

## 1999 ASSEMBLY BILL 245

March 23, 1999 – Introduced by Representatives SPILLNER, M. LEHMAN, F. LASEE, STONE, OLSEN, ALBERS, GOETSCH, AINSWORTH, SERATTI, GUNDERSON and MONTGOMERY, cosponsored by Senators FARROW and HUELSMAN. Referred to Joint survey committee on Retirement Systems.

1     **AN ACT** *to renumber and amend* 40.65 (3); and *to create* 40.65 (3) (b) to (d) of  
2             the statutes; **relating to:** duty disability benefits for protective occupation  
3             participants under the Wisconsin retirement system.

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### *Analysis by the Legislative Reference Bureau*

Under current law, an employe participating in the Wisconsin retirement system (WRS) who is a protective occupation participant — a category that consists of certain employes whose duties involve active law enforcement or active fire suppression, frequent exposure to a high degree of danger or peril and requiring a high degree of physical conditioning — is entitled to duty disability benefits under the WRS if all of the following occur: 1) the employe is injured while performing his or her duty or contracts a disease due to his or her occupation; 2) the disability is likely to be permanent; and 3) the disability causes the employe to retire from his or her job, the employe's pay or position is reduced or he or she is assigned to light duty or the employe's promotional opportunities within the service are adversely affected if state or local employer rules, ordinances, policies or written agreements specifically prohibit promotion because of the disability. Under current law, a protective occupation participant who qualifies for a duty disability benefit is not subject to any additional or subsequent medical examinations to determine if the employe remains eligible for the benefit.

This bill provides that the Wisconsin retirement board may require that every person who receives a duty disability benefit be examined by a licensed and practicing physician, designated or approved by the employe trust funds board, every

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year during the first five years that the person receives the benefit and then once every three years thereafter. The monthly benefits under the program must be terminated if the examination by the physician determines that the person is no longer permanently disabled or the person refuses to submit to the physical examination. The bill also provides that, with respect to any person who is terminated because the person is no longer permanently disabled, the employer with whom the person was last employed before receiving the duty disability benefit must make every reasonable effort to reinstate the person in the position that the person occupied before terminating employment.

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.

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

1           **SECTION 1.** 40.65 (3) of the statutes is renumbered 40.65 (3) (a) and amended  
2 to read:

3           40.65 **(3)** (a) The Wisconsin retirement board shall determine the amount of  
4 each monthly benefit payable under this section and its effective date. The board  
5 shall periodically review the dollar amount of each monthly benefit and adjust it to  
6 conform with the provisions of this section. The board may request any income or  
7 benefit information, or any information concerning a person's marital status, which  
8 it considers to be necessary to implement this subsection paragraph and shall  
9 require a participant to submit a certified copy of his or her most recent state or  
10 federal income tax return. The board may terminate the monthly benefit of any  
11 person who refuses to submit information requested by the board or who submits  
12 false information to the board.

13           **SECTION 2.** 40.65 (3) (b) to (d) of the statutes are created to read:

14           40.65 **(3)** (b) The Wisconsin retirement board may require that any person who  
15 receives a monthly benefit under this section be examined by at least one licensed

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1 and practicing physician, designated or approved by the board, in each of the first  
2 5 years that the person receives a monthly benefit under this section and once every  
3 3 years thereafter. A written report of the examination in a form approved by the  
4 department, which shall indicate whether the person is still disabled as specified in  
5 sub. (4) (b), shall be filed with the department. The department shall pay the cost  
6 of any examination conducted under this paragraph.

7 (c) The monthly benefit payable under this section shall be terminated and no  
8 payment shall be payable after the first of the month in which a determination is  
9 made by the department that any of the following occurs:

10 1. The written physician's report required in par. (b) indicates that the person  
11 has recovered from the disability so the person is no longer disabled to the extent  
12 required under sub. (4) (b).

13 2. The person refuses to submit to an examination under par. (b).

14 (d) If the department terminates a monthly benefit under par. (c) 1., the  
15 employer with whom the person was last employed before receiving the monthly  
16 benefit shall make every reasonable effort to reinstate the person in the position that  
17 the person occupied before terminating employment. This paragraph does not  
18 require an employer to leave vacant the position that the person occupied before  
19 terminating employment or to terminate any employe who is employed in the  
20 position that the person occupied before terminating employment.

21 (END)