe in the University of Wisconsin  
10 optional retirement system, notwithstanding par. (a) 7.

11 **SECTION 5.** 40.02 (46m) of the statutes is created to read:

12 40.02 (46m) "Participating employe in the University of Wisconsin optional  
13 retirement system" means a participating employe, as defined in s. 37.02 (6).

14 **SECTION 6.** 40.02 (49) of the statutes is amended to read:

15 40.02 (49) "Retired employe" means a former insured employe who is not a  
16 participating employe and who is retired on an immediate or disability annuity  
17 under this chapter or ch. 37 or who receives a lump sum payment under s. 40.25 (1)  
18 which would have been an immediate annuity if paid as an annuity or who is an  
19 eligible employe under sub. (25) (b) 6. or 6g.

20 **SECTION 7.** 40.02 (57g) of the statutes is created to read:

21 40.02 (57g) "University of Wisconsin optional retirement system" means the  
22 University of Wisconsin optional retirement system established under ch. 37.

23 **SECTION 8.** 40.05 (2) (b) of the statutes is amended to read:

24 40.05 (2) (b) Contributions shall be made by each participating employer for  
25 unfunded prior service liability in a percentage of the earnings of each participating

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1 employe. A separate percentage rate shall be determined for the employe  
2 occupational categories under s. 40.23 (2m) as of the employer's effective date of  
3 participation. The rates shall be sufficient to amortize as a level percent of payroll  
4 over a period of 40 years from the later of that date or January 1, 1986, the unfunded  
5 prior service liability for the categories of employes of each employer determined  
6 under s. 40.05 (2) (b), 1981 stats., increased to reflect any creditable prior service  
7 granted on or after January 1, 1986, increased to reflect the effect of 1983 Wisconsin  
8 Act 141, increased at the end of each calendar year after January 1, 1986, by interest  
9 at the assumed rate on the unpaid balance at the end of the year and adjusted under  
10 pars. (bv) and (bw). For the purpose of calculating contributions for the unfunded  
11 prior service liability of the University of Wisconsin System, the earnings of each  
12 participating employe in the University of Wisconsin optional retirement system  
13 shall be included.

14 **SECTION 9.** 40.05 (4) (b) of the statutes, as affected by 1995 Wisconsin Act 27,  
15 section 1957r, is amended to read:

16 40.05 (4) (b) Except as provided under pars. (bc) and (bp), accumulated unused  
17 sick leave under ss. 13.121 (4), 36.30, 230.35 (2), 233.10 and 757.02 (5) and subch.  
18 I or V of ch. 111 of any eligible employe shall, at the time of death, upon qualifying  
19 for an immediate annuity under this chapter or ch. 37 or for a lump sum payment  
20 under s. 40.25 (1) or upon termination of creditable service and qualifying as an  
21 eligible employe under s. 40.02 (25) (b) 6. ~~or~~, 10. or 12., be converted, at the employe's  
22 current basic pay rate, to credits for payment of health insurance premiums on  
23 behalf of the employe or the employe's surviving insured dependents. The full  
24 premium for any eligible employe who is insured at the time of retirement, or for the  
25 surviving insured dependents of an eligible employe who is deceased, shall be

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1 deducted from the credits until the credits are exhausted and paid from the account  
2 under s. 40.04 (10), and then deducted from annuity payments, if the annuity is  
3 sufficient. The department shall provide for the direct payment of premiums by the  
4 insured to the insurer if the premium to be withheld exceeds the annuity payment.  
5 Except as provided in par. (bd), upon conversion of an employee's unused sick leave  
6 to credits under this paragraph or par. (bf), the employee or, if the employee is deceased,  
7 the employee's surviving insured dependents may elect to delay initiation of  
8 deductions from those credits for up to 10 years after the date of the conversion if the  
9 employee or surviving insured dependents are covered by a comparable health  
10 insurance plan or policy during the period beginning on the date of the conversion  
11 and ending on the last day of the 2nd month after the date on which the employee or  
12 surviving insured dependents later elect to initiate deductions from those credits.  
13 A health insurance plan or policy is considered comparable if it provides hospital and  
14 medical benefits that are substantially equivalent to the standard health insurance  
15 plan established under s. 40.52 (1).

16 **SECTION 10.** 40.22 (2) (m) of the statutes is created to read:

17 40.22 (2) (m) The employee is a participating employee in the University of  
18 Wisconsin optional retirement system.

19 **SECTION 11. Effective date.**

20 (1) This act takes effect on July 1, 1997, or on the day after publication,  
21 whichever is later.

22 (END)