

1999 SENATE BILL 427

March 1, 2000 – Introduced by Senators RISSER, GROBSCHMIDT and ROESSLER, cosponsored by Representatives MUSSER, BOCK, BLACK, BOYLE, J. LEHMAN, POCAN and MILLER. Referred to Committee on Labor.

1 **AN ACT** *to amend* 20.515 (1) (c), 40.02 (10) and 40.04 (2) (c); and *to create* 20.515
2 (1) (ud), 20.921 (1) (a) 6., 40.02 (48n), 40.02 (48p), 40.04 (9p), 40.05 (9) and
3 subchapter X of chapter 40 [precedes s. 40.955] of the statutes; **relating to:**
4 qualified transportation fringe benefits and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a qualified transportation fringe benefit plan for state employees. This plan is authorized under the federal Internal Revenue Code (IRC) and permits covered employees to set aside pre-tax income that may be used to pay eligible transportation expenses before taxes are computed. Under the applicable IRC provisions, three types of eligible transportation expenses are covered under a qualified transportation fringe benefit plan: parking expenses incurred at or near an employer's premises; expenses incurred to pay for an employee's use of mass transportation; and expenses incurred by an employee in paying his or her share of the cost of using a van pool. The bill provides that the department of employe trust funds is to administer the qualified transportation fringe benefit plan.

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:

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1 **SECTION 1.** 20.515 (1) (c) of the statutes is amended to read:

2 20.515 (1) (c) *Contingencies.* A sum sufficient to make all payments due other
3 parties under subchs. III to VI, VIII ~~and~~, IX and X of ch. 40 when the moneys for the
4 payment have not yet been received by the public employe trust fund. The public
5 employe trust fund shall reimburse this appropriation as soon as moneys are
6 received for the cost of the payments.

7 **SECTION 2.** 20.515 (1) (ud) of the statutes is created to read:

8 20.515 (1) (ud) *Qualified transportation benefit reimbursement plan.* All
9 moneys deposited in the public employe trust fund under s. 40.955 (4) (a) 4., for the
10 purpose of reimbursing qualified transportation benefit reimbursement plan
11 providers for claims payments to employes under the qualified transportation
12 benefit reimbursement plan and to pay costs under contracts with qualified
13 transportation benefit reimbursement plan providers.

14 **SECTION 3.** 20.921 (1) (a) 6. of the statutes is created to read:

15 20.921 (1) (a) 6. Payment into a qualified transportation benefit
16 reimbursement plan account maintained by a qualified transportation benefit
17 reimbursement plan provider under subch. X of ch. 40.

18 **SECTION 4.** 40.02 (10) of the statutes is amended to read:

19 40.02 (10) “Benefit plan” includes the Wisconsin retirement system,
20 employe-funded reimbursement account plan, qualified transportation benefit
21 reimbursement plan, deferred compensation plan, OASDHI, group health
22 insurance, group income continuation insurance, group life insurance or any other
23 insurance plan established under this chapter, regardless of whether each type of
24 insurance is provided through one or multiple contracts or provides different levels
25 of benefits to different employes.

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1 **SECTION 5.** 40.02 (48n) of the statutes is created to read:

2 40.02 **(48n)** “Qualified transportation benefit reimbursement plan” means a
3 plan in accordance with section 132 of the Internal Revenue Code under which an
4 employe may direct an employer to place part of the employe’s gross compensation
5 in an account to pay for certain future expenses of the employe under section 132 of
6 the Internal Revenue Code.

7 **SECTION 6.** 40.02 (48p) of the statutes is created to read:

8 40.02 **(48p)** “Qualified transportation benefit reimbursement plan provider”
9 means a person who provides administrative services related to qualified
10 transportation benefit reimbursement plans.

11 **SECTION 7.** 40.04 (2) (c) of the statutes is amended to read:

12 40.04 **(2)** (c) The secretary shall estimate the administrative costs to be
13 incurred by the department in each fiscal year and shall also estimate the
14 investment income which will be credited to this account in the fiscal year. The
15 estimated administrative costs less the estimated investment income shall be
16 equitably allocated by the secretary, with due consideration being given to the
17 derivation and amount of the investment income, to the several benefit plans
18 administered by the department. In determining the amount of the allocation,
19 adjustments shall be made for any difference in prior years between the actual
20 administrative costs and investment income from that originally estimated under
21 this paragraph. An amount equal to the adjusted allocated costs shall be transferred
22 to this account from the investment earnings credited to the respective benefit plan
23 accounts and from payments by the respective insurers or employee-funded
24 reimbursement plan providers or qualified transportation benefit reimbursement
25 plan providers for administrative services.

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1 **SECTION 8.** 40.04 (9p) of the statutes is created to read:

2 40.04 **(9p)** The department shall do all of the following:

3 (a) Maintain a separate account in the fund for the qualified transportation
4 benefit reimbursement plan authorized under subch. X.

5 (b) Credit to the account established under par. (a) money received from
6 employes in connection with the qualified transportation benefit reimbursement
7 plan and income from investment of the reserves in the account.

8 (c) Charge to the account established under par. (a) payments made to
9 reimburse qualified transportation benefit reimbursement plan providers for
10 payments made to employes under the qualified transportation benefit
11 reimbursement plan under subch. X.

12 **SECTION 9.** 40.05 (9) of the statutes is created to read:

13 40.05 **(9)** QUALIFIED TRANSPORTATION BENEFIT REIMBURSEMENT PLAN FEE. For the
14 administration and implementation of a qualified transportation reimbursement
15 plan authorized under subch. X, each state agency with employes eligible to
16 participate in a qualified transportation reimbursement plan shall contribute the fee
17 charged under s. 40.955 (4) (a) 1.

18 **SECTION 10.** Subchapter X of chapter 40 [precedes s. 40.955] of the statutes is
19 created to read:

20 **CHAPTER 40**

21 SUBCHAPTER X

22 QUALIFIED TRANSPORTATION BENEFIT

23 REIMBURSEMENT PLAN

24 **40.955 Qualified transportation benefit reimbursement plan. (1)**

25 **SELECTION OF QUALIFIED TRANSPORTATION BENEFIT REIMBURSEMENT PLAN PROVIDER. (a)**

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1 The board shall select and contract with qualified transportation benefit
2 reimbursement plan providers to be used by state agencies.

3 (b) The board shall do all of the following:

4 1. Determine the requirements for and the qualifications of qualified
5 transportation benefit reimbursement plan providers.

6 2. Approve the terms and conditions of the proposed contracts for
7 administrative and related services relating to a qualified transportation benefit
8 reimbursement plan.

9 3. Determine the procedure for the selection of the qualified transportation
10 benefit reimbursement plan providers in accordance with s. 16.705.

11 4. Approve the terms and conditions of model agreements which shall be used
12 by each state employe to establish a qualified transportation benefit reimbursement
13 plan account.

14 5. Require as a condition of the contractual agreements entered into under par.
15 (a) that approved qualified transportation benefit reimbursement plan providers
16 may provide service to state agencies only as approved by the board.

17 6. Require as a condition of the contracts entered into under par. (a) that the
18 qualified transportation benefit reimbursement plan providers reimburse the
19 department, to be credited to the administrative account of the public employe trust
20 fund under s. 40.04 (2) (c), for administrative costs incurred by the department in
21 connection with qualified transportation benefit reimbursement plans.

22 7. Deposit into the account established under s. 40.04 (9p) (a) that part of an
23 employe's gross compensation that the employe wants placed in a qualified
24 transportation benefit reimbursement plan account.

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1 **(2) COVERED EXPENSES.** A qualified transportation benefit reimbursement plan
2 may provide reimbursement to an employe only for expenses that are actually
3 incurred by an employe and that the board determines are consistent with the
4 applicable requirements of section 132 (f) of the Internal Revenue Code.

5 **(3) TREATMENT OF COMPENSATION.** Any part of gross compensation that an
6 employer places in a reimbursement account under a qualified transportation
7 benefit reimbursement plan established under this section that would have been
8 treated as current earnings or wages if paid immediately to the employe shall be
9 treated as current earnings or wages for purposes of any retirement or group
10 insurance benefit plan provided by the department.

11 **(4) ADMINISTRATIVE AND CONTRACT COSTS.** (a) The department shall do all of the
12 following:

13 1. Collect from each state agency with employes eligible to participate in a
14 qualified transportation benefit reimbursement plan a fee in an amount determined
15 by the department to equal that state agency's share of all of the following:

16 a. Costs under contracts with qualified transportation benefit reimbursement
17 plan providers.

18 b. The department's administrative costs under this section.

19 2. Establish a formula, subject to approval by the board, to determine the fees
20 charged to state agencies under subd. 1.

21 3. Establish procedures for collecting the fees charged under subd. 1.

22 4. Deposit fees collected under subd. 1., and interest earned on the fees in the
23 fund, in the account established under s. 40.04 (9p) (a) to pay costs described in subd.

24 1.

