

1999 DRAFTING REQUEST

Bill

Received: 12/17/98

Received By: **champra**

Wanted: **As time permits**

Identical to LRB:

For: **Fred Risser (608) 266-1627**

By/Representing: **Himself**

This file may be shown to any legislator: **NO**

Drafter: **champra**

May Contact:

Alt. Drafters:

Subject: **Employ Pub - retirement**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

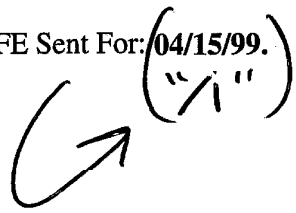
Survivor benefits under the Wisconsin retirement system

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	champra 01/11/99	ptellez 01/19/99	hhagen 01/20/99	_____	lrb_docadmin 01/20/99	lrb_docadminState 04/15/99	Retire

FE Sent For: (04/15/99.)


<END>

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/?	champra	1/1 pgt 1/12/99	1/14	1/20	1/15		

FE Sent For:

<END>

FRED A. RISSER

State Senator

December 14, 1998



Richard Champagne
Attorney, Legislative Reference Bureau
100 N Hamilton St.
Madison, WI 53702

Dear Rick:

Enclosed please find a copy of correspondence I received with regard to a current problem with our retirement system, experienced by Ms. Sharon Cooperrider upon the death of her husband.

I would appreciate your consideration of this matter, and your assistance in drafting legislation that would allow her and other survivors in her situation, the benefit of receiving both the employee, and the state contributions to the retirement system. I suspect a reasonable cutoff time is necessary, but it seems that a real inequity occurred in this case.

If you are in need of further information, please feel free to contact me, as well as Attorney Thomas Zilavy of DeWitt, Ross & Stevens Law firm.

Thank you for your assistance.

Most sincerely,


FRED A. RISSER
Senate President-Elect

FAR:lt

Encl.



State of Wisconsin

JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS
AND THE RETIREMENT RESEARCH COMMITTEE

Scott L. Dennison, FSA, MAAA
Now retired: BLAIR L. TESTIN
RESEARCH DIRECTOR
722
ROOM 640, 110 E. MAIN STREET
MADISON WISCONSIN 53703
(608) 267-0507
FAX (608) 267-0675

November 25, 1998

Mr. Thomas D. Zilavy
DeWitt, Ross & Stevens
Capitol Square Office
Two East Mifflin Street, Suite 600
Madison, WI 53703-2865

Dear Mr. Zilavy:

This regards your proposal for legislation to liberalize the death benefit provisions under the Wisconsin Retirement System (WRS) in a retroactive manner that might benefit Ms. Sharon Cooperrider and others in similar circumstances.

I too am concerned that the eligibility provisions for surviving spouse annuities in the WRS fall far short of the federal standard imposed on private sector retirement plans. Senate Bill 31's lowering of the eligibility age by 5 years was only one step in the right direction.

I shared your letter with Dave Stella at the Department of Employee Trust Funds whose knowledge of Wisconsin pension law has been invaluable to me in my short time here. He informed me that Article 4, Section 26 of the State Constitution prohibits any increase in compensation after service for that compensation has already been rendered. In the case of the WRS, which offers a type of "compensation" for service rendered, such legislation can be enacted - but it requires a three-fourths vote in each house and must be funded by GPR revenue, not from the retirement system's trust fund. With these restrictions, the legislature has been very reluctant to pass pension legislation with "retroactive payoff" features in it.

I wish I could offer Ms. Cooperrider more hope than this, but this does seem like a large hurdle to overcome.

Sincerely,

Scott L. Dennison, FSA
Director of Retirement Research

SD:db



Capitol Square Office
Two East Millin Street
Suite 600
Madison, WI 53703-2865
Fax 608-252-8243
Tel. 608-255-8891

West Office
Firstar Financial Centre
8000 Excelsior Drive, Suite 401
Madison, WI 53717-1914
Fax 608-831-2106
Tel. 608-831-2100

Please respond to: Capitol Square Office
Direct Line: 608-283-5606

October 8, 1998

Mr. Scott Dennison, Director
Retirement Research Committee
110 East Main, Room 722
Madison, WI 53703

RE: Proposal for Correcting an Inequity Regarding
Wisconsin Retirement System Account of
Richard E. Cooperrider, Deceased

Dear Mr. Dennison:

We represent Ms. Sharon A. Cooperrider, the surviving widow of Richard E. Cooperrider. Mr. Cooperrider was an employee of the Wisconsin Department of Health and Family Services for 29 years until his untimely death on November 1, 1997. At the time of his death, Mr. Cooperrider's age was 59 years, 11 months. Richard Cooperrider was a participant in the Wisconsin Retirement System ("System"), and at the time of his death, his employee-required contribution account with the System was a sum in excess of \$184,000. The State of Wisconsin's matching contribution to Richard Cooperrider's retirement account was also a sum in excess of \$184,000. Thus, just prior to Mr. Cooperrider's death, his retirement benefit would have been based upon a retirement account consisting of both his contributions and the State's matching contributions, which would have provided a total account for retirement benefit purposes of a sum in excess of \$368,000.

If Mr. Cooperrider had not died but rather retired on November 1, 1997, his retirement benefit would have been based upon the amount of his own contributions to his account and the State's contributions to his account. If Mr. Cooperrider had survived until he attained 60 years of age, even though he had not yet retired, his death benefit would have been based upon both his contribution and the State's contributions to his account. However, because Mr. Cooperrider did not survive to retire from his service to the State of Wisconsin and because he died one month before attaining age 60, his retirement account death benefit for his surviving widow, Sharon Cooperrider, is based only upon the contributions Mr. Cooperrider made to his retirement account and not upon the State of Wisconsin's matching contributions. This is the case because at the time of Mr. Cooperrider's death, under Section 40.73 of the Wisconsin Statutes, the death benefit payable from Mr. Cooperrider's retirement account is to be based only upon his required and additional contributions to his retirement

**DEWITT
ROSS & STEVENS.**
LAW FIRM

Mr. Scott Dennison, Director
Retirement Research Committee
October 8, 1998
Page 2

account. However, under the statute which existed at the time of Mr. Cooperrider's death, if he had been 60 years old, instead of 59 years 11 months old, the death benefit payable to Sharon Cooperrider would have been based upon a retirement account that consisted not only of Richard Cooperrider's contributions to it but also the State of Wisconsin's matching contributions to the account. Thus, Richard Cooperrider's death was untimely, not only from his own standpoint and that of his widow, Sharon Cooperrider, but also was untimely with respect to the amount of his retirement account death benefit under Section 40.73 of the Wisconsin Statutes. The timing of Mr. Cooperrider's death created a substantial inequity with respect to the retirement death benefit payable under the Wisconsin Retirement System to Sharon Cooperrider.

The inequity regarding Richard Cooperrider's retirement account death benefit experienced by Sharon Cooperrider was obviously recognized by the managers of the Wisconsin Retirement System and by the Wisconsin Legislature because, at the time of Richard Cooperrider's death, 1997 Senate Bill 31 was pending before the Wisconsin Legislature. As you probably know, Senate Bill 31 became 1997 Wisconsin Act 58 and amended Section 40.73 of the Wisconsin Statutes to eliminate the requirement that a participating state employee had to have attained the age of 60 years at the time of his or her death before he or she was entitled to a death benefit from his or her retirement account which would be based upon both the employee's contributions to the account and the State's contribution to the account.

At the time of Richard Cooperrider's death, 1997 Senate Bill 31 had passed the Wisconsin Senate on a vote of 32 to 0, and three days after Richard Cooperrider's death, the Bill passed the Assembly by a vote of 98 to 0. Governor Thompson signed the Bill on December 19, 1997, and the Bill became law after its publication on December 22, 1997. Richard Cooperrider would have attained 60 years of age on December 2, 1997, and if he had lived that long, the fact that Senate Bill 31, amending Section 40.73 of the Wisconsin Statutes, did not become effective until December 23, 1997 would have been of no consequence to Sharon Cooperrider. However, because of the way events actually unfolded in the lives of Richard and Sharon Cooperrider, the fact that Senate Bill 31 was not yet enacted into law on the day Richard Cooperrider died has had a devastating impact upon the retirement death benefit payable to Sharon Cooperrider. The purpose of this letter is not only to set out the facts and circumstances regarding the Cooperriders and the death benefit issue but also to ask your support in seeking the assistance of the Wisconsin Legislature to cure the inequity which resulted from the unfortunate timing of events.

**DEWITT
ROSS & STEVENS.**
LAW FIRM

Mr. Scott Dennison, Director
Retirement Research Committee
October 8, 1998
Page 3

The 1997 Senate Bill 31, which eventually became law and amended Section 40.73 of the Wisconsin Statutes, was drafted by the Legislative Reference Bureau at the request of Senator Grobeschmidt in December of 1996 and was introduced in the Senate on January 28, 1997. The actuaries of the Wisconsin Retirement System predicted that the change in the law regarding the death benefit would not have any significant impact on the liabilities of the Wisconsin Retirement System. Since the inequity was identified by the Wisconsin Legislature in early 1997 and since the change in the law to deal with the inequity was obviously non-controversial and the result of bipartisan efforts, it seems reasonable that the change in the law which resulted from Senate Bill 31 should have been effective either as of January 1, 1997 or as of the date the Bill was introduced in the State Senate on January 28, 1997. Senate Bill 31 could have contained a retroactive provision regarding its effective date.

If a bill or budget amendment is introduced to resolve this matter, then it is important that it have the support of the managers of the Wisconsin Retirement System, including that of you and your department. We do not believe that this request would present any fiscal issues for the Wisconsin Retirement System. We acknowledge that it is conceivable that there may be other individuals who are in the same position as Sharon Cooperrider and who might benefit from having the change in the law being made retroactive to January of 1997. It is our opinion that the request to make the change in the law retroactive represents sound public policy and will not establish a troublesome precedent.

We would like the opportunity to discuss the situation with you for the purpose of answering any questions you may have, discussing any issues and, hopefully, obtaining your support to move forward with appropriate legislation. Thank you for your consideration of this matter. I will call you a week or so after this letter has been sent to you to discuss its contents and to hopefully arrange a mutually convenient time to meet.

Sincerely,

DEWITT ROSS & STEVENS s.c.


Thomas D. Zilavy

cc: Ms. Sharon A. Cooperrider



(D-Note)
State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1327/1
RAC pgt..
+
jlg

1999 BILL

1 AN ACT ^{gen. cat.} relating to death benefits provided under the Wisconsin retirement
2 system and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a beneficiary of a participant in the Wisconsin retirement system (WRS) may receive a death benefit upon the death of the participant. If the participant at the time of death was not an annuitant, the value of the death benefit equals the sum of the additional and employe required contribution accumulations credited to the participant's account. The value of the death benefit does not include the employer required contribution accumulations. However, if the participant at the time of death was a participating employe, died after December 22, 1997, and had attained the age of 55, or the age of 50 if the participant was a protective occupation participant, his or her beneficiary could receive an automatic joint survivor death benefit. The value of the joint survivor death benefit would be based on the sum of the additional and employe required contribution accumulations credited to the participant's account and the employer required contribution accumulations. If the participant died before December 23, 1997, the participant must have attained the age of 60, or the age of 55 if the participant was a protective occupation participant, for the beneficiary to be eligible to receive an automatic joint survivor death benefit. These age limits were reduced on December 23, 1997, to 55 and 50, respectively, as a result of 1997 Wisconsin Act 58.

This bill provides that any WRS participant who at the time of death was a participating employe, who died between January 1, 1997, and December 22, 1997, who, prior to death, had not attained the age of 60 years, or age 55 if the participant

BILL

was a protective occupation participant, but who was at least 55 years of age, or at least 50 years of age if the participant was a protective occupation participant, shall have his or her death benefit retroactively increased by an amount equal to the participant's employe required contribution accumulations that were credited to the participant's account on the beneficiary annuity effective date, or in the case of a lump sum payment, on the first day of the month in which the department of employe trust funds (DETF) approved the payment of the death benefit.

In order to qualify for the increased death benefit, the beneficiary to whom the death benefit was payable must either have been a dependent of the participant or a trust in which a dependent had a beneficial interest. In addition, the beneficiary must submit an application to DETF, on a form provided by DETF, before the ~~14th~~ ^{first} day of the ~~3rd~~ ^{sixth} month beginning after the effective date of the bill.

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.

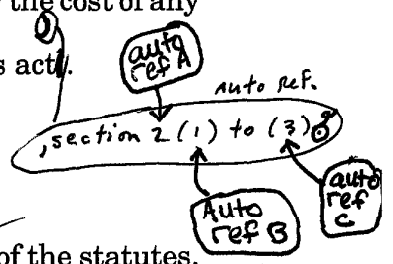
For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 20.515 (1) (bm) of the statutes is created to read:
2 20.515 (1) (bm) *Increased death benefits*. A sum sufficient to pay the cost of any
3 increased death benefits required under 1999 Wisconsin Act ... (this act).

4 *Auto ref. A* SECTION 2. Nonstatutory provisions.

- 5 *Auto ref. B* (1) In this section:
- 6 (a) "Beneficiary" has the meaning specified in section 40.02 (8) of the statutes.
- 7 (b) "Beneficiary annuity" has the meaning specified in section 40.02 (9) of the
- 8 statutes.
- 9 (c) "Department" has the meaning specified in section 40.02 (19) of the statutes.
- 10 (d) "Dependent" has the meaning specified in section 40.02 (20) of the statutes.
- 11 (e) "Employe required contribution" has the meaning specified in section 40.02
- 12 (27) of the statutes.
- 13 (f) "Participant" has the meaning specified in section 40.02 (45) of the statutes.



BILL

1 (g) "Participating employe" has the meaning specified in section 40.02 (46) of
2 the statutes.

3 (h) "Protective occupation participant" has the meaning specified in section
4 40.02 (48) of the statutes.

5 (2) Notwithstanding section 40.73 (1) (a) of the statutes, any participant who
6 at the time of death was a participating employe, who died between January 1, 1997,
7 and December 22, 1997, who, prior to death, met all of the requirements under
8 section 40.23 (1) of the statutes except termination of employment and the filing of
9 an application and who was not eligible for the death benefit provided under section
10 40.73 (1) (c), 1995 stats., because he or she had not attained the age of 60 years, or
11 age 55 if the participant was a protective occupation participant, shall have his or
12 her death benefit retroactively increased by an amount equal to the participant's
13 employe required contribution accumulations that were credited to the participant's
14 account on the beneficiary annuity effective date, or in the case of a lump sum
15 payment, on the first day of the month in which the department approved the
16 payment of the death benefit.

17 ^{auto refc} (3) An increased death benefit may be provided under this section only if all of
18 the following conditions are satisfied:

19 (a) The beneficiary to whom the death benefit was payable must either have
20 been a dependent of the participant or a trust in which a dependent had a beneficial
21 interest.

22 (b) The beneficiary submits an application to the department, on a form
23 provided by the department, before the ^{first} day of the 6th month beginning after the
24 effective date of this paragraph.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB
RAC: [unclear]
+
JLG

1. Under s. 16.47 (2),[✓] stats., any bill that increases the cost of state government by more than \$10,000 may not be passed by either house of the legislature until the budget bill passes both houses, unless the governor or the joint committee on finance recommends the bill's passage.
2. Please note that the enactment of this bill will require a[✓] three-fourths majority vote in each house of the legislature. Article IV, section 26 (3), Wis. Const.
3. As there may be different ways in which to retroactively increase a participant's death benefit, you may wish to have DETF review the draft to determine the most appropriate and equitable means of providing for the increase.
4. Please note that I established a deadline for applying for the increased death benefit. Is this consistent with your intent?

Richard A. Champagne
Legislative Attorney
266-9930

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1327/1dn
RAC:pgt&jlg:hmh

Wednesday, January 20, 1999

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Richard A. Champagne
Legislative Attorney
266-9930

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 1/20/99

To: Senator Risser

Relating to LRB drafting number: LRB-1327

Topic

Survivor benefits under the Wisconsin retirement system

Subject(s)

Employ Pub - retirement

1. **JACKET** the draft for introduction Risser

in the **Senate** ____ or the **Assembly** ____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction Risser 

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Richard A. Champagne, Legislative Attorney
Telephone: (608) 266-9930