



1997 ASSEMBLY BILL 914

March 16, 1998 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Government Operations.

1 **AN ACT to amend** 40.08 (9m), 40.22 (6) and 40.24 (1) (d); and **to create** 40.02 (39r)
2 and 40.02 (41r) of the statutes; **relating to:** participating employment status
3 under the Wisconsin retirement system and the filing of certain documents by
4 guardians of participants in the Wisconsin retirement system (suggested as
5 remedial legislation by the department of employe trust funds).

Analysis by the Legislative Reference Bureau

Under current law, there is a general provision in the Wisconsin retirement system (WRS) which provides that, if an employe's employment with a participating employer in the WRS terminates after a period of service of less than 30 calendar days, the employe is not eligible for WRS coverage for that period of service. This bill provides that this general provision does not affect any employe who is not a participating employe but who elects to become a participating employe in the WRS.

Under current law, any application for a WRS benefit, any designation by a participant of a beneficiary or any other document which has a long-term effect on a participant's rights and benefits under the WRS and which requires a signature may be signed by a guardian when accompanied by a circuit court order approving the terms of the document. This bill provides that any such document may be signed and filed by the guardian *of the estate*, not just any guardian, when accompanied by a photocopy or facsimile of a guardianship order issued by a circuit court judge or a register in probate or a probate court commissioner who is appropriately assigned the authority to issue such orders.

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Finally, the bill substitutes the term “named survivor” for “beneficiary” as the survivor under a joint and survivor annuity under the WRS.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of employe trust funds and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 40.02 (39r) of the statutes is created to read:

2 40.02 (**39r**) “Joint and survivor annuity” means an optional annuity form,
3 described under s. 40.24 (1) (d) or a rule promulgated under s. 40.24 (1) (g), that is
4 payable for the life of the participant and, after the death of the participant, a
5 continuing percentage of which is payable in monthly instalments to the named
6 survivor.

7 **SECTION 2.** 40.02 (41r) of the statutes is created to read:

8 40.02 (**41r**) “Named survivor” means the natural person designated by a
9 participant on an application for a joint and survivor annuity or pursuant to a
10 request under s. 40.24 (4) to receive, after the death of the participant, a continuing
11 percentage of the annuity payable in monthly instalments. A participant may not
12 designate more than one natural person as the named survivor for a joint and
13 survivor annuity. A participant’s designation of a named survivor on an application
14 for a joint and survivor annuity is irrevocable after the deadline specified under s.
15 40.24 (4). Pursuant to rules promulgated by the department, a named survivor may
16 designate one or more beneficiaries to receive any remaining guaranteed monthly
17 instalments that are unpaid at the time of the named survivor’s death.

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NOTE: SECTIONS 1 and 2 create definitions for 2 terms currently used in the statutes, but currently defined only in administrative rules: "joint and survivor annuity" and "named survivor".

1 **SECTION 3.** 40.08 (9m) of the statutes is amended to read:

2 40.08 **(9m)** GUARDIANS. An application for a benefit, a designation of a
3 beneficiary or any other document which has a long-term effect on a person's rights
4 and benefits under this chapter and which requires a signature may be signed and
5 filed by a guardian of the estate when accompanied by a ~~certified copy~~ photocopy or
6 facsimile of an order of a circuit court approving the specific terms of the document
7 guardianship issued by a circuit court judge or a register in probate or a probate court
8 commissioner who is assigned the authority to issue such orders under s. 757.72 (2)
9 or (5).

NOTE: This SECTION amends s. 40.08 (9m), stats., to require that a guardian for a WRS participant or beneficiary be a guardian of the estate, not merely a guardian of the person. In addition, the amendments provide that the guardian may submit a photocopy or facsimile of the guardianship papers showing that the person is the guardian of the estate. According to the department of employe trust funds (DETF), this will relieve guardians from having to return to the court for approval of any action that the guardian takes regarding a Wisconsin retirement system (WRS) benefit.

10 **SECTION 4.** 40.22 (6) of the statutes is amended to read:

11 40.22 **(6)** Notwithstanding subs. (1) ~~to~~, (2), (3), (4) and (5), if an employe's
12 employment with an employer terminates after a period of service of less than 30
13 calendar days, the employe is not eligible for retirement coverage for that period of
14 service. This subsection ~~does~~ shall not apply to employment covered under sub. (3m)
15 and shall not affect an employe's eligibility for insurance coverage for that period of
16 service.

NOTE: Under current law, s. 40.22 (6) creates a minimum threshold period of 30 days for initial employment in order to be covered by the WRS. However, s. 40.22 (3m), enacted after s. 40.22 (6), provides that any employe who becomes a participating employe under the WRS continues to be a participating employe for periods of subsequent employment with that same employer unless the employment is terminated for 12 or more consecutive calendar months or unless the employe receives a certain specified benefit. The provisions in SECTION 4 provide that any return to work by an employe at one's former employer, where the employe has already become covered under the WRS,

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continues to be covered employment, even if the period of employment is for less than 30 days.

1 **SECTION 5.** 40.24 (1) (d) of the statutes is amended to read:

2 40.24 (1) (d) An annuity payable for the life of the annuitant, and after the
3 death of the annuitant, monthly payments as elected by the participant of either
4 100% or 75% of the amount of the annuity paid to the annuitant to be continued to
5 the ~~one beneficiary~~ named survivor, for life, who was designated by the participant
6 in the original application for an annuity. If the participant's annuity effective date
7 is on or after January 1, 1992, or, if the department specifies an earlier date that is
8 not earlier than April 23, 1992, on or after the date specified by the department, and
9 if the death of the ~~beneficiary~~ named survivor occurs before the death of the
10 annuitant and before the first day of the 61st month beginning after the annuity
11 effective date, the annuity option under this paragraph shall be converted to the
12 annuity option under par. (a) and, beginning with the annuity payment for the first
13 month beginning after the death of the ~~beneficiary~~ named survivor, the annuity
14 amount shall be the amount that the annuitant would be receiving on that date if the
15 participant had elected the annuity option under par. (a) in the original application
16 for an annuity.

NOTE: This SECTION amends the description of the joint and survivor annuity option as described in s. 40.24 (1) (d), stats., to change a reference from "beneficiary" to "named survivor", for which a definition is created in SECTION 2 of this bill. According to DETF, this change is needed because the term "named survivor" is a more accurate description of the person who will be receiving the benefit than is the currently used term "beneficiary".

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(END)