



1997 ASSEMBLY BILL 534

September 17, 1997 - Introduced by Representative KLUSMAN, cosponsored by Senator GROBSCHMIDT. Referred to Joint survey committee on Retirement Systems.

1 **AN ACT to repeal** 40.04 (3) (e); **to amend** 20.515 (1) (a) and 40.19 (4) (f); **to repeal**
2 **and recreate** 40.27 (1) and (1m); and **to create** 40.27 (3) of the statutes;
3 **relating to:** providing supplemental benefits to certain Wisconsin retirement
4 system annuitants and making an appropriation.

Analysis by the Legislative Reference Bureau

In 1997, the Wisconsin supreme court, in *Retired Teachers Ass'n v. Employee Trust Funds Bd.*, 207 Wis. 2d 1 (1997), ruled unconstitutional legislation that required the use of funds in the annuity reserve of the employee trust fund to pay "Special Investment Performance Dividends" (SIPD) to certain annuitants in the Wisconsin retirement system (WRS). Under the SIPD legislation, the dividends were only to be used to pay those WRS annuitants who had been eligible to receive a supplemental benefit that the department of employee trust funds had paid prior to the enactment of the legislation. The SIPD legislation repealed the authorizing statutory language for this supplemental benefit and provided that the supplemental benefit was, instead, to be paid from the dividends.

This bill restores the authorizing statutory language for the payment of the supplemental benefit that was repealed in the SIPD legislation. In addition, the bill authorizes the payment of an additional supplemental benefit to be paid to WRS annuitants who had annuity effective dates before October 1, 1974, and who were receiving the SIPD. This additional supplemental benefit must be an amount that is equal to the amount by which the supplement paid to a WRS annuitant prior to the enactment of the SIPD legislation is exceeded by the supplement that the person

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was eligible to receive on October 1, 1997, under the SIPD legislation, as affected by certain adjustments made by the employe trust funds board after 1987 and pursuant to the board's equitable distribution under *Retired Teachers Ass'n*.

This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.515 (1) (a) of the statutes is amended to read:

2 20.515 (1) (a) *Annuity supplements and payments.* A sum sufficient to pay the
3 benefits authorized under s. ~~40.27 (1) and (1m), 1985 stats., and s. ss. 40.02 (17) (d)~~
4 ~~2. and 40.27 (1), (1m) and (3)~~ in excess of the amounts payable under other provisions
5 of ch. 40 and ~~any distributions made under s. 40.04 (3) (e) after August 1, 1987,~~
6 ~~notwithstanding s. 40.27 (2) and to reimburse any amounts expended under par. (w)~~
7 ~~for the costs of administering the benefits provided under s. 40.27 (1) and (1m), 1985~~
8 ~~stats., and s. ss. 40.02 (17) (d) 2. and 40.27 (1), (1m) and (3).~~

9 **SECTION 2.** 40.04 (3) (e) of the statutes is repealed.

10 **SECTION 3.** 40.19 (4) (f) of the statutes is amended to read:

11 40.19 (4) (f) Each benefit being paid under s. 61.65, 1975 stats., or s. 62.13 (9),
12 (9a) or (10), 1975 stats., on March 30, 1978, shall be continued in full force and effect,
13 on the terms and conditions under which the benefit was originally granted,
14 regardless of whether the granting was in accordance with the law then in effect, but
15 after January 1, 1982 each benefit shall be paid by the Wisconsin retirement system
16 and if all or a portion of the benefit was in accord with the law then in effect, that
17 portion of the benefit shall be subject to s. 40.27 (1), ~~1985 stats.~~ No supplemental

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1 benefit shall be paid under s. 40.27 (1), ~~1985 stats.~~, with respect to any portion of a
2 benefit which was not granted in accordance with the law then in effect.

3 **SECTION 4.** 40.27 (1) and (1m) of the statutes, as last printed in the statutes of
4 1985, are repealed and recreated to read:

5 40.27 (1) SUPPLEMENTAL BENEFITS. Any person who received a supplemental
6 benefit under s. 41.23, 1979 stats., s. 42.49 (10), 1979 stats., or s. 42.82, 1979 stats.,
7 is eligible to continue receiving a supplemental benefit in the amounts determined
8 under s. 41.23, 1979 stats., s. 42.49 (10), 1979 stats., or s. 42.82, 1979 stats. Any
9 portion of a benefit payable under s. 40.19 (4) (f) which was not granted in accordance
10 with the law in effect at the time of the granting shall not be subject to this subsection
11 and shall not be eligible for a supplemental benefit.

12 (a) Any benefit payable by virtue of this subsection in excess of the amounts
13 payable under other provisions of this chapter shall be paid from and shall be subject
14 to the continuation of the appropriation made by s. 20.515 (1) (a).

15 (b) Determinations of eligibility and the amount of any payment to be made
16 under this subsection or sub. (1m) or (3) shall be made by the department, and shall
17 be certified by the department for payment in the same manner as for payments from
18 the Wisconsin retirement system.

19 (c) No payment shall be made under this subsection or sub. (1m) or (3), nor shall
20 any right accrue under this subsection or sub. (1m) or (3), for or after any month
21 following termination of the annuity on which the supplement was based.

22 (d) Benefits under this subsection and subs. (1m) and (3) shall be payable to the
23 surviving beneficiary, who receives an annuity, of eligible persons.

ASSEMBLY BILL 534**SECTION 4**

1 **(1m)** ADDITIONAL SUPPLEMENTAL BENEFITS. Any person who received an annuity
2 for September 1974 from the Wisconsin retirement system shall be eligible to receive
3 all of the following:

4 (a) The monthly annuities for which that person was eligible and which that
5 person received for September 1974.

6 (b) An amount to be paid from the appropriation account under s. 20.515 (1) (a),
7 subject to the continuation of that appropriation, equal to 4% times 5 years times
8 either \$200 or the initial monthly annuity, excluding amounts provided from
9 additional deposits, whichever is smaller.

10 (c) Any supplement for which that person is eligible under sub. (1) and s. 41.23,
11 1979 stats., s. 42.49 (10), 1979 stats., or s. 42.82, 1979 stats.

12 **SECTION 5.** 40.27 (3) of the statutes is created to read:

13 **40.27 (3) ADDITIONAL SUPPLEMENTAL BENEFIT ADJUSTMENT.** Beginning on
14 November 1, 1997, any person who is eligible to receive supplemental benefits under
15 subs. (1) and (1m) shall be eligible to receive an additional supplemental benefit, to
16 be paid from the appropriation account under s. 20.515 (1) (a), in an amount equal
17 to the amount by which the supplemental benefits paid under subs. (1) and (1m) are
18 exceeded by the supplemental benefit that the person was eligible to receive on
19 October 1, 1997, from the distribution paid under s. 40.04 (3) (e) 1. c., 1995 stats., as
20 affected by adjustments under sub. (2) made after 1987, less any increase to the
21 person's base annuity under this chapter that results from any equitable distribution
22 made by the board under the judgment in Wisconsin Retired Teachers Ass'n v.
23 Employe Trust Funds Bd., 207 Wis. 2d 1 (1997), without regard to adjustments to
24 sub. (2).

25 **SECTION 6. Nonstatutory provisions.**

