

STATE OF WISCONSIN

APPENDIX TO 1999 SENATE BILL 326

REPORT OF JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS

(Introduced by Law Revision Committee.)

An Act to amend 40.02 (1), 40.02 (2), 40.02 (15) (c) 4., 40.02 (38), 40.04 (4) (a) 1., 40.04 (4) (a) 2., 40.04 (7) (intro.), 40.04 (7) (a) (intro.), 40.04 (7) (c), 40.05 (1) (a) 7., 40.05 (2) (g) 2., 40.08 (7) (a), 40.23 (1) (b), 40.24 (1) (f), 40.24 (3), 40.24 (7) (a) 4., 40.25 (1) (a), 40.25 (1) (b), 40.25 (3m), 40.25 (4), 40.25 (6) (a) 1., 40.25 (6) (a) 2., 40.25 (7) (a) 2., 40.25 (7) (a) 3., 40.26 (2) (a), 40.26 (2) (b), 40.28 (1) (a) 1., 40.63 (9) (b), 40.63 (10) and 40.73 (1) (b); to repeal and recreate 40.08 (4); and to create 40.02 (54v), 40.05 (1) (a) 5m. and 40.80 (2) (g) of the statutes; relating to: the making of additional retirement contributions by participants in the Wisconsin retirement system; deferred compensation programs established by the deferred compensation board; purchase of forfeited creditable service under the Wisconsin retirement system; reimbursement of moneys paid by the department of employe trust funds as a result of misrepresentation, fraud or error; and creditable military service under the Wisconsin retirement system (suggested as remedial legislation by the department of employe trust funds).

EXTRACT OF COMMITTEE'S RECOMMENDATION ON THIS BILL

The Joint Survey Committee on Retirement Systems finds that Senate Bill 326 represents good public policy, and the Committee recommends its passage.

PURPOSE OF THE BILL

Under current law, participants in the Wisconsin Retirement System (WRS) may make contributions in addition to the employer and employe required contributions to the WRS. This bill recognizes that there are two different types of additional contributions that may be made by participating employes: (1) after-tax additional contributions under s. 401 (A) of the Internal Revenue Code; and (2) tax-deferred (pre-tax) additional contributions under s. 403 (B) of the Internal Revenue Code. SECTIONS 1, 2, 4 to 10, 12, 15 to 23 and 28 to 33 of the bill relate to recognizing the two types of contributions.

The bill corrects cross-references to the federal tax code provisions relating to military service credit. SECTION 3 of the bill relates to this change.

The bill clarifies that only participating employes of eligible employers may make tax-deferred additional contributions and the responsibility for determining the amount of contributions that

can be made rests with the employes and employers, not the WRS. SECTION 11 of the bill relates to this clarification.

The bill amends a provision of current law relating to payouts from deferred compensation plans under which a person may elect to have the entire balance treated as an additional contribution to the fixed annuity division of the WRS to provide that it relates only to the deferred compensation program established under s. 40.80, Stats., for state employes, not to any other deferred compensation program that may be established by an employer, under s. 40.81, Stats. SECTION 13 of the bill relates to this change.

This bill revises a provision that currently allows the Department of Employee Trust Funds (DETF) to collect any amount owed for benefits paid through misrepresentation, fraud or error. Under current law, the amounts owed in such a situation are not a statutory lien. Therefore, any debts to the trust fund are unsecured and may be discharged in bankruptcy. The bill provides the DETF with a mechanism to secure obligations to the trust fund with a lien against other benefits also administered by the DETF, if the DETF has paid money to a person or an estate as a result of misrepresentation, fraud or error. The notice of the fact that money has been paid as a result of misrepresentation, fraud or error will constitute a lien against the person's account and any annuity, benefit or obligation that the trust fund pays or will pay to the person or the person's beneficiary. SECTION 14 of the bill accomplishes this change.

Under current law, in order to reestablish creditable service that has been forfeited or to purchase creditable service as an employe of the federal government or with an employer that was not covered by the WRS during the period in which the service was performed but subsequently became a participating employer at the time of application, the employe must have at least three continuous years of creditable service under the WRS. This bill clarifies that the employe must have at least three continuous years of creditable *current* service at the time of application. SECTIONS 24 and 26 of the bill relate to this change.

Under current law, the number of years of creditable service under the WRS which may be reestablished, or the number of years of service with the federal government or an employer that previously did not participate in the WRS but joined the system, may not be greater than the creditable service of the participating employe at the date of application or 10 years, whichever is less. This bill clarifies that creditable service previously purchased under the WRS may not be used to determine the maximum amount of service that may be purchased. SECTIONS 25 and 27 make this change.

This bill provides that the Wisconsin Deferred Compensation Program is a trust and members of the Deferred Compensation Board are its trustees. SECTION 34 of the bill contains this provision.

ACTUARIAL EFFECT

This bill would have no effect on the actuarial soundness of the WRS.

PROBABLE COSTS

The changes made by the bill are remedial in nature and the fiscal estimate prepared by the DETF states that the bill has no fiscal impact.

PUBLIC POLICY

The purpose of this legislation, introduced by the Joint Legislative Council's Law Revision Committee, is to make minor substantive and remedial changes to statutes relating to the WRS. This bill was introduced by the Law Revision Committee at the request of the DETF.

RECOMMENDATION

The Joint Survey Committee on Retirement Systems finds that Senate Bill 326 represents good public policy, and the Committee recommends its passage.

1/24/00