

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4068/P1dn
RAC:....:ch

Gordon Anderson:

Per your request, at the end of s. 40.25 (6) (a) 2. and (7) (a) 3. I insert the sentence, “The total service purchased under this subsection, including any service previously purchased under this subsection, may not exceed the participant’s total creditable current service, excluding any creditable service purchased under any provision of this chapter and any creditable military service.”

Please note that the provisions in this sentence are different, if not inconsistent, with the provisions in the prior sentence in each subdivision. The first sentence of s. 40.25 (6) (a) 2. provides that the total amount of years that may be reestablished is the lesser of 10 years or the applicant’s creditable current service at time of application. The new sentence quoted above provides the total service purchased “may not exceed the participant’s total creditable current service”. This is a different requirement. If an applicant has 11 years of service that he or she wishes to reestablish, it is unclear if the first sentence of s. 40.25 (6) (a) 2. governs the purchase or if the new sentence governs the purchase. In the first sentence I can only reestablish 10 years; in the second sentence I can purchase my total creditable current service. This same issue arises in s. 40.25 (7) (a) 3. The manner in which I originally drafted the provision did not give rise to this inconsistency. Please advise.

Also, under current law, in s. 40.25 (6) (a) 2., an applicant must apply to reestablish *all* creditable service that has been forfeited. The new language refers to “service previously purchased under this subsection”. Query: How can a person purchase service more than once under this subsection if, at any time, the person must purchase *all* creditable service that has been forfeited? This clause seems to imply that a person may make multiple purchases under this subsection for creditable service that has been forfeited. The manner in which I originally drafted the provision did not give rise to this ambiguity. Please advise.

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