

## 1999 ASSEMBLY BILL 309

April 27, 1999 – Introduced by Representatives PLALE, JENSEN, BRANDEMUEHL, COGGS, GARD, GOETSCH, GROTHMAN, GUNDERSON, HAHN, JESKEWITZ, KREUSER, LASSA, F. LASEE, LEIBHAM, MEYER, MUSSER, NASS, OLSEN, POWERS, PLOUFF, RILEY, SERATTI, STASKUNAS, STONE, SYKORA, VRAKAS, WALKER and ZIEGELBAUER, cosponsored by Senators SHIBILSKI, RUDE, BAUMGART, BRESKE, FARROW, FITZGERALD, GEORGE, HUELSMAN, ROESSLER, ROSENZWEIG, SCHULTZ and WELCH. Referred to Joint survey committee on Retirement Systems.

1 AN ACT *to create* 40.41 (6) (g), subchapter X of chapter 40 [precedes 40.98] and  
2 111.91 (2) (r) of the statutes; **relating to:** excluding from coverage under the  
3 federal Social Security Act services performed by part-time, seasonal and  
4 temporary state employes, establishing an alternative plan with comparable  
5 benefits to social security for these part-time, seasonal and temporary state  
6 employes and granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

Under current law, with certain exceptions, all state employes are included for coverage under the federal Social Security Act. This bill excludes from social security coverage those services performed by part-time, temporary and seasonal state employes, beginning on January 1, 2001, for all part-time, temporary and seasonal state employes who are not otherwise required under federal law to be covered under social security. The definitions of part-time, temporary and seasonal state employes are those provided in federal law. Part-time state employes are generally those employes who work 20 hours or less per week; seasonal state employes are generally those employes who work on a full-time basis less than five months in a year; and temporary state employes are generally those employes who perform services under a contractual arrangement with the state for a duration of two years or less.

In addition, under the bill, the department of employe trust funds (DETF) is required to establish an alternate plan for those part-time, temporary and seasonal



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## SUBCHAPTER X

## ALTERNATIVE OASDHI PLAN FOR

## PART-TIME, TEMPORARY AND SEASONAL

## STATE EMPLOYEES

**40.98 Alternative OASDHI plan for part-time, temporary and seasonal state employees. (1)** In this subchapter:

(a) “Covered employee” means any part-time, temporary or seasonal state employe who is not required by federal law to be covered under OASDHI.

(b) “Part-time state employe” means a state employe who is a part-time employe under 26 CFR 31.3121 (b) (7)–2 (d) (2) (iii) (A).

(c) “Plan” means the alternative OASDHI plan established under sub. (2).

(d) “Seasonal state employe” means a state employe who is a seasonal employe under 26 CFR 31.3121 (b) (7)–2 (d) (2) (iii) (B).

(e) “Temporary state employe” means a state employe who is a temporary employe under 26 CFR 31.3121 (b) (7)–2 (d) (2) (iii) (C).

**(2)** The department shall establish by rule an alternative OASDHI plan for covered employes. The plan shall comply with all applicable requirements of section 3121 of the Internal Revenue Code relating to plans for state employes that may be alternatives to OASDHI. The plan shall provide comparable benefits to those provided under OASDHI. The department shall provide coverage under the plan to all covered employes beginning on January 1, 2001.

**(2m)** (a) Participation in the plan by all covered employes shall be mandatory, except that covered employes may elect coverage under OASDHI during one of the following periods:

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1           1. No later than 30 days after the covered employee's initial date of employment  
2 with the state.

3           2. During January of the odd-numbered year.

4           (b) A covered employee may only elect coverage under OASDHI by notifying the  
5 department on a form provided by the department.

6           (c) A covered employee who elects coverage under OASDHI may not participate  
7 in the plan.

8           **(3)** Contributions under the plan shall be 7.5% of each payment of earnings of  
9 the covered employee and shall be paid by the covered employee. The department may  
10 increase or decrease the contribution rate by rule, but any such increase or decrease  
11 shall be subject to any applicable requirement of section 3121 of the Internal  
12 Revenue Code relating to plans for state employees that may be alternatives to  
13 OASDHI.

14           **(4)** The department shall contract with an individual or organization in the  
15 private sector for all administrative and investment services required under the  
16 plan.

17           **(5)** Any contract entered into by the department under sub. (4) shall do all of  
18 the following:

19           (a) Provide that the individual or organization reimburse the department, to  
20 be credited to the administrative account of the public employe trust fund in s. 40.04  
21 (2), for any costs incurred directly or indirectly by the department in implementing,  
22 administering and monitoring the plan.

23           (b) Indemnify the state and all state employes against all costs, liabilities and  
24 expenses that may result if the individual or organization under contract violates

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1 any applicable provision of the Internal Revenue Code or the federal Social Security  
2 Act.

3 **(6)** Subject to all applicable requirements of section 3121 of the Internal  
4 Revenue Code relating to plans for state employees that may be alternatives to  
5 OASDHI, all funds in the plan may be invested and reinvested in the same manner  
6 provided for investments under s. 881.01 (1).

7 **SECTION 3.** 111.91 (2) (r) of the statutes is created to read:

8 111.91 **(2)** (r) Exclusion from social security coverage under s. 40.41 (6) (g) and  
9 participation in the plan under subch. X of ch. 40.

10 **SECTION 4. Nonstatutory provisions.**

11 (1) SUBMISSION OF PROPOSED RULES TO THE LEGISLATIVE COUNCIL STAFF. The  
12 department of employe trust funds shall submit in proposed form the rules required  
13 under section 40.98 (2) of the statutes, as created by this act, to the legislative council  
14 staff under section 227.15 (1) of the statutes no later than September 1, 2000.

15 **SECTION 5. Initial applicability.**

16 (1) PROHIBITED SUBJECTS OF COLLECTIVE BARGAINING UNDER STATE EMPLOYMENT  
17 LABOR RELATIONS ACT. The treatment of section 111.91 (2) (r) of the statutes first  
18 applies to employees who are affected by a collective bargaining agreement that  
19 contains provisions inconsistent with that treatment on the day on which the  
20 collective bargaining agreement expires or is extended, modified or renewed,  
21 whichever occurs first.

22 (END)