

1999 ASSEMBLY BILL 9

January 14, 1999 – Introduced by Representatives SCHNEIDER, BOYLE, BERCEAU and RYBA, cosponsored by Senator GEORGE, by request of Larry Pischke. Referred to Joint survey committee on Retirement Systems.

1 **AN ACT** *to amend* 40.02 (15) (a) (intro.), 1. to 4. and 6., (b) and (c) (intro.) and 1.
2 to 3. , 40.02 (17) (intro.), 40.02 (40), 40.02 (48m) (f), 40.05 (2) (b), 40.25 (7) (a)
3 (intro.), 40.25 (7) (b), 40.30 (3) and 40.71 (1) (c); and *to create* 40.02 (59) and
4 40.05 (2) (bx) of the statutes; **relating to:** granting creditable service under the
5 Wisconsin retirement system for service in the federal peace corps or VISTA
6 public service programs or in any national service program under the federal
7 National and Community Service Act of 1990.

Analysis by the Legislative Reference Bureau

Under current law, a participating employe under the Wisconsin retirement system (WRS) may receive one year of creditable service under WRS for each year of military service, up to a maximum of four years of military service credit, at the time of retirement in either of the following ways:

1. If the participant left employment covered under WRS to enter military service and returned to the same employer within 180 days after being discharged, the participant may receive one year of military service credit for each year of military service (regardless of the amount of the participant's creditable service).

2. If the participant's military service was performed before 1974 and the participant terminates employment covered under WRS on or after March 9, 1984, the participant may receive up to one, two, three or four years of military service

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credit if the participant has at least five, ten, fifteen or twenty years, respectively, of creditable service (not counting previously granted military service credit).

This bill provides for similar granting of creditable service under WRS for service in the federal peace corps or VISTA public service programs or in any national service program under the federal National and Community Service Act of 1990.

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 and local* 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.** 40.02 (15) (a) (intro.), 1. to 4. and 6., (b) and (c) (intro.) and 1. to 3.
2 of the statutes are amended to read:

3 40.02 (15) (a) (intro.) “Creditable military or volunteer service” means active
4 service in the U.S. armed forces or volunteer services, based on the total period of
5 service in the U.S. armed forces or volunteer services, provided:

6 1. The participant enlisted or was ordered or inducted into active service in the
7 U.S. armed forces or joined the volunteer services;

8 2. The participant left the employment of a participating employer to enter the
9 U.S. armed forces or the volunteer services;

10 3. The participant returns to the employment of the employer whose
11 employment the participant left to enter the U.S. armed forces or the volunteer
12 services within 180 days of release or discharge from the armed forces or resignation
13 from the volunteer services, or within 180 days of release from hospitalization
14 because of injury or sickness resulting from service in the armed forces or volunteer
15 services;

16 4. The period of service in the U.S. armed forces or volunteer services is not
17 more than 4 years, unless involuntarily extended for a longer period;

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1 6. The participant upon return from service in the U.S. armed forces or
2 volunteer services furnishes evidence required to establish the participant's rights
3 under this chapter; and

4 (b) The creditable military or volunteer service under par. (a) shall be the same
5 type, as set forth in s. 40.23 (2m) (e), as the participant was receiving prior to entry
6 into the U.S. armed forces or volunteer services.

7 (c) (intro.) Notwithstanding sub. (17) (intro.) and any other law, any person who
8 is credited with 5, 10, 15 or 20 or more years of creditable service, not counting any
9 previously granted creditable military or volunteer service, may receive creditable
10 military or volunteer service at the time of retirement for not more than 1, 2, 3 or 4
11 years, respectively, of active service which meets the standards under par. (a) 5., if
12 applicable, provided:

13 1. This paragraph applies only to active military or volunteer service served
14 prior to January 1, 1974.

15 2. Any creditable military or volunteer service otherwise granted shall be
16 included in determining the maximum years to be granted under this paragraph.

17 3. Creditable military or volunteer service under this paragraph shall be
18 allocated at the time of retirement in proportion to the amount of the participant's
19 creditable service for each of the types of creditable service set forth in s. 40.23 (2m)
20 (e) on the date the participant attains 5, 10, 15 or 20 years of creditable service.

21 **SECTION 2.** 40.02 (17) (intro.) of the statutes is amended to read:

22 40.02 (17) (intro.) "Creditable service" means the creditable current and prior
23 service, expressed in years and fractions of a year to the nearest one-hundredth, for
24 which a participating employe receives or is considered to receive earnings under
25 sub. (22) (e) or (em) and for which contributions have been made as required by s.

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1 40.05 (1) and (2) and creditable military or volunteer service, service credited under
2 s. 40.25 (7) and service credited under s. 40.29, expressed in years and fractions of
3 years to the nearest one–hundredth. How much service in any annual earnings
4 period is the full–time equivalent of one year of creditable service shall be
5 determined by rule by the department and the rules may provide for differing
6 equivalents for different types of employment. Except as provided under pars. (i) and
7 (k), the amount of creditable service for periods prior to January 1, 1982, shall be the
8 amount for which the participant was eligible under the applicable laws and rules
9 in effect prior to January 1, 1982. No more than one year of creditable service shall
10 be granted for any annual earnings period. Creditable service is determined in the
11 following manner for the following persons:

12 **SECTION 3.** 40.02 (40) of the statutes is amended to read:

13 40.02 **(40)** “Leave of absence” means any period during which an employe has
14 ceased to render services for a participating employer and receive earnings and there
15 has been no formal termination of the employer–employe relationship. For purposes
16 of the fund every leave of absence, except a military or volunteer service leave or
17 union service leave, shall terminate 3 years after it begins or, if earlier, upon the date
18 specified by the employer in a notification to the department that the
19 employer–employe relationship has terminated. A leave of absence is not deemed
20 ended or interrupted by reason of resumption of active duty until the employe has
21 resumed active performance of duty for 30 consecutive calendar days for at least 50%
22 of what is considered that employe’s normal work time with that employer. For the
23 purpose of group health insurance coverage, every leave of absence due to employe
24 layoff which has not been terminated before 3 years have elapsed shall continue for
25 affected insured employes until an additional 2 years elapse or until sick leave

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1 credits used to pay health insurance premiums are exhausted, whichever occurs
2 first.

3 **SECTION 4.** 40.02 (48m) (f) of the statutes is amended to read:

4 40.02 **(48m)** (f) The judgment, decree or order requires the participant to
5 certify, in a form prescribed by the department, all of the participant's active military
6 or volunteer service, as described in sub. (15) (a).

7 **SECTION 5.** 40.02 (59) of the statutes is created to read:

8 40.02 **(59)** "Volunteer services" means the federal peace corps or VISTA public
9 service programs or a national service program described in 42 USC 12572 (a).

10 **SECTION 6.** 40.05 (2) (b) of the statutes is amended to read:

11 40.05 **(2)** (b) Contributions shall be made by each participating employer for
12 unfunded prior service liability in a percentage of the earnings of each participating
13 employe. A separate percentage rate shall be determined for the employe
14 occupational categories under s. 40.23 (2m) as of the employer's effective date of
15 participation. The rates shall be sufficient to amortize as a level percent of payroll
16 over a period of 40 years from the later of that date or January 1, 1986, the unfunded
17 prior service liability for the categories of employes of each employer determined
18 under s. 40.05 (2) (b), 1981 stats., increased to reflect any creditable prior service
19 granted on or after January 1, 1986, increased to reflect the effect of 1983 Wisconsin
20 Act 141, increased at the end of each calendar year after January 1, 1986, by interest
21 at the assumed rate on the unpaid balance at the end of the year and adjusted under
22 pars. (bu), (bv) ~~and~~, (bw) and (bx).

23 **SECTION 7.** 40.05 (2) (bx) of the statutes is created to read:

24 40.05 **(2)** (bx) The employer contribution rate determined under par. (b) for
25 participating employes who served in the volunteer services shall be adjusted to

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1 reflect the cost of granting creditable service for those participating employes under
2 s. 40.02 (15) and that rate shall be sufficient to amortize the unfunded prior service
3 liability of the employers over the remainder of the 40-year amortization period
4 under par. (b).

5 **SECTION 8.** 40.25 (7) (a) (intro.) of the statutes is amended to read:

6 40.25 (7) (a) (intro.) Each participating employe whose creditable service
7 terminates on or after May 1, 1992, and who has performed service, other than
8 military or volunteer service, as an employe of the federal government or a state or
9 local governmental entity in the United States, other than a participating employer,
10 that is located within or outside of this state, or each participating employe whose
11 creditable service terminates on or after May 4, 1994, and who has performed service
12 as an employe for an employer who was not at the time a participating employer but
13 who subsequently became a participating employer, may receive creditable service
14 for such service if all of the following conditions are met:

15 **SECTION 9.** 40.25 (7) (b) of the statutes is amended to read:

16 40.25 (7) (b) Creditable service granted under par. (a) shall be calculated in an
17 amount equal to the year and fractions of a year to the nearest one-hundredth of a
18 year for service other than military or volunteer service performed for the
19 governmental entity, as determined by evidence of such service furnished under par.

20 (a) 4. Creditable service granted under par. (a) shall be the same type of creditable
21 service as the type that is granted to participants who are not executive participating
22 employes, elected officials or protective occupation participants. A participating
23 employe may apply to receive part or all of the creditable service that he or she is
24 eligible to receive under par. (a).

25 **SECTION 10.** 40.30 (3) of the statutes is amended to read:

