

1999 DRAFTING REQUEST

Bill

Received: 07/13/1999

Received By: **champra**

Wanted: **Soon**

Identical to LRB:

For: **Robert Wirch (608) 267-8979**

By/Representing: **Beth**

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:

Benefit improvements 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> |
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| /4 | | | jfrantze 10/01/1999 | _____ _____ | lrb_docadmin 10/01/1999 | lrb_docadminS&L 10/01/1999 | Retire |

FE sent 10-02-99

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Jacketed for Jensen

Assembly Jacket for Jensen

Jacketed

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ASSEMBLY JACKET FOR JENSEN

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| /2 | champra 09/03/1999 | wjackson 09/03/1999 | haugeca 09/07/1999 | _____ | lrb_docadmin 09/07/1999 | | S&L Retire |

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| /1 | champra 07/20/99 | wjackson 07/21/99 | mclark 07/21/99 | CH q-n | lrb_docadmin 07/21/99 | | S&L Retire |

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|--------------|----------------|-----------------|--------------|-----------------|------------------|-----------------|-----------------|
| /? | champra | /1 WLj 7/21 | MRC 7/21 | MRC/KJF 7/21 | | | |

FE Sent For:

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ROBERT W. WIRCH
STATE SENATOR TWENTY-SECOND DISTRICT

To: Rick Champagne
From: Beth Smith (Senator Wirch's office)
Date: July 9, 1999
Re: Drafting Instructions – WRS Proposed Pension Changes

.....

I would like to have drafted legislation somewhat similar to SB 131 that makes a TAA transfer.

Please draft language that would accomplish the following:

- ✓ 1. A retroactive increase in multipliers for all four participant groups of 0.2 percent, applied to active participants on January 1, 2000.
- ✓ 2. A repeal of the 3 percent and 5 percent caps on interest earnings of participants, effective January 1, 2000.
- ✓ 3. A one-time transfer from the TAA of \$5 billion on December 31, 1999, before the regular annual distribution.
- ✓ 4. Raise the formula benefit maximum from 65 percent to 75 percent of final average earnings.
- ✓ 5. Increase the spread by 0.2 percent to 3.4 percent. Modify the actuarial assumption of the difference between the expected increases in salary and the expected rate of return (8% - 4.8%).
6. Change in the TAA allocation of plan costs to that of a Market Recognition Account as described in the attached memo from the Department of Employee Trust Funds.

**STATE OF WISCONSIN
DEPARTMENT OF EMPLOYEE TRUST FUNDS
801 West Badger Road
Madison, WI 53702**

CORRESPONDENCE MEMORANDUM

DATE: May 20, 1999

TO: Senator Robert Wirch
Wisconsin State Senate

FROM: Dave Stella, Administrator
Division of Retirement Services

SUBJECT: Requested Draft Description of Creation of an MRA and TAA transfer to Fund Payment of Employer UAAL

Blair Testin requested that I draft a description of how an Market Recognition Account (MRA) and a Transaction Amortization Account (TAA) transfer to fund a benefit improvement bill and pay down employer Unfunded Accrued Actuarial Liability (UAAL) would work. You asked that I include a \$5 billion TAA transfer in this analysis. The following is one possible method. It is not the only method and there certainly are variations to this approach. Given the limited time available to think through the ramifications of this proposal I recommend that this approach be thoroughly discussed with the actuary to make sure there are no unforeseen technical problems.

TAA Distribution

On 12/31/99 \$5 billion from the TAA will be transferred to the reserves of the Fixed Retirement Investment Trust. Following that transfer and on the same date, the normal 20% TAA distribution would occur calculated using the reduced balance of the TAA.

TAA Phase Out

In the calendar year following transfer of \$5 billion from the TAA to fund the cost of benefit improvements the funding structure of the WRS is proposed to be amended as follows:

- a. The balance of the TAA on the December 31, 2000 will be frozen and phased-out over a 5 year period certain.
- b. Each December 31 one-fifth of the beginning TAA balance will be flowed to the reserves of the fixed retirement investment trust and credited to the reserves

based on the percentage of each reserve to the total balance of the fixed trust fund.

Creation of a Market Recognition Account (MRA)

In the year following the \$5 billion TAA transfer a Market Recognition Account (MRA) shall be created. The fixed fund shall be credited each year with assumed interest rate (currently 8%). The earnings attributed to the assumed rate will be compared with actual earnings of the fixed fund as reported by the Department. The excess or deficit that results from comparing the assumed interest earnings with the market return shall be recorded in the MRA. 20% of each calendar year's MRA shall flow to the fixed fund in each of the next three years (i.e. 20% each year for 5 years). This procedure will ultimately result in five separate amortization periods being blended in each year and flowed to the fixed retirement trust fund.

Pay down of Individual Employer UAAL Balances

In each year following the \$5 billion TAA transfer, 20% of the funds credited to the employer reserve of the Fixed Fund from the transfer from the frozen TAA account shall first be applied to individual UAAL balances of all employers and the remainder applied toward current service costs. The amount credited against each employer's UAAL balance shall be a percentage of the total TAA transfer credited to the employer reserve in that year calculated by determining the percentage of each employer's payroll to the total WRS payroll.

Employers that do not have a UAAL balance or whose balance becomes zero after applying the TAA credit shall receive a credit against their current service contributions in the full amount determined using the calculation described above. This credit shall continue to be provided each year until the residual TAA balance in the employer reserve is exhausted. However, employers who first become participating employers after the effective date of this law will not receive any TAA credit as described above. In addition, employers who elect to recognize the prior service of some or all of their eligible employees after the effective date of the bill would not receive a credit toward prepayment of the increased prior service liability created by this election.

When the UAAL balances of all employers reaches zero all credits from the TAA transfer shall cease and future credits shall then be applied against the total current service liability of all participating employers.

Senator Robert Wirch
May 20, 1999
Page 3

Elimination of the BAC and sharing of contribution rate decreases and increases between employees and employers

Since the previous method of funding is being changed to pay-off the UAAL there is a likelihood that future current service contribution rates may rise in the event investment performance fails to meet actuarial assumptions. The resulting contribution rate increases will be shared equally between the employees and employer even though the primary reason for the increase will be due to the diversion of the TAA to pay UAAL instead of current service liabilities. This may result in litigation by employees who must pay half of the contribution rate increase in the form of a benefit adjustment contribution (BAC). BAC contributions are not credited to employee accounts but instead are considered an employer contribution. It is recommended that both the contribution rate sharing provision and the BAC be eliminated as part of this proposal.

Creation of a New Actuarial Method for Funding UAAL

I also strongly suggest that the ETF Board be given the authority to adjust UAAL balances of employers to reflect changes in actuarial assumptions as recommended by the actuary. In addition, the ETF Board, at the recommendation of the actuary, should have the authority to establish the funding method for paying any new UAAL created after the effective date of the bill. This will permit the ETF Board to adopt a methodology that is less problematic than the current process and more equitable.

**STATE OF WISCONSIN
DEPARTMENT OF EMPLOYE TRUST FUNDS
801 West Badger Road
Madison, WI 53702**

CORRESPONDENCE MEMORANDUM

DATE: July 20, 1999

TO: Rick Champagne
Legislative Reference Bureau

FROM: David Stella, Administrator
Division of Retirement Services

SUBJECT: Suggested changes to LRB-4223/P1 to Phase out the TAA and Create An MRA

You asked for my suggested language to phase out the TAA and create an MRA. The general description of that process was contained in my May 20, 1999 memo to Senator Wirch. At your request, I reviewed LRB-4223/P1 and found the approach in that draft to be very difficult to follow. I discussed the technical language concept with the consulting actuary to the WRS, Norm Jones. Mr. Jones strongly recommended that the statutory language not be drafted to specifically describe the exact mathematical procedure of a TAA phase out and an MRA phase-in. He suggested that general language be used and the actuary should be given the authority to devise the specific process with the approval of the Employee Trust Funds Board (ETF).

He is concerned that a situation could arise where a technical adjustment in the methodology was necessary to make the method work properly and an adjustment would not be possible without a statutory change. This is similar to the predicament the ETF Board now faces with the statutory language describing the method of amortizing the Unfunded Accrued Actuarial Liability (UAAL).

Consequently, I would urge that the language be general in nature with authority provided to the actuary, with the ETF Board's approval, to carry out the detail of the statutory intent.

Attached is some suggested language describing the transition of the TAA and the creation of an MRA. Please contact me if you have any questions.

cc: Senator Robert Wirch

Suggested language to Phase-out the TAA and Create an MRA

I agree with the amendments to s.25.17 (14) (f), s.25.18 (1) (a), s. 40.04 (3) (intro.), and 40.04 (3) (a) in sections 1 through 4 of LRB 4223/P1. Section 5 of the draft should be amended to read:

Section 5. 40.04 (3) (a) of the statutes is created to read:

40.04 (3) (ab) Beginning on December 31, 2000 the balance of the transaction amortization account shall be determined and 20% of the balance established on December 31, 2000 shall be distributed annually on December 31 to each participating account in the same ratio as each account's average daily balance within the fixed retirement trust bears to the total average daily balance of all participating accounts until that balance is entirely distributed. Notwithstanding sub. (3) (intro.), after the entire balance of the transaction amortization account has been distributed, the department shall close the account.

Sections 6 of LRB 4223/P1 should be redrafted as follows:

Section 6. 40.04 (3) (?) is created to read:

40.04 (3) () On January 1, 2000 there is created a market recognition account within the fixed retirement trust. The market recognition account shall be established and administered as recommended by the actuary and approved by the Employee Trust Funds Board. The market recognition account shall amortize the net investment gain or loss of the trust in each year, as determined by the actuary, over a fixed period of five years. The investment gain or loss from the transaction amortization account and the gain or loss from the market recognition account shall be combined to determine each year's net investment gain or loss to the trust until entire balance of the transaction amortization account has been distributed.

Amortization of the market recognition account shall be the only method used to determine investment gains or losses in the fixed retirement trust after the transaction amortization account has been closed.

Section 7. 40.04 (3) (?) is created to read:

40.04 (3) (?) On December 31, 2000, 20% of the balance of the market recognition account shall be distributed to each participating account in the fixed retirement trust in the same ratio as each account's average daily balance within the trust bears to the total average daily balance of all participating accounts in the trust each December 31. The market recognition account shall amortize, over a five year period, the net gain or loss each year in the fixed retirement trust above or below the amount of the assumed rate of investment return.

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LD-Note
State of Wisconsin
1999 - 2000 LEGISLATURE

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WEDNESDAY

1999 BILL

Gen Cat

1 AN ACT relating to: benefit improvements, interest crediting, recognition of
2 income and capital gains and losses in the fixed retirement investment trust
3 and affecting certain actuarial assumptions under the Wisconsin retirement
4 system.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes to benefits provided under the Wisconsin retirement system (WRS) and to the financial structure of the WRS. The changes are as follows:

Benefit improvements under the WRS

Under current law, when a participant in the WRS terminates covered employment and becomes eligible for a retirement annuity, one of the ways in which the amount of his or her annuity is determined is by multiplying the participant's final average earnings by the participant's years of creditable service and by a percentage multiplier. For a protective occupation participant who is covered by social security, an elected official and an executive participating employe, the percentage multiplier is 2%. For a protective occupation participant who is not covered by social security, the percentage multiplier is 2.5%. For all other participants in the WRS, the percentage multiplier is 1.6%.

This bill increases the percentage multiplier for all classes of participants in the WRS for creditable service that is credited before January 1, 2000. For a protective occupation participant who is covered by social security, an elected official and an

BILL

executive participating employe, the percentage multiplier is increased to 2.2%. For a protective occupation participant who is not covered by social security, the percentage multiplier is increased to 2.7%. For all other participants in the WRS, the percentage multiplier is increased to 1.8%. The increase in the percentage multiplier first applies to the calculation of retirement benefits for individuals who are participating employes in the WRS on January 1, 2000. For all creditable service that is earned on or after January 1, 2000, however, the bill provides that the current law percentage multipliers will apply.

Increase in maximum amount of initial retirement annuity

Under current law, the maximum amount of an initial annuity for a participant in the WRS who receives an annuity that is calculated using the percentage multiplier, other than a protective occupation participant who is not covered by social security, is an amount equal to 65% of the participant's final average earnings. This bill increases the amount to 85% for participants who are participating employes on the effective date of the bill.

Accelerated distribution of moneys from the transaction amortization account of the fixed retirement investment trust

Under current law, a fixed retirement investment trust (FRIT) and a variable retirement investment trust are maintained within the public employe trust fund under the management of the investment board. Within the FRIT, a transaction amortization account (TAA) is maintained ~~which is used for the purpose of~~ ^{and} ~~to~~ smoothing out fluctuations in unrecognized gains and losses in the value of FRIT assets. The balance of the TAA closely parallels the difference between market value and the adjusted book value of the assets. Annually, 20% of the balance of the TAA is distributed to participating accounts in the fixed annuity reserve, the fixed employer accumulation reserve and the fixed employe accumulation reserve.

This bill provides that on December 31, 1999, \$5,000,000,000 is to be distributed from the TAA to the fixed annuity reserve, the fixed employer accumulation reserve and the fixed employe accumulation reserve in an amount equal to a percentage of the total distribution determined by dividing each reserve's balance on the prior January 1 by the total balance of the fixed retirement investment trust on the prior January 1. Under the bill, the increase in the fixed employer accumulation reserve that results from the distribution shall, on the recommendation of the actuary, be first applied to funding any liabilities created by the bill.

Elimination of transaction amortization account and creation of market recognition account

This bill eliminates the TAA over a ^{five} year period and creates, in its place, a market recognition account (MRA) that is to be used for distributing unrecognized gains and losses in the value of FRIT assets. Under the bill, the MRA is used to amortize, over a ^{five} year period, the net investment gain or loss of the FRIT that exceeds or is less than the assumed rate (currently 8%). Under the bill, annually, on December 31, 20% of each year's gains and losses in the value of the FRIT that are credited to the MRA over a ^{five} year period must be distributed to participating

BILL

accounts in the fixed annuity reserve, the fixed employer accumulation reserve and the fixed employe accumulation reserve.

Determination of actuarial assumptions for certain purposes under the WRS

Under current law, the “assumed rate” is the probable average effective rate that is expected to be earned for the FRIT on a long-term basis. Currently, the assumed rate is a rate of 8% and the actuarial assumption for across-the-board salary increases for the purpose of valuing the liabilities of the WRS is 3.2% less than the assumed rate unless due to changed economic circumstances the actuary recommends and the employe trust funds board approves a different rate. The assumed rate for a calendar year is used for all calculations of required contributions and reserves for WRS participants and employers.

This bill increases the actuarial assumption for across-the-board salary increases for the purpose of valuing the liabilities of the WRS from 3.2% less than the assumed rate to 3.4% less than the assumed rate.

Interest crediting on employe required contribution accumulations

Under current law, for those participants in the WRS who are hired on or after January 1, 1982, interest is credited annually to their employe required contribution accumulations in the fixed annuity division of the employe trust fund at the assumed benefit rate. The assumed benefit rate is 5%. This bill provides that, beginning on January 1, 2000, interest on these accumulations for participants who are participating employes in the WRS on the effective date of the bill is to be credited at the effective rate. The effective rate is essentially the interest rate earned by the accumulations, after all expenses are deducted.

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 and local* 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. 25.17 (14) (f) of the statutes is amended to read:

2 25.17 (14) (f) With respect to all securities under pars. (a) to (e), the amount
3 of any gain or loss at time of sale or other disposition, premium on call or redemption,
4 commitment or standby fee, profit or loss on residual value, scrap value, fire or
5 casualty award, condemnation award, adjustment in book value, or other gains or

BILL**SECTION 1**

1 losses shall be transferred to the ~~transaction amortization~~ market recognition
 2 account of the fixed retirement investment trust under s. 40.04 (3).

History: 1971 c. 41 s. 12; 1971 c. 74; 1971 c. 100 s. 23; 1971 c. 125 s. 522 (1); 1971 c. 164; 1971 c. 214 s. 147; 1971 c. 260 s. 92 (3) to (5); 1973 c. 117, 137, 151; 1973 c. 208 s. 17; 1973 c. 209, 333, 336; 1975 c. 26, 27, 39, 118, 147, 164, 180, 189, 200, 422; 1977 c. 29 ss. 439 to 439f, 1654 (1); 1977 c. 31, 107, 377, 418, 423; 1979 c. 32; 1979 c. 34 ss. 705 to 707b, 2102 (56) (a); 1979 c. 102; 1979 c. 109 s. 16; 1979 c. 221; 1979 c. 318 ss. 1 to 3; 1979 c. 361 s. 113; 1981 c. 20, 86; 1981 c. 96 ss. 18 to 21, 67; 1981 c. 169, 386; 1983 a. 27; 1983 a. 36 ss. 31, 96 (4); 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 142, 189, 192, 368, 410; 1985 a. 25, 29, 53, 120; 1985 a. 332 s. 251 (1); 1987 a. 27, 38, 119, 186, 252, 399; 1989 a. 13, 31, 64, 187, 307, 335, 359, 366; 1991 a. 32, 38, 39, 152, 174, 221, 269, 315; 1993 a. 16, 112, 263, 477; 1995 a. 27 ss. 1394m to 1396, 9116 (5); 1995 a. 56, 213, 227, 274, 403; 1997 a. 27, 35, 191.

3 **SECTION 2.** 25.18 (1) (a) of the statutes is amended to read:

4 25.18 (1) (a) Notwithstanding subch. IV of ch. 16 and s. 20.930, employ special
 5 legal or investment counsel in any matters arising out of the scope of its investment
 6 authority. The employment of special legal counsel shall be with the advice and
 7 consent of the attorney general whenever such special counsel is to be compensated
 8 by the board. Any expense of counsel so employed shall be borne by the current
 9 income account of the fund for which the services shall be furnished, except that the
 10 fixed retirement investment fund may bear this expense from its ~~transaction~~
 11 ~~amortization market recognition~~ account.

History: 1975 c. 39; 1983 a. 27, 192; 1985 a. 29; 1987 a. 27, 399; 1989 a. 119, 338, 366; 1991 a. 39; 1993 a. 112; 1995 a. 274.

12 **SECTION 3.** 40.02 (6) of the statutes is amended to read:

13 40.02 (6) “Assumed benefit rate” means a rate of 5%. The assumed benefit rate
 14 shall be used for calculating reserve transfers at the time of retirement, making
 15 actuarial valuations of annuities in force, ~~determining the amount of lump-sum~~
 16 ~~death benefits payable from the portion of an annuity based on additional deposits~~
 17 and crediting interest to employe required contribution accumulations under s.
 18 40.04 (4) (a) 2.

History: 1981 c. 96, 187, 250, 274, 386; 1983 a. 9, 27; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 106, 140; 1983 a. 141 ss. 1 to 3, 20; 1983 a. 191 ss. 1, 6; 1983 a. 192 s. 304; 1983 a. 255 s. 6; 1983 a. 275, 290, 368; 1983 a. 435 s. 7; 1985 a. 29, 225; 1985 a. 332 ss. 52, 251 (1); 1987 a. 27, 62, 83, 107, 309, 340, 356, 363, 372, 399; 1987 a. 403 ss. 43 to 45, 256; 1989 a. 13, 14, 31; 1989 a. 56 s. 259; 1989 a. 166, 182, 189, 218, 230, 240, 323, 327, 336, 355, 357, 359; 1991 a. 32, 39, 113, 152, 229, 269, 315; 1993 a. 16, 263, 383, 490, 491; 1995 a. 27, ss. 1946 to 1953, 9130 (4); 1995 a. 81, 88, 89, 216, 240, 302, 381, 417; 1997 a. 3, 27, 39, 69, 110, 162, 237, 238.

19 **SECTION 4.** 40.02 (7) of the statutes is amended to read:

20 40.02 (7) “Assumed rate” means the probable average effective rate expected
 21 to be earned for the fixed annuity division on a long-term basis. The assumed rate
 22 shall be a rate of ~~7.5%~~ 8% and the actuarial assumption for across-the-board salary

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1 increases for the purpose of valuing the liabilities of the Wisconsin retirement system
 2 shall be ~~1.9%~~ 3.4% less than the assumed rate unless due to changed economic
 3 circumstances the actuary recommends and the board approves a different rate. The
 4 assumed rate for a calendar year shall be used for all calculations of required
 5 contributions and reserves for participants, except as provided in s. 40.04 (4) (a) 2.
 6 and ~~2m. 2g.~~ and the amount of any lump sum benefit paid instead of an annuity, except
 7 it shall not be used for any purpose for which the assumed benefit rate is to be used
 8 under sub. (6).

History: 1981 c. 96, 187, 250, 274, 386; 1983 a. 9, 27; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 106, 140; 1983 a. 141 ss. 1 to 3, 20; 1983 a. 191 ss. 1, 6; 1983 a. 192 s. 304; 1983 a. 255 s. 6; 1983 a. 275, 290, 368; 1983 a. 435 s. 7; 1985 a. 29, 225; 1985 a. 332 ss. 52, 251 (1); 1987 a. 27, 62, 83, 107, 309, 340, 356, 363, 372, 399; 1987 a. 403 ss. 43 to 45, 256; 1989 a. 13, 14, 31; 1989 a. 56 s. 259; 1989 a. 166, 182, 189, 218, 230, 240, 323, 327, 336, 355, 357, 359; 1991 a. 32, 39, 113, 152, 229, 269, 315; 1993 a. 16, 263, 383, 490, 491; 1995 a. 27, ss. 1946 to 1953, 9130 (4); 1995 a. 81, 88, 89, 216, 240, 302, 381, 417; 1997 a. 3, 27, 39, 69, 110, 162, 237, 238.

9 **SECTION 5.** 40.02 (7) of the statutes, as affected by 1999 Wisconsin Act (this
 10 act), is amended to read:

11 40.02 (7) "Assumed rate" means the probable average effective rate expected
 12 to be earned for the fixed annuity division on a long-term basis. The assumed rate
 13 shall be a rate of 8% and the actuarial assumption for across-the-board salary
 14 increases for the purpose of valuing the liabilities of the Wisconsin retirement system
 15 shall be 3.4% less than the assumed rate unless due to changed economic
 16 circumstances the actuary recommends and the board approves a different rate. The
 17 assumed rate for a calendar year shall be used for all calculations of required
 18 contributions and reserves for participants, except as provided in s. 40.04 (4) (a) 2.
 19 and ~~2m. 2g.~~ and the amount of any lump sum benefit paid instead of an annuity,
 20 except it shall not be used for any purpose for which the assumed benefit rate is to
 21 be used under sub. (6).

History: 1981 c. 96, 187, 250, 274, 386; 1983 a. 9, 27; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 106, 140; 1983 a. 141 ss. 1 to 3, 20; 1983 a. 191 ss. 1, 6; 1983 a. 192 s. 304; 1983 a. 255 s. 6; 1983 a. 275, 290, 368; 1983 a. 435 s. 7; 1985 a. 29, 225; 1985 a. 332 ss. 52, 251 (1); 1987 a. 27, 62, 83, 107, 309, 340, 356, 363, 372, 399; 1987 a. 403 ss. 43 to 45, 256; 1989 a. 13, 14, 31; 1989 a. 56 s. 259; 1989 a. 166, 182, 189, 218, 230, 240, 323, 327, 336, 355, 357, 359; 1991 a. 32, 39, 113, 152, 229, 269, 315; 1993 a. 16, 263, 383, 490, 491; 1995 a. 27, ss. 1946 to 1953, 9130 (4); 1995 a. 81, 88, 89, 216, 240, 302, 381, 417; 1997 a. 3, 27, 39, 69, 110, 162, 237, 238.

22 **SECTION 6.** 40.04 (3) (intro.) of the statutes is amended to read:

BILL**SECTION 6**

1 40.04 (3) (intro.) A fixed retirement investment trust and a variable retirement
 2 investment trust shall be maintained within the fund under the jurisdiction and
 3 management of the investment board for the purpose of managing the investments
 4 of the retirement reserve accounts and of any other accounts of the fund as
 5 determined by the board, including the accounts of separate retirement systems.
 6 Within the fixed retirement investment trust there shall be maintained a
 7 transaction amortization account, a market recognition account and a current
 8 income account, and any other accounts as are established by the board or the
 9 investment board. A current income account shall be maintained in the variable
 10 retirement investment trust. All costs of owning, operating, protecting and
 11 acquiring property in which either trust has an interest shall be charged to the
 12 current income or ~~transaction amortization~~ market recognition account of the trust
 13 having the interest in the property.

History: 1981 c. 96, 386; 1983 a. 27, 141, 247, 504; 1987 a. 27, 84; 1989 a. 13, 14, 31, 355; 1991 a. 39, 141, 152, 269; 1995 a. 88, 89, 225, 240; 1997 a. 26, 69.

14 **SECTION 7.** 40.04 (3) (a) of the statutes is amended to read:

15 40.04 (3) (a) ~~All earnings, profits or losses of the fixed retirement investment~~
 16 ~~trust and the~~ The net gain or loss of the variable retirement investment trust shall
 17 be distributed annually on December 31 to each participating account in the same
 18 ratio as each account's average daily balance within the respective trust bears to the
 19 total average daily balance of all participating accounts in ~~that~~ the trust. ~~For the~~
 20 ~~fixed retirement investment trust the amount to be distributed shall be the then~~
 21 ~~balance of the current income account plus 20% of the then balance of the transaction~~
 22 ~~amortization account. For the variable retirement investment trust the~~ The amount
 23 to be distributed shall be the excess of the increase within the period in the value of
 24 the assets of the trust resulting from income from the investments of the trust and

BILL

1 from the sale or appreciation in value of any investment of the trust, over the
2 decrease within the period in the value of the assets resulting from the sale or the
3 depreciation in value of any investments of the trust.

History: 1981 c. 96, 386; 1983 a. 27, 141, 247, 504; 1987 a. 27, 83; 1989 a. 13, 14, 31, 355; 1991 a. 39, 141, 152, 269; 1995 a. 88, 89, 225, 240; 1997 a. 26, 69.

4 **SECTION 8.** 40.04 (3) (ab) of the statutes is created to read:

5 40.04 (3) (ab) Beginning on December 31, 2000, the balance of the transaction
6 amortization account shall be determined and 20% of the balance established on
7 December 31, 2000, shall be distributed annually on December 31 to each
8 participating account in the same ratio as each account's average daily balance
9 within the fixed retirement investment trust bears to the total average daily balance
10 of all participating accounts in the trust until the balance of the transaction
11 amortization account is entirely distributed. Notwithstanding sub. (3) (intro.), after
12 the entire balance of the transaction amortization account has been distributed, the
13 department shall close the account.

14 **SECTION 9.** 40.04 (3) (am) of the statutes is created to read:

15 40.04 (3) (am) 1. Beginning on January 1, 2000, there shall be maintained
16 within the fixed retirement investment trust a market recognition account. The
17 department shall establish and administer the market recognition account as
18 recommended by the actuary or actuarial firm retained under s. 40.03 (1) (d) and as
19 approved by the board. The market recognition account shall be used to amortize,
20 over a $\frac{5}{x}$ year period, the net investment gain or loss of the fixed retirement
21 investment trust that exceeds or is less than the assumed rate in each year, as
22 determined by the actuary or actuarial firm.

23 2. Annually, on December 31, 20% of the balance of the market recognition
24 account shall be distributed to each participating account in the fixed retirement

BILL**SECTION 9**

1 investment trust in the same ratio as each account's average daily balance within the
2 fixed retirement investment trust bears to the total average daily balance of all
3 participating accounts in the trust on December 31.

4 3. During the years in which there is a distribution from the transaction
5 amortization account under par. (ab)[✓], the investment gain or loss from the
6 transaction amortization account and the investment gain or loss from the market
7 recognition account shall be combined for the purpose of determining each year's net
8 investment gain or loss of the fixed retirement investment trust.

9 **SECTION 10.** 40.04 (4) (a) 2.[✓] of the statutes is amended to read:

10 40.04 (4) (a) 2. Credited as of each December 31 with interest on the prior year's
11 closing balance at the effective rate on all employe required contribution
12 accumulations in the variable annuity division, on all employe required
13 contributions in the fixed annuity division on December 31, 1984, on all employe
14 required contributions in the fixed annuity division of participants who are not
15 participating employes after December 31, 1984, and on all employe and employer
16 additional contribution accumulations and with interest on the prior year's closing
17 balance at the assumed benefit rate on all employe required contribution
18 accumulations in the fixed annuity division for participants who are participating
19 employes after December 31, 1984, but who terminated covered employment before
20 the effective date of this subdivision [revisor inserts date].

21 History: 1981 c. 96, 386; 1983 a. 27, 141, 247, 504; 1987 a. 27, 83; 1989 a. 13, 14, 31, 355; 1991 a. 39, 141, 152, 269; 1995 a. 88, 89, 225, 240; 1997 a. 26, 69.

21 **SECTION 11.** 40.04 (4) (a) 2g.[✓] of the statutes is created to read:

22 40.04 (4) (a) 2g. Credited as of each December 31, with interest on the prior
23 year's closing balance at the effective rate on all employe required contribution

BILL

1 accumulations in the fixed annuity division for participants who are participating
2 employes on or after the effective date of this subdivision [revisor inserts date].

3 **SECTION 12.** 40.04 (4) (a) 2m. of the statutes is repealed.

4 **SECTION 13.** 40.23 (2m) (b) of the statutes is amended to read:

5 40.23 (2m) (b) Except as provided in s. 40.26, subject to the limitations under
6 section 415 of the ~~internal revenue code~~ ^{Internal Revenue Code}, the initial amount of the normal form
7 annuity shall be an amount equal to ~~65%~~ 75%, or 85% for participants whose formula
8 rate is determined under par. (e) 4., of the participant's final average earnings plus
9 the amount which can be provided under pars. (c) and (d) or, if less, shall be in the
10 monthly amount equal to the sum of the amounts determined under pars. (c), (d) and
11 (e) as modified by par. (f) and in accordance with the actuarial tables in effect on the
12 annuity effective date. If the participant has creditable service under both par. (e)
13 4. and another category under par. (e), the percent applied under this paragraph
14 shall be determined by multiplying the percent that each type of creditable service
15 is of the participant's total creditable service by ~~85%~~ 75%, respectively, and
16 adding the results, except that the resulting benefit may not be less than the amount
17 of the normal form annuity that could be paid based solely on the creditable service
18 under par. (e) 4.

19 History: 1981 c. 96, 386; 1983 a. 141, 267, 391; 1987 a. 309, 372; 1987 a. 403 s. 256; 1989 a. 13; 1989 a. 56 s. 259; 1991 a. 152; 1995 a. 225, 302, 414; 1997 a. 35, 69.

20 **SECTION 14.** 40.23 (2m) (e) 1. of the statutes is amended to read:

21 40.23 (2m) (e) 1. For each participant for creditable service of a type not
22 otherwise specified in this paragraph that is credited before January 1, 2000, 1.8%;
for such creditable service that is credited on or after January 1, 2000, 1.6%.

23 History: 1981 c. 96, 386; 1983 a. 141, 267, 391; 1987 a. 309, 372; 1987 a. 403 s. 256; 1989 a. 13; 1989 a. 56 s. 259; 1991 a. 152; 1995 a. 225, 302, 414; 1997 a. 35, 69.

SECTION 15. 40.23 (2m) (e) 2. of the statutes is amended to read:

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SECTION 15

1 40.23 (2m) (e) 2. For each participant for creditable service as an elected official
 2 or as an executive participating employe that is credited before January 1, 2000,
 3 2.2%; for such creditable service that is credited on or after January 1, 2000, 2%.

4 History: 1981 c. 96, 386; 1983 a. 141, 267, 391; 1987 a. 309, 372; 1987 a. 403 s. 256; 1989 a. 13; 1989 a. 56 s. 259; 1991 a. 152; 1995 a. 225, 302, 414; 1997 a. 35, 69.

4 **SECTION 16.** 40.23 (2m) (e) 3. of the statutes is amended to read:

5 40.23 (2m) (e) 3. For each participant subject to titles II and XVIII of the federal
 6 ~~social security act,~~ social security act for service as a protective occupation participant that is credited
 7 before January 1, 2000, 2.2%; for such creditable service that is credited on or after
 8 January 1, 2000, 2%.

9 History: 1981 c. 96, 386; 1983 a. 141, 267, 391; 1987 a. 309, 372; 1987 a. 403 s. 256; 1989 a. 13; 1989 a. 56 s. 259; 1991 a. 152; 1995 a. 225, 302, 414; 1997 a. 35, 69.

9 **SECTION 17.** 40.23 (2m) (e) 4. of the statutes is amended to read:

10 40.23 (2m) (e) 4. For each participant not subject to titles II and XVIII of the
 11 ~~federal social security act,~~ social security act for service as a protective occupation participant that is
 12 credited before January 1, 2000, 2.7%; for such creditable service that is credited on
 13 or after January 1, 2000, 2.5%.

14 History: 1981 c. 96, 386; 1983 a. 141, 267, 391; 1987 a. 309, 372; 1987 a. 403 s. 256; 1989 a. 13; 1989 a. 56 s. 259; 1991 a. 152; 1995 a. 225, 302, 414; 1997 a. 35, 69.

14 **SECTION 18.** 40.26 (2) (b) of the statutes is amended to read:

15 40.26 (2) (b) The amount of the annuity payments, excluding any portion
 16 originally provided by additional contributions, which would have been paid under
 17 the terminated annuity, if the annuity had been a straight life annuity, prior to the
 18 participant's normal retirement date or prior to the annuity termination date,
 19 whichever would first occur, shall be credited to a memorandum account which is
 20 subject to s. 40.04 (4) (a) 2. and ~~2m.~~ 2g. and (c). If the annuity was recomputed under
 21 s. 40.08 (1m) because of a qualified domestic relations order, the memorandum
 22 account established under this paragraph shall be adjusted as provided under s.
 23 40.08 (1m) (f) 2.

History: 1981 c. 96; 1983 a. 255, 267, 290, 538; 1987 a. 138, 372; 1989 a. 13, 218; 1991 a. 141, 152, 315; 1993 a. 213; 1995 a. 302.

BILL

1 **SECTION 19.** 40.26 (5) (c) of the statutes is amended to read:

2 40.26 (5) (c) Any annuity or lump sum payment made to the participant shall
3 be considered to have been made in error and is subject to s. 40.08 (4). The sum of
4 the payments made in error shall be credited to a memorandum account. The
5 memorandum account is subject to s. 40.04 (4) (a) 2. and ~~2m.~~ 2g. and (c). If the
6 annuity was recomputed under s. 40.08 (1m), the memorandum account established
7 under this paragraph shall be adjusted pursuant to s. 40.08 (1m) (f) 2. The
8 retirement account of a participant paid in error, and whose annuity was terminated,
9 shall be reestablished as if the terminated annuity had never been effective,
10 including the crediting of interest.

11 History: 1981 c. 96; 1983 a. 255, 267, 290, 538; 1987 a. 138, 372; 1989 a. 13, 218; 1991 a. 141, 152, 315; 1993 a. 213; 1995 a. 302.

11 **SECTION 20. Nonstatutory provisions.**

12 (1) TRANSFER OF FUNDS FROM THE TRANSACTION AMORTIZATION ACCOUNT OF THE
13 FIXED RETIREMENT INVESTMENT TRUST.

14 (a) On December 31, 1999, before the annual distribution required under
15 section 40.04 (3) (a) of the statutes for the 1999 calendar year is made,
16 \$5,000,000,000 shall be distributed from the transaction amortization account of the
17 fixed retirement investment trust to the employe accumulation, employer
18 accumulation and annuity reserves of the fixed retirement investment trust in an
19 amount equal to a percentage of the total distribution determined by dividing each
20 reserve's balance on the prior January 1 by the total balance of the fixed retirement
21 investment trust on the prior January 1.

22 (b) The increase in the employer accumulation reserve that results from the
23 distribution under paragraph (a) shall, on the recommendation of the actuary, be

BILL

SECTION 20

1 applied to funding any liabilities created by the treatment of section 40.23 (2m) (e)
2 1., 2., 3. and 4. of the statutes in this act.

3 (c) The total amount distributed to the employe accumulation reserve under
4 paragraph (a) shall be equitably credited to participants' accounts based on their
5 account balances as of January 1, 1999, pursuant to section 40.04 (4) (a) 2. of the
6 statutes.

7 (d) The total amount distributed to the annuity reserve under paragraph (a)
8 shall be distributed as provided under section 40.27 (2) of the statutes.

9 (2) ADMINISTRATION OF BENEFIT IMPROVEMENTS. No later than the first day of the
10 6th month beginning after the effective date of this subsection, the department of
11 employe trust funds shall do all of the following:

12 (a) Implement the changes required by the amendments to section 40.23 (2m)
13 (b) and (e) 1., 2., 3. and 4. of the statutes in this act.

14 (b) If necessary, adjust the benefits paid to any participant in the Wisconsin
15 retirement system who terminated covered employment between the effective date
16 of this paragraph and the first day of the 6th month beginning after the effective date
17 of this paragraph.

18 **SECTION 21. Initial applicability.**

(by SECTION 4) A.R. (A)

19 (1) The treatment of section 40.02 (7) of the statutes first applies to the
20 calculation of the assumed rate under the Wisconsin retirement system for the 2000
21 calendar year.

22 (2) The treatment of section 40.23 (2m) (b) and (e) 1., 2., 3. and 4. of the statutes
23 first applies to the calculation of retirement benefits for individuals who are
24 participating employes in the Wisconsin retirement system on January 1, 2000.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3274/1dn

RAC/.....

Wlj

In reviewing the draft, you should be aware that there are several legal issues that are of concern. First, the draft specifies the "assumed rate". The assumed rate is used by the employe trust funds board for all calculations of required contributions and participant reserves under the fixed annuity division of the WRS. By imposing a new "assumed rate" that is different from the one the employe trust funds board has approved under s. 40.02 (7), the draft may affect the fiduciary responsibility of the employe trust funds board. Please note, however, that the employe trust funds board would still have the authority to change the new "assumed rate" for calendar year 2000 back to the prior "assumed rate". For this reason, it is uncertain if the specification of a new "assumed rate" would in practice affect the fiduciary responsibility of the employe trust funds board.

Second, this draft requires an accelerated distribution in the amount of \$5 billion from the transaction amortization account (TAA). This is a considerable transfer of funds that is not currently provided for in law under ch. 40, which requires that only 20% of the balance of the TAA be distributed each year. While there is no case law on point dealing solely with the legality of an accelerated TAA transfer, there is relevant case law that prohibits the legislature from affecting "the actuarial soundness" of a retirement plan. *Ass'n of State Prosecutors v. Milwaukee County*, 199 Wis. 2d 549, 562 (1996). Hence, if the "actuarial soundness" of the WRS is in any way affected by this TAA accelerated transfer, a court could find the transfer illegal.

Third, please note that there are equity issues involved in this TAA transfer that could amount to a constitutional violation. Under current law, the accounts of all participants in the WRS are not treated the same. Participants who began covered employment before 1982 have their accounts in the fixed annuity division credited annually with essentially the actual interest rate, while participants who began covered employment after 1981 have their accounts in the fixed annuity division credited annually with a 5% interest rate. By providing for an accelerated distribution from the TAA, participants who began covered employment after 1981 will not have any of these transferred moneys credited directly to their accounts, while participants who began covered employment before 1982 will have these moneys flow to their accounts in the form of increased interest crediting. The problem is that had these moneys remained in the TAA, those participants who began covered employment after

1981 could have been eligible to potentially receive some of these moneys upon retirement. As annuitants under the WRS, they would be eligible to have TAA distributions actually credited to their accounts. But, because of this accelerated distribution, these moneys are no longer in the TAA.

If ch. 40 is viewed as a contract between the state and the participants, in which a participant may expect that 20% of the TAA will be distributed annually, then an accelerated distribution from the TAA that is greater than 20% and that results in some participants being unable to receive at the time of retirement moneys that they otherwise would have been eligible to receive may result in an impairment of contract. Such an impairment of contract could result in a taking of property without just compensation, in violation of article I, section 13, of the Wisconsin Constitution.

It is important to note, however, that there have been accelerated distributions from the TAA in the past and none of the distributions have been found by a court to be unconstitutional. In fact, even in *Retired Teachers Ass'n v. Employee Trust Funds Bd.*, 207 Wis. 2d 1 (1997), the supreme court did not hold that the TAA accelerated distribution in itself was unconstitutional, but instead found that the legislature's directing the use of the funds from the accelerated distribution to pay for the Special Investment Performance Dividend for certain WRS annuitants was unconstitutional. In other words, the court did not find the TAA transfer illegal; the court found illegal the use to which some of the funds were put after the transfer had occurred.

Because of the highly technical nature of this draft, I strongly recommend that you have DETF review the draft for technical and implementation consideration. Also, you may wish to speak with DETF about the treatment of increasing the retirement formula multiplier for past service. There are many ways to do this. In this draft, I have had the retirement formula multiplier apply to all service for current employes *credited* before January 1, 2000. This means that if a current employe wishes to receive the multiplier increase for any years of service that he or she may have cashed in in the past, the employe will have to purchase those years before January 1, 2000. As an alternative, you could specify that the multiplier increase will apply to all service for current employes *earned* before January 1, 2000. This will permit current employes to repurchase the prior service at any time and receive the formula increase.

Finally, please note that I have prepared this draft on the assumption that it will be enacted before December 31, 1999. If it becomes clear that the draft will not be enacted before that date, then I will need to prepare an amendment to address this issue.

If you have any questions at all about the draft, please call me.

Rick Champagne
Legislative Attorney
Phone: (608) 266-9930
E-mail: Rick.Champagne@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3274/1dn
RAC:wij:mrc

July 21, 1999

In reviewing the draft, you should be aware that there are several legal issues that are of concern. First, the draft specifies the "assumed rate". The assumed rate is used by the employe trust funds board for all calculations of required contributions and participant reserves under the fixed annuity division of the WRS. By imposing a new "assumed rate" that is different from the one the employe trust funds board has approved under s. 40.02 (7), the draft may affect the fiduciary responsibility of the employe trust funds board. Please note, however, that the employe trust funds board would still have the authority to change the new "assumed rate" for calendar year 2000 back to the prior "assumed rate". For this reason, it is uncertain if the specification of a new "assumed rate" would in practice affect the fiduciary responsibility of the employe trust funds board.

Second, this draft requires an accelerated distribution in the amount of \$5 billion from the transaction amortization account (TAA). This is a considerable transfer of funds that is not currently provided for in law under ch. 40, which requires that only 20% of the balance of the TAA be distributed each year. While there is no case law on point dealing solely with the legality of an accelerated TAA transfer, there is relevant case law that prohibits the legislature from affecting "the actuarial soundness" of a retirement plan. *Ass'n of State Prosecutors v. Milwaukee County*, 199 Wis. 2d 549, 562 (1996). Hence, if the "actuarial soundness" of the WRS is in any way affected by this TAA accelerated transfer, a court could find the transfer illegal.

Third, please note that there are equity issues involved in this TAA transfer that could amount to a constitutional violation. Under current law, the accounts of all participants in the WRS are not treated the same. Participants who began covered employment before 1982 have their accounts in the fixed annuity division credited annually with essentially the actual interest rate, while participants who began covered employment after 1981 have their accounts in the fixed annuity division credited annually with a 5% interest rate. By providing for an accelerated distribution from the TAA, participants who began covered employment after 1981 will not have any of these transferred moneys credited directly to their accounts, while participants who began covered employment before 1982 will have these moneys flow to their accounts in the form of increased interest crediting. The problem is that had these moneys remained in the TAA, those participants who began covered employment after

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Because of the highly technical nature of this draft, I strongly recommend that you have DETF review the draft for technical and implementation consideration. Also, you may wish to speak with DETF about the treatment of increasing the retirement formula multiplier for past service. There are many ways to do this. In this draft, I have had the retirement formula multiplier apply to all service for current employes *credited* before January 1, 2000. This means that if a current employe wishes to receive the multiplier increase for any years of service that he or she may have cashed in in the past, the employe will have to purchase those years before January 1, 2000. As an alternative, you could specify that the multiplier increase will apply to all service for current employes *earned* before January 1, 2000. This will permit current employes to repurchase the prior service at any time and receive the formula increase.

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STATE OF WISCONSIN
Department of Employee Trust Funds

Eric O. Stanchfie
Secretary
801 West Badger Road
P.O. Box 793
Madison, WI 53707-7933

819 N. Sixth St., Rm. 55
Milwaukee, WI 5320

FAX TRANSMITTAL

DATE: 8/25/99
FROM: Dave Stella
PHONE #: 267-9038
TIME: 8:35 am

Please deliver the following 7 pages (including this cover sheet) to:

Name: Rick Champagne
Organization: LRB
FAX #: 264-8522

Please reply when received Yes No

If you wish to reply, our FAX number is (608) 267-0633

Message:

See attached

**STATE OF WISCONSIN
DEPARTMENT OF EMPLOYE TRUST FUNDS
801 West Badger Road
Madison, WI 53702**

CORRESPONDENCE MEMORANDUM

DATE: August 3, 1999

TO: State Senator Robert Wirth
Co-Chair, Joint Survey Committee on Retirement Systems
310 South State Capitol

FROM: David Stella, Administrator
Division of Retirement Services

SUBJECT: Comments on LRB 3274/1dn – Retirement Benefit Improvement Bill

Beth Smith of your staff asked that I provide comments on the bill draft LRB 3274/1dn. I received the input of several expert staff at the Department and Norm Jones, the consulting actuary, in developing this list of comments. Some of my comments are purely technical and others relate to the potential financial or policy impact of the bill draft on the Wisconsin Retirement System (WRS).

Over the past several years the Department has publicly stated its preference that benefit improvement bills should be funded through contribution rate changes. It is our belief that this approach is the most equitable way to fund such improvements. Additionally, the Department believes that use of the Transaction Amortization Account (TAA) as an "internal funding" mechanism for benefit improvements raises several serious and significant legal concerns. The Employee Trust Funds Board would very likely seek court review of these legal issues to determine if internal funding methods are legal and to allow the courts to determine whether there are any constitutional defects, such as contractual impairment or taking without just compensation, for example. One of these issues is raised in the second paragraph of the Legislative Reference Bureau drafter's note. Finally, the increase in the value of years of service in this draft only for periods prior to January 1, 2000 appears to create another inequity that raises additional legal concerns.

Policy & Funding Issues

- 1. Administration Appropriation Language** – The bill draft contains no language that authorizes an increase in our administrative appropriation for the administration of the new provisions of the law. Without significant administrative resource increases, including staff and other funding, the Department cannot implement the provisions in this bill. The Department is currently struggling to meet its current participant service obligations, as its workload continues to grow more quickly than its resources. Consequently, large workload backlogs currently exist causing significant delays in responding to participant requests.

The workload and administrative changes associated with a benefit improvement bill will overwhelm the Department and result in significantly delayed implementation. These delays will be a great source of frustration to participants who are in need of service in order to take advantage of the bill's provisions.

If you do not anticipate including language authorizing additional staff and expenditure authority for the Department in this bill, the Department requests that a separate bill addressing these needs be introduced and considered concurrently with this bill so that administrative resources are available for implementation. In the past, awaiting a quarterly s.13.101 meeting of the Joint Finance Committee has resulted in delays for participants since they immediately seek services from DETF upon passing of a bill.

2. TAA Transfer Provisions – There are several issues raised in using the TAA as a funding device for benefit improvements. They include:

- a. Order of recognition of \$5 billion and 20% in market gains from the TAA – In combination with the normal TAA transfer of 20% the bill will recognize \$5 billion in unrecognized investment gains in the fixed fund. Consequently, the order of the normal 20% recognition and the \$5 billion transfer is very important. The bill's nonstatutory language has the \$5 billion TAA transfer before the normal 20%. This may raise the likelihood that the normal 20% recognition from the TAA would not be sufficient to meet the assumed earnings rate, thus resulting in a contribution rate increase effective January 1, 2001. Reversing the order and taking the 20% distribution first will increase the probability of still meeting the assumed rate and stabilizing contribution rates. (However, it is important to note that other factors could still cause contribution rates to begin to rise in 2001, so there can be no guarantee of stability).
- b. Advisability of recognizing \$5 billion from the TAA - A one-time \$5 billion recognition would reduce the TAA balance to its lowest level since 1994. Assuming a \$12 billion TAA on 12/31/99, the normal recognition of 20% of the balance plus a one-time \$5 billion transfer would reduce the TAA balance to \$4.6 billion. This balance would not be sufficient for the fixed retirement fund to meet its investment earnings assumption without future market gains. Because the MRA requires a five year phase in before it is fully effective in smoothing market variations, and the TAA balance would be insufficient to offset any losses, the fund would be unusually vulnerable to financial market fluctuations in the next several years. If the financial markets experience flat or negative returns in the years following the transfer, there is a much stronger possibility that the assumed rate of return will not be achieved thereby causing employer and employee contribution rates to increase.
- c. Limited distribution of the \$5 billion from the TAA – The bill directs that the funds from the TAA be distributed only to the three largest of the accounts participating in the fixed retirement investment trust. The accumulated sick leave, duty disability, Milwaukee teacher special death benefit, income continuation insurance and long-term disability insurance accounts which are also part of the FRIT would receive none of the \$5 billion. Depriving these accounts of the earnings on their funds tends to increase the costs of these benefit plans or, in the case of the Milwaukee teacher death benefit, takes

away money which would otherwise pay benefits. Increased costs of the duty disability and accumulated sick leave credit plan are borne by employers. Increased premiums for income continuation insurance and long-term disability insurance affect both participating employees and their employers.

- d. Smoothing of the TAA Flow - The bill provides that the TAA balance remaining after the \$5 billion transfer will be flowed out in equal installments over the next five years as the MRA is phased in. The combination of MRA and TAA could produce erratic investment earnings leading to some short-term contribution rate volatility during the MRA phase-in. If given the authority, it would be possible for the actuary to allocate the remaining TAA balance over five years such that when combined with the MRA the result would be more consistent earnings and stable contribution rates.

3. Implementation of the Effective Rate of Interest Crediting

- a. Crediting the \$5 billion TAA Transfer to All Participants - While it is not exactly clear in the current draft, the intent of the bill appears to be to reopen effective rate interest crediting in the year following the \$5 billion TAA transfer. That may have been done to ensure that sufficient funds flowed to the employer to serve to pay the cost of the benefit improvements. In speaking with the actuary on this issue, he did not believe he had included the impact of crediting interest in this manner in his cost estimate. Therefore, since it would not appear to increase the cost of the bill to permit participants previously limited to 5% to receive a share of the \$5 billion transfer, you may want to amend the non-statutory provisions to allow all participating employees on 12/31/99 to receive the actual "effective rate" of interest on their 1/1/99 employee account balance. In any event, the current draft requirement to make an equitable distribution to participant accounts should be reviewed and clarified to express the bill's intent either to distribute part of the \$5 billion to all participant accounts or rather to only pre-1982 accounts.

4. Applying the Higher Retirement Formula to Service "Credited before January 1, 2000.

- a. Should the higher formula apply to service "rendered" prior to January 1, 2000 ?

As drafted the bill applies the higher formula to service credited to a participating employee's account prior to January 1, 2000. This means that any service that was rendered prior to that date but not actually credited to the participating employee's account could not be calculated using the higher retirement formula. This includes some types of military service, forfeited service, qualifying service, and other governmental service that the participant did not apply and pay for or by statute is not credited until the time of retirement.

The current language will very likely cause a flood of applications to buy any type of service that could be credited prior to January 1, 2000. Consequently, those service purchase applications that the Department could respond to and credit would receive the higher formula and those applications that were

late, regardless of the reasons, would not be subject to the higher formula. This would very likely create extreme controversy and lead to litigation.

One option would be to apply the higher formula to service "rendered" prior to January 1, 2000. This would allow participating employees to ultimately gain the advantage of having service from prior to January 1, 2000 credited at the higher formula level even if they make the purchase and/or have that service credited after that date. While this option is more equitable, it has one drawback. The actuary, in estimating the cost of raising the formula factor on service credited prior to January 1, 2000, used all credited service on the participant's account. There is no record of how much service has not yet been credited but was rendered prior to January 1, 2000. Thus, the cost of this service is not included in the actuary's estimates. This means that there is an unidentified cost that would result if the bill language permitted service "rendered" prior to January 1, 2000 to be eligible for the higher formula.

Technical Corrections to LFB 3274

1. Correction of the MRA description – The actuary has reviewed the language describing the creation of the MRA and has determined that it is incorrect. He suggested the language below as a better description:

40.04(3)(am) 1. Beginning on January 1, 2000, there shall be maintained within the fixed retirement investment trust a market recognition account. The department shall establish and administer the market recognition account as recommended by the actuary or actuarial firm retained under s. 40.03 (1) (d) and as approved by the board.

2. Each year the actual market value investment return earned by the fixed retirement investment trust during the year shall be credited to the market recognition account.

3. Annually, on December 31, an amount equal to the sum of subs. a., b. and c. below shall be distributed from the market recognition account to each participating account in the fixed retirement investment trust in the same ratio as each account's average daily balance bears to the total average daily balance of all participating accounts:

- a. The expected amount of investment return in the fixed retirement investment trust during the calendar year based on the assumed rate of investment earnings, plus
- b. 20% of the difference between the amount of market value investment return and the expected amount of investment return during the year ended December 31, plus
- c. 25% of the sum of the balance, if any, in the market recognition account at the end of the four preceding calendar years

2. Implementation delay for six months (nonstatutory language) – Section 20 (2) of the draft provides that the Department has six months to implement the

See new version given by actuary: version V2

delete

provisions of the bill and adjust the benefits paid to any participant that retires between the effective date of the bill and the first day of the sixth month after the effective date.

While we believe this provision was intended to assist the Department by giving lead time to implement it we believe it locks us into an unreasonable time to finalize retirement calculations based on the new retirement formulas. At a minimum we suggest that sub. (b) of that section should be eliminated and simply provide an implementation period. Under normal operating procedures the Department finalizes retirement benefits once all earnings, service, and a termination date is provided by the employer. This may take longer than six months in some instances and would require finalizing a benefit amount twice under the current language. Second, given the large number of expected retirements if this bill becomes law it is unlikely that the Department could successfully finalize all retirement benefit calculations in six months (although we could place all retiring participants on an "estimated annuity"). Due to backlogs, our current waiting period in finalizing benefits is about 10 months and is expected to fall to less than six months by January 1, 2000. A benefit improvement bill would cause that waiting period to rise far beyond six months.

3. Repeal of the TAA in Section 2. (s.25.17(14) and 25.18(1)(a)) – This section strikes references to the TAA and substitutes reference to the MRA in the provisions governing how gains or losses are transferred and how legal or investment counsel costs may be charged by the State investment Board. We suggest that s.25.17 (14) simply be repealed because under the MRA the

distinction between ordinary income and gains/losses should disappear. The only comparison is between the total investment income and the assumed income.

Under s. 25.18 (1) (a) we suggest that on page 4, line 13 a period be placed after the word "furnished" and the rest of the sentence deleted. This would allow expenses to be charged to the MRA or the variable fund as intended in the current language while eliminating reference to the TAA.

The same concept would apply to the changes in s.40. 04(3) (intro) on page 5. The language in this section could also be simplified to allow expenses of owning, operating and acquiring property to be applied to the trust generally and not specifying which part of the trust.

4. Assumed benefit rate definition changed – We do not understand why the drafter eliminated the provision that applies the assumed benefit rate to determining the amount of a lump sum death benefit payable from the portion of an annuity based on additional deposits. This is in Section 3. , page 4, lines 19 and 20. The proposal would lower the lump sum death benefits payable. If this reduction is intended, DETF suggests that this treatment be initially applicable based on the date of the death giving rise to the benefits, and not (as presently drafted) based on when the calculation occurs.
5. Conflict Between Section 5 and Nonstatutory Language Concerning the Assumed Rate - Section 5 of the proposed bill sets the "spread" between the assumed

investment return and salary inflation at 3.4% and permits the Employee Trust Funds Board to change the rate if the actuary recommends such a change. Section 21 applies the assumed rate change on January 1, 2000. Contribution rates have already been set for 2000. As drafted, the ETF Board retains the authority to reset the assumed rate and the "spread", so it appears this statutory change has no actual effect. If the intent is to mandate actual use of a new assumed rate and "spread," such language could raise additional legal problems akin to those found by the Wisconsin Supreme Court in *WRTA v. Employee trust Funds Board*, 207 Wis. 2d 1, 558 N.W.2d 83 (1987).

I hope the comments and suggestions I have provided are helpful and are clear. I will be out of the office until August 16, 1999. In my absence you can contact Dave Mills, Deputy Secretary, about any of these issues.

**Market Recognition Account
Draft Language 9/2/99**

40.04(3)(am) 1. Beginning on January 1, 2000, there shall be maintained within the fixed retirement investment trust a market recognition account. The department shall establish and administer the market recognition account as recommended by the actuary or actuarial firm retained under s. 40.03 (1) (d) and as approved by the board.

2. At the end of each year the actual market value investment return earned by the fixed retirement investment trust during the year shall be credited to the market recognition account.
3. Annually, on December 31, an amount equal to the sum of (a), (b) and (c) below shall be distributed from the market recognition account to each participating account in the fixed retirement investment trust in the same ratio as each account's average daily balance bears to the total average daily balance of all participating accounts:
 - a. The expected amount of investment return in the fixed retirement investment trust during the calendar year based on the assumed rate.
 - b. An amount equal to 20% of the difference between the total fixed retirement investment trust market value investment return and the expected amount of investment return during the year ended December 31 based on the assumed rate.
 - c. An amount equal to 25% of the sum of the remaining balances, if any, in the market recognition account at the end of each of the four preceding calendar years. For the purposes of this calculation, the amount in the market recognition account at the end of any calendar year prior to January 1, 2000 shall assumed to be zero.

Don't use this version, per Dave Stella

Market Recognition Account
Draft Language 9/2/99 v.2

40.04(3)(am) 1. Beginning on January 1, 2000, there shall be maintained within the fixed retirement investment trust a market recognition account. The department shall establish and administer the market recognition account as recommended by the actuary or actuarial firm retained under s. 40.03 (1) (d) and as approved by the board.

2. ~~At the end of each year~~ ^{Annually, total} the ~~total~~ market value investment return earned by the fixed retirement investment trust during the year shall be credited to the market recognition account.
3. Annually, on December 31, an amount equal to the sum of (a), (b) and (c) below shall be distributed from the market recognition account to each participating account in the fixed retirement investment trust in the same ratio as each account's average daily balance bears to the total average daily balance of all participating accounts:
- a. The expected amount of investment return in the fixed retirement investment trust during the calendar year based on the assumed rate.
 - b. An amount equal to 20% of the difference between the total market value investment return and the expected amount of investment return during the year ended December 31 based on the assumed rate.
 - c. An amount equal to 20% of the sum of the differences between the market value investment return and the expected amount of investment return at the end of each of the four preceding calendar years. For the purposes of this calculation, the amount in the market recognition account at the end of any calendar year prior to January 1, 2000 shall assumed to be zero.

total

Use plus version
per Dave Stella



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3274/x 2

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1999 BILL

Repeal

1 AN ACT *to repeal* 40.04 (4) (a) 2m.; *to amend* 25.17 (14) (f), 25.18 (1) (a), 40.02
2 (6), 40.02 (7), 40.02 (7), 40.04 (3) (intro.), 40.04 (3) (a), 40.04 (4) (a) 2., 40.23 (2m)
3 (b), 40.23 (2m) (e) 1., 40.23 (2m) (e) 2., 40.23 (2m) (e) 3., 40.23 (2m) (e) 4., 40.26
4 (2) (b) and 40.26 (5) (c); and *to create* 40.04 (3) (ab), 40.04 (3) (am) and 40.04
5 (4) (a) 2g. of the statutes; **relating to:** benefit improvements, interest crediting,
6 recognition of income and capital gains and losses in the fixed retirement
7 investment trust and affecting certain actuarial assumptions under the
8 Wisconsin retirement system.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes to benefits provided under the Wisconsin retirement system (WRS) and to the financial structure of the WRS. The changes are as follows:

Benefit improvements under the WRS

Under current law, when a participant in the WRS terminates covered employment and becomes eligible for a retirement annuity, one of the ways in which the amount of his or her annuity is determined is by multiplying the participant's final average earnings by the participant's years of creditable service and by a percentage multiplier. For a protective occupation participant who is covered by

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social security, an elected official and an executive participating employe, the percentage multiplier is 2%. For a protective occupation participant who is not covered by social security, the percentage multiplier is 2.5%. For all other participants in the WRS, the percentage multiplier is 1.6%. ~~performed~~

This bill increases the percentage multiplier for all classes of participants in the WRS for creditable service that is ~~credited~~ before January 1, 2000. For a protective occupation participant who is covered by social security, an elected official and an executive participating employe, the percentage multiplier is increased to 2.2%. For a protective occupation participant who is not covered by social security, the percentage multiplier is increased to 2.7%. For all other participants in the WRS, the percentage multiplier is increased to 1.8%. The increase in the percentage multiplier first applies to the calculation of retirement benefits for individuals who are participating employes in the WRS on January 1, 2000. For all creditable service that is ~~earned~~ on or after January 1, 2000, however, the bill provides that the current law percentage multipliers will apply. ~~performed~~

Increase in maximum amount of initial retirement annuity

Under current law, the maximum amount of an initial annuity for a participant in the WRS who receives an annuity that is calculated using the percentage multiplier, other than a protective occupation participant who is not covered by social security, is an amount equal to 65% of the participant's final average earnings. This bill increases the amount to ~~85%~~ ^{75%} for participants who are participating employes on the effective date of the bill.

Accelerated distribution of moneys from the transaction amortization account of the fixed retirement investment trust

Under current law, a fixed retirement investment trust (FRIT) and a variable retirement investment trust are maintained within the public employe trust fund under the management of the investment board. Within the FRIT, a transaction amortization account (TAA) is maintained and used to smooth out fluctuations in unrecognized gains and losses in the value of FRIT assets. The balance of the TAA closely parallels the difference between market value and the adjusted book value of the assets. Annually, 20% of the balance of the TAA is distributed to participating accounts in the fixed annuity reserve, the fixed employer accumulation reserve and the fixed employe accumulation reserve.

This bill provides that on December 31, 1999, \$5,000,000,000 is to be distributed from the TAA to the ~~fixed annuity reserve, the fixed employer accumulation reserve and the fixed employe accumulation reserve~~ in an amount equal to a percentage of the total distribution determined by dividing each reserve's balance on the prior January 1 by the total balance of the ~~fixed retirement investment trust~~ on the prior January 1. Under the bill, the increase in the fixed employer accumulation reserve that results from the distribution shall, on the recommendation of the actuary, be first applied to funding any liabilities created by the bill.

and accounts

reserves and accounts in the FRIT

FRIT

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Elimination of transaction amortization account and creation of market recognition account

*Insert
Analysis*

This bill eliminates the TAA over a five-year period and creates, in its place, a market recognition account (MRA) that is to be used for distributing unrecognized gains and losses in the value of FRIT assets. Under the bill, the MRA is used to amortize, over a five-year period, the net investment gain or loss of the FRIT that exceeds or is less than the assumed rate (currently 8%). Under the bill, annually, on December 31, 20% of each year's gains and losses in the value of the FRIT that are credited to the MRA over a five-year period must be distributed to participating accounts in the ~~fixed annuity reserve, the fixed employer accumulation reserve and the fixed employee accumulation reserve~~ FRIT

*reserves
and*

Determination of actuarial assumptions for certain purposes under the WRS

Under current law, the "assumed rate" is the probable average effective rate that is expected to be earned for the FRIT on a long-term basis. Currently, the assumed rate is a rate of 8% and the actuarial assumption for across-the-board salary increases for the purpose of valuing the liabilities of the WRS is 3.2% less than the assumed rate unless due to changed economic circumstances the actuary recommends and the employe trust funds board approves a different rate. The assumed rate for a calendar year is used for all calculations of required contributions and reserves for WRS participants and employers.

This bill increases the actuarial assumption for across-the-board salary increases for the purpose of valuing the liabilities of the WRS from 3.2% less than the assumed rate to 3.4% less than the assumed rate.

Interest crediting on employe required contribution accumulations

Under current law, for those participants in the WRS who are hired on or after January 1, 1982, interest is credited annually to their employe required contribution accumulations in the fixed annuity division of the employe trust fund at the assumed benefit rate. The assumed benefit rate is 5%. This bill provides that, ~~beginning on January 1, 2000~~, interest on these accumulations for participants who are participating employes in the WRS on the effective date of the bill is to be credited at the effective rate. The effective rate is essentially the interest rate earned by the accumulations, after all expenses are deducted.

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 and local** 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. 25.17 (14) (f) of the statutes is amended to read:

repealed

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1 shall be a rate of ~~7.5%~~ 8% and the actuarial assumption for across-the-board salary
 2 increases for the purpose of valuing the liabilities of the Wisconsin retirement system
 3 shall be ~~1.9%~~ 3.4% less than the assumed rate unless due to changed economic
 4 circumstances the actuary recommends and the board approves a different rate. The
 5 assumed rate for a calendar year shall be used for all calculations of required
 6 contributions and reserves for participants, except as provided in s. 40.04 (4) (a) 2.
 7 and ~~2m.~~ ^{2g. ✓} and the amount of any lump sum benefit paid instead of an annuity, except
 8 it shall not be used for any purpose for which the assumed benefit rate is to be used
 9 under sub. (6).

10 **SECTION 5.** 40.02 (7) of the statutes, as affected by 1999 Wisconsin Act ... (this
 11 act), is amended to read:

12 40.02 (7) "Assumed rate" means the probable average effective rate expected
 13 to be earned for the fixed annuity division on a long-term basis. The assumed rate
 14 shall be a rate of 8% and the actuarial assumption for across-the-board salary
 15 increases for the purpose of valuing the liabilities of the Wisconsin retirement system
 16 shall be 3.4% less than the assumed rate unless due to changed economic
 17 circumstances the actuary recommends and the board approves a different rate. The
 18 assumed rate for a calendar year shall be used for all calculations of required
 19 contributions and reserves for participants, except as provided in s. 40.04 (4) (a) 2.
 20 and ~~2m.~~ 2g., and the amount of any lump sum benefit paid instead of an annuity,
 21 except it shall not be used for any purpose for which the assumed benefit rate is to
 22 be used under sub. (6).

23 **SECTION 6.** 40.04 (3) (intro.) of the statutes is amended to read:

24 40.04 (3) (intro.) A fixed retirement investment trust and a variable retirement
 25 investment trust shall be maintained within the fund under the jurisdiction and

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1 management of the investment board for the purpose of managing the investments
2 of the retirement reserve accounts and of any other accounts of the fund as
3 determined by the board, including the accounts of separate retirement systems.

4 Within the fixed retirement investment trust there shall be maintained a

5 transaction amortization account, ~~a market recognition account~~ and a ~~current~~

6 ~~income~~ Market Recognition account, and any other accounts as are established by the board or the

7 investment board. A current income account shall be maintained in the variable

8 retirement investment trust. All costs of owning, operating, protecting and

9 acquiring property in which either trust has an interest shall be charged to the

10 current income or ~~transaction amortization~~ market recognition account of the trust

11 having the interest in the property.

12 SECTION 7. 40.04 (3) (a) of the statutes is amended to read:

13 40.04 (3) (a) ~~All earnings, profits or losses of the fixed retirement investment~~
14 ~~trust and the~~ The net gain or loss of the variable retirement investment trust shall

15 be distributed annually on December 31 to each participating account in the same

16 ratio as each account's average daily balance within the respective trust bears to the

17 total average daily balance of all participating accounts in ~~that~~ the trust. ~~For the~~

18 ~~fixed retirement investment trust the amount to be distributed shall be the then~~

19 ~~balance of the current income account plus 20% of the then balance of the transaction~~

20 ~~amortization account. For the variable retirement investment trust the~~ The amount

21 to be distributed shall be the excess of the increase within the period in the value of

22 the assets of the trust resulting from income from the investments of the trust and

23 from the sale or appreciation in value of any investment of the trust, over the

24 decrease within the period in the value of the assets resulting from the sale or the

25 depreciation in value of any investments of the trust.

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1 **SECTION 8.** 40.04 (3) (ab) of the statutes is created to read:

2 40.04 (3) (ab) Beginning on December 31, 2000, the balance of the transaction
3 amortization account shall be determined and 20% of the balance established on
4 December 31, 2000, shall be distributed annually on December 31 to each
5 participating account in the same ratio as each account's average daily balance
6 within the fixed retirement investment trust bears to the total average daily balance
7 of all participating accounts in the trust until the balance of the transaction
8 amortization account is entirely distributed. Notwithstanding sub. (3) (intro.), after
9 the entire balance of the transaction amortization account has been distributed, the
10 department shall close the account.

11 **SECTION 9.** 40.04 (3) (am) of the statutes is created to read:

12 40.04 (3) (am) 1. Beginning on January 1, 2000, there shall be maintained
13 within the fixed retirement investment trust a market recognition account. The
14 department shall establish and administer the market recognition account as
15 recommended by the actuary or actuarial firm retained under s. 40.03 (1) (d) and as
16 approved by the board. The market recognition account shall be used to amortize,
17 over a 5-year period, the net investment gain or loss of the fixed retirement
18 investment trust that exceeds or is less than the assumed rate in each year, as
19 determined by the actuary or actuarial firm.

20 2. Annually, on December 31, 20% of the balance of the market recognition
21 account shall be distributed to each participating account in the fixed retirement
22 investment trust in the same ratio as each account's average daily balance within the
23 fixed retirement investment trust bears to the total average daily balance of all
24 participating accounts in the trust on December 31.

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Insert 8-6

1 3. During the years in which there is a distribution from the transaction
 2 amortization account under par. (ab), the investment gain or loss from the
 3 transaction amortization account and the investment gain or loss from the market
 4 recognition account shall be combined for the purpose of determining each year's net
 5 investment gain or loss of the fixed retirement investment trust.

6 **SECTION 10.** 40.04 (4) (a) 2. of the statutes is amended to read:

7 40.04 (4) (a) 2. Credited as of each December 31 with interest on the prior year's
 8 closing balance at the effective rate on all employe required contribution
 9 accumulations in the variable annuity division, on all employe required
 10 contributions in the fixed annuity division on December 31, 1984, on all employe
 11 required contributions in the fixed annuity division of participants who are not
 12 participating employes after December 31, 1984, and on all employe and employer
 13 additional contribution accumulations and with interest on the prior year's closing
 14 balance at the assumed benefit rate on all employe required contribution
 15 accumulations in the fixed annuity division for participants who are participating
 16 employes after December 31, 1984, but who terminated covered employment before
 17 the effective date of this subdivision [revisor inserts date].

18 **SECTION 11.** 40.04 (4) (a) 2g. of the statutes is created to read:

19 40.04 (4) (a) 2g. Credited as of each December 31, with interest on the prior
 20 year's closing balance at the effective rate on all employe required contribution
 21 accumulations in the fixed annuity division for participants who are participating
 22 employes on or after the effective date of this subdivision [revisor inserts date].

23 **SECTION 12.** 40.04 (4) (a) 2m. of the statutes is repealed.

24 **SECTION 13.** 40.23 (2m) (b) of the statutes is amended to read:

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1 40.23 (2m) (b) Except as provided in s. 40.26, subject to the limitations under
2 section 415 of the ~~internal revenue code~~ Internal Revenue Code, the initial amount
3 of the normal form annuity shall be an amount equal to ~~65%~~ 75%, or 85% for
4 participants whose formula rate is determined under par. (e) 4., of the participant's
5 final average earnings plus the amount which can be provided under pars. (c) and
6 (d) or, if less, shall be in the monthly amount equal to the sum of the amounts
7 determined under pars. (c), (d) and (e) as modified by par. (f) and in accordance with
8 the actuarial tables in effect on the annuity effective date. If the participant has
9 creditable service under both par. (e) 4. and another category under par. (e), the
10 percent applied under this paragraph shall be determined by multiplying the
11 percent that each type of creditable service is of the participant's total creditable
12 service by 85% and ~~65%~~ 75%, respectively, and adding the results, except that the
13 resulting benefit may not be less than the amount of the normal form annuity that
14 could be paid based solely on the creditable service under par. (e) 4.

15 **SECTION 14.** 40.23 (2m) (e) 1. of the statutes is amended to read:

16 40.23 (2m) (e) 1. For each participant for creditable service of a type not
17 otherwise specified in this paragraph ~~that is credited~~ ^{performed} before January 1, 2000, 1.8%;
18 for such creditable service that is ~~credited~~ ^{performed} on or after January 1, 2000, 1.6%.

19 **SECTION 15.** 40.23 (2m) (e) 2. of the statutes is amended to read:

20 40.23 (2m) (e) 2. For each participant for creditable service as an elected official
21 or as an executive participating employe ~~that is credited~~ ^{performed} before January 1, 2000,
22 2.2%; for such creditable service that is ~~credited~~ ^{performed} on or after January 1, 2000, 2%.

23 **SECTION 16.** 40.23 (2m) (e) 3. of the statutes is amended to read:

24 40.23 (2m) (e) 3. For each participant subject to titles II and XVIII of the federal
25 ~~social security act~~ Social Security Act, for service as a protective occupation

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① participant that is ~~credited~~^{performed} before January 1, 2000, 2.2%; for such creditable service
 ② that is ~~credited~~^{performed} on or after January 1, 2000, 2%.

SECTION 17. 40.23 (2m) (e) 4. of the statutes is amended to read:

40.23 (2m) (e) 4. For each participant not subject to titles II and XVIII of the federal social security act ~~Social Security Act~~, for service as a protective occupation participant that is ~~credited~~^{performed} before January 1, 2000, 2.7%; for such creditable service that is ~~credited~~^{performed} on or after January 1, 2000, 2.5%.

SECTION 18. 40.26 (2) (b) of the statutes is amended to read:

40.26 (2) (b) The amount of the annuity payments, excluding any portion originally provided by additional contributions, which would have been paid under the terminated annuity, if the annuity had been a straight life annuity, prior to the participant's normal retirement date or prior to the annuity termination date, whichever would first occur, shall be credited to a memorandum account which is subject to s. 40.04 (4) (a) 2. and ~~2m.~~ 2g. and (c). If the annuity was recomputed under s. 40.08 (1m) because of a qualified domestic relations order, the memorandum account established under this paragraph shall be adjusted as provided under s. 40.08 (1m) (f) 2.

SECTION 19. 40.26 (5) (c) of the statutes is amended to read:

40.26 (5) (c) Any annuity or lump sum payment made to the participant shall be considered to have been made in error and is subject to s. 40.08 (4). The sum of the payments made in error shall be credited to a memorandum account. The memorandum account is subject to s. 40.04 (4) (a) 2. and ~~2m.~~ 2g. and (c). If the annuity was recomputed under s. 40.08 (1m), the memorandum account established under this paragraph shall be adjusted pursuant to s. 40.08 (1m) (f) 2. The retirement account of a participant paid in error, and whose annuity was terminated,

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1 shall be reestablished as if the terminated annuity had never been effective,
2 including the crediting of interest.

3 **SECTION 20. Nonstatutory provisions.**

4 (1) TRANSFER OF FUNDS FROM THE TRANSACTION AMORTIZATION ACCOUNT OF THE
5 FIXED RETIREMENT INVESTMENT TRUST.

6 (a) On December 31, 1999, ~~before~~^{after} the annual distribution required under
7 section 40.04 (3) (a) of the statutes for the 1999 calendar year is made,
8 \$5,000,000,000 shall be distributed from the transaction amortization account of the
9 fixed retirement investment trust to the ~~employe accumulation, employer~~
10 ~~accumulation and annuity reserves~~^{and accounts} of the fixed retirement investment trust in an
11 amount equal to a percentage of the total distribution determined by dividing each
12 reserve's ~~balance~~^{and accounts} on the prior January 1 by the total balance of the fixed retirement
13 investment trust on the prior January 1.

14 (b) The increase in the employer accumulation reserve that results from the
15 distribution under paragraph (a) shall, on the recommendation of the actuary, be
16 applied to funding any liabilities created by the treatment of section 40.23 (2m) (e)
17 1., 2., 3. and 4. of the statutes in this act.

18 (c) The total amount distributed to the employe accumulation reserve under
19 paragraph (a) shall be ~~equitably~~ credited to participants' accounts based on their
20 account balances as of January 1, 1999, pursuant to section 40.04 (4) (a) 2. of the
21 statutes.

22 (d) The total amount distributed to the annuity reserve under paragraph (a)
23 shall be distributed as provided under section 40.27 (2) of the statutes.

BILL

SECTION 20

1 (2) ADMINISTRATION OF BENEFIT IMPROVEMENTS. No later than the first day of the
 2 6th month beginning after the effective date of this subsection, the department of
 3 employe trust funds shall do all of the following:

4 (a) Implement the changes required by the amendments to section 40.23 (2m)

5 (b) and (e) 1., 2., 3. and 4. of the statutes in this act.

6 (b) If necessary, adjust the benefits paid to any participant in the Wisconsin
 7 retirement system who terminated covered employment between the effective date
 8 of this paragraph and the first day of the 6th month beginning after the effective date
 9 of this paragraph.

SECTION 21. Initial applicability.

10 (1) The treatment of section 40.02 (7) ^{by SECTION 4} of the statutes first applies
 11 to the calculation of the assumed rate under the Wisconsin retirement system for the
 12 ²⁰⁰¹ ~~2000~~ calendar year. *CONTRIBUTION RATES UNDER SECTION 40.05 (1) AND*

13 (2) The treatment of section 40.23 (2m) (b) and (e) 1., 2., 3. and 4. of the statutes
 14 first applies to the calculation of retirement benefits for individuals who are
 15 participating employes in the Wisconsin retirement system on January 1, 2000. *(2) ✓ 1*
 16 *for*

of the statutes

17 **SECTION 22. Effective dates.** This act takes effect on the day after publication,
 18 except as follows:

19 (1) ~~INTEREST CREDITING ON EMPLOYE REQUIRED CONTRIBUTIONS IN THE FIXED~~
 20 ~~ANNUITY DIVISION OF THE EMPLOYE TRUST FUND. The treatment of sections 40.02 (6) and~~
 21 ~~(7) (by SECTION 5), 40.04 (4) (a) 2., 2g. and 2m. and 40.26 (2) (b) and (5) (c) of the~~
 22 ~~statutes takes effect on January 1, 2000.~~

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3274/2ins
RAC::

Insert Analysis:

This bill eliminates the TAA over a five-year period and creates, in its place, a market recognition account (MRA) that is to be used for distributing the total market value investment return earned by the FRIT. Under the bill, each December 31, the following amounts are to be distributed from the MRA to each participating account in the FRIT:

1. The expected amount of investment return in the FRIT.
2. An amount equal to 20% of the difference between the total market value investment return earned by the FRIT and the expected amount of investment return of the FRIT during the year ending on December 31.
3. An amount equal to 20% of the sum of the differences between the total market value investment return earned by the FRIT and the expected amount of investment return of the FRIT at the end of the ⁴/_{four} preceding years.

Insert 4-16:

SECTION 1. 25.18 (1) (m)[✓] of the statutes is amended to read:

25.18 (1) (m) Notwithstanding subchs. IV and V of ch. 16, employ professionals, contractors or other agents necessary to evaluate or operate any property if a fund managed by the board has an interest in, or is considering purchasing or lending money based upon the value of, that property. Costs under this paragraph shall be paid by the fund and charged to the appropriate ~~current income~~ account under s. 40.04 (3).

History: 1975 c. 39; 1983 a. 27, 192; 1985 a. 29; 1987 a. 27, 399; 1989 a. 119, 338, 366; 1991 a. 39; 1993 a. 112; 1995 a. 274.

Insert 8-6:

SECTION 2. 40.04 (3) (am)[✓] of the statutes is created to read:

40.04 (3) (am) 1. Beginning on January 1, 2000, there shall be maintained within the fixed retirement investment trust a market recognition account. The department shall establish and administer the market recognition account as recommended by the actuary or actuarial firm retained under s. 40.03 (1) (d)[✓] and as approved by the board.

2. Annually, the total market value investment return earned by the fixed retirement investment trust during the year shall be credited to the market recognition account.

3. Annually, on December 31, the sum of all of the following shall be distributed from the market recognition account to each participating account in the fixed retirement investment trust in the same ratio as each account's average daily balance bears to the total average daily balance of all participating accounts in the trust:

a. The expected amount of investment return in the fixed retirement investment trust during the year based on the assumed rate.

b. An amount equal to 20% of the difference between the total market value investment return earned by the fixed retirement investment trust and the expected amount of investment return of the fixed retirement investment trust during the year ending on December 31 based on the assumed rate.

c. An amount equal to 20% of the sum of the differences between the total market value investment return earned by the fixed retirement investment trust and the expected amount of investment return of the fixed retirement investment trust at the end of the 4 preceding years. For the purpose of making this calculation, the amount in the market recognition account at the end of each year that occurs before ^{the year} 2000 shall be assumed to be zero.

SECTION 3. 40.04 (3) (d) of the statutes is amended to read:

40.04 (3) (d) Notwithstanding par. (a), assets of the fixed retirement investment trust which are authorized to be invested in common or preferred stock may, if authorized by rule, be invested as a part of the variable retirement investment trust with that portion of the annual distributions of net gains or losses to the fixed

retirement investment trust from the variable retirement investment trust as provided in par. (a) which results from transactions or events described in s. 25.17 (14) (f) being credited to the ~~transaction amortization~~ market recognition account and the balance of the distributions being credited to the current income account.

History: 1981 c. 96, 386; 1983 a. 27, 141, 247, 504; 1987 a. 27, 83; 1989 a. 13, 14, 31, 355; 1991 a. 39, 141, 152, 269; 1995 a. 88, 89, 225, 240; 1997 a. 26, 69.

Insert 10-8:

SECTION 4. 40.23 (2m) (em) of the statutes is created to read:

40.23 (2m) (em) 1. For the purpose of determining the applicable percentage rate under par. (e), all of the following shall apply:

a. Any creditable service forfeited by a participating employe before January 1, 2000, and which is subsequently reestablished by the participating employe under s. 40.25 (6), shall be considered to have been performed before January 1, 2000.

b. Any creditable service received under s. 40.25 (7), which is based on service performed before January 1, 2000, shall be considered to have been performed before January 1, 2000.

c. Any creditable military service received under s. 40.02 (15) (c), which is based on creditable service performed before January 1, 2000, shall be considered to have been performed before January 1, 2000.

2. This paragraph shall only apply to ~~any~~ participant who ~~is~~ participating employe on or after January 1, 2000.

Champagne, Rick

From: Burnett, Douglas
Sent: Sunday, September 26, 1999 11:51 PM
To: Champagne, Rick
Cc: Healy, Brett; Smith, Beth; Dennison, Scott; Stella, Dave; Currier, Dawn; Lightbourn, George; Chandler, Rick; Mason, Tony; Dennison, Scott; Montgomery, John
Subject: FW: Drafting meeting on retirement

Sen. Chvala and Speaker Jensen have not yet agreed on a pension bill, but are expected to on Monday. In order to get a bill introduced on Monday, and a hearing scheduled of the JSCRS for Tuesday, we need a bill drafted. So, please jacket a bill for introduction as soon as possible on Monday in the Assembly, and get it to Brett Healy in the Speaker's office which does the following:

Include all provisions from the meeting of last week referenced in the e-mail correspondence below, and:

1. Include Court Commissioners in executive service
2. Increase the multiplier for past service by 0.1
3. Exclude the protectives from the 5% benefit max increase
4. Exclude the SWIB basis point budgeting provisions, instead a compromise on that proposal will be included in the budget conference report;
5. Include the window for legislative buyback of past service (attached).

Also, funds for 75% of the ETF-requested administrative costs will be included in the budget conference report. The entire imaging request will also be included in the budget conference report. ETF will request the balance of the funding through a s. 13.10.

-----Original Message-----

From: Burnett, Douglas
Sent: Friday, September 24, 1999 8:13 AM
To: Champagne, Rick; Caucutt, Dan
Cc: Smith, Beth; Stella, Dave; Currier, Dawn; Lightbourn, George; Chandler, Rick; Mason, Tony; Dennison, Scott; Montgomery, John
Subject: RE: Drafting meeting on retirement

This is my understanding of the outstanding issues which will be discussed by Sen. Chvala, Speaker Jensen, and administration representatives today:

1. Court commissioners move to executive;
2. Size of the multiplier increase for past service;
3. The inclusion or exclusion of protectives on the 5% benefit max increase;
4. The SWIB continuing appropriation/basis point budget;
5. an additional amendment related to a window for pre-WRS legislative employees to buy back service (attached).



Legislative buyback
99-03821.p...

Doug Burnett
Office of Senate Majority Leader Chuck Chvala
608-266-9170

-----Original Message-----

From: Champagne, Rick
Sent: Friday, September 24, 1999 7:49 AM
To: Caucutt, Dan
Cc: Burnett, Douglas; Smith, Beth; Stella, Dave; Currier, Dawn
Subject: RE: Drafting meeting on retirement

Dan --

Looking at my notes, I see that there was one other issue very briefly mentioned at the meeting: Sen. Wirch's proposal regarding including court commissioners as executive participating employees under the WRS. As executive participating employees, the court commissioners would have the 2% multiplier and 62 normal retirement age.

Rick

-----Original Message-----

From: Caucutt, Dan
Sent: Thursday, September 23, 1999 6:01 PM
To: Burnett, Douglas; Smith, Beth
Cc: Stella, Dave; Currier, Dawn; Montgomery, John
Subject: RE: Drafting meeting on retirement

We met today in Sen Wirch's office and discussed components of the pension initiative. The "core package" contains the following elements:

- a. Repeal the 5% money purchase earnings cap
- b. Improve the death benefit
- c. Increase benefit maximums at retirement 5% (but not for protectives)
- d. Raise the prior service multiplier (current administration position is + .175 for a new one of 1.775)
- e. Provide \$200 million in employer savings via a \$647 million TAA transfer
- f. Reintroduce the variable investment option
- g. Index SWIB Spending Authority at ___ basis points
- h. Increase the economic spread assumption .2% from 3.2 to 3.4
- i. Add language allowing ETF to reset UAAL levels to show changes in actuarial assumptions (needed to deliver benefits of spread change in h.)
- j. Implement the Market Recognition Account to replace the TAA

Through discussions the following points of clarification or question were raised:

1. The death benefit change would modify current law to allow survivors of workers under age 55 in WRS to receive both employee and employer contributions, and at age 55 or older, provide the current law special death benefit but change the law to permit "any natural person" to be named a beneficiary. If "any natural person" is problematic, it needs to be ironed out.

2. With the \$200 million in savings for employers, the funds would flow into special credit balance accounts which would be established for each WRS employer by ETF
The \$200 million would then be apportioned to each account based on the employers' payrolls as a percentage of total payroll in WRS. So, if an employer's payroll were 5% of total WRS payroll, they would have 5% of the \$200 million credited to their account. These accounts would then be used by ETF to do either of two things: (a) if an employer had outstanding UAAL, the credit account would pay the scheduled bill that employer would ordinarily have to make to ETF, or (b) if an employer had no UAAL, the credit account would be applied to reduce the employer's normal required contributions payable. There would be complete equity in the receipt of the \$200 million across employers. The UAAL contribution credit would create a surplus in WRS employer budgets which, other things equal, would be available for reallocation to other purposes, including "tax relief" or further UAAL principle reduction. Note: for school districts, this contribution holiday will create "head room" within the QEO formula which would allow the schools to go higher on teacher salaries than would otherwise be the case.

In addition, Dave Stella explained that there was a mechanism that could be put in place to address UAAL after the account credit period. It would reduce and eliminate UAAL as obligations of individual employers and treat it as a liability of the total system. Study only of this mechanism -- how it would work and affect individual employers -- would be ordered in the pension draft, thereby delivering a true element of "pension reform."

3. Reintroducing the variable option would apply to future employee contributions only, i.e., no roll over of lump sums already employee accounts. ETF reports that bringing back the variable will be very expensive administratively. They are attaching a fiscal note of \$527,000 SEG to accommodating this item.
4. Adding language empowering the ETF Board to change UAAL levels stems from its recent experience in

which the Attorney General responded that the Board lacked the authority to flow through what would have been a \$400 million reduction in UAAL due to changes in the spread implemented in 1998. The proposed change in spread in this package should reduce UAAL by up to \$200 million, and ETF would like to be able to get this relief to WRS employers directly.

5. Dave Stella explained that ETF is running into some problems finishing work on the agency's imaging system and on using the best technology with imaging. The situation becomes critical in a month or so and the agency will need to seek Jt. Finance approval under s.13.10 unless the problems can be addressed in the budget bill. Rough numbers: ETF estimates it needs \$300,000 to complete the conversion imaging of current documents via a contract, and \$256,000 to change of optical disk to DASD (direct disk) technology to get faster access to records when answering phones. These would have been issues addressed in the biennial budget had they been known at the time. Additional details are being researched and it may be possible to use master lease financing to reduce annual appropriation increases.

The earlier fiscal note provided by ETF put the SEG impact at about \$2.3 million one time funding in 1999-2001. This would therefore increase to about \$3.3 million with the costs of the variable option plus IT. It is my understanding that the budget would be the vehicle for funding the administrative costs, perhaps in a one-time biennial appropriation.

This is the "core package" as I understand it. If Senator Chvala's Office concurs, they may wish to confirm this to the drafter, or otherwise indicate points of non-concurrence. If anyone would like additional explanation, especially the Fiscal Bureau, please advise.

-----Original Message-----

From: Burnett, Douglas
Sent: Wednesday, September 22, 1999 7:11 PM
To: Smith, Beth
Cc: Stella, Dave; Caucutt, Dan; Lightbourn, George; Chandler, Rick; Champagne, Rick
Subject: Drafting meeting on retirement

Beth-Please set up a meeting as soon as possible with Dan Caucutt, Dave Stella and Rick Champagne to finalize the drafting on the retirement bill. Everything in the administration's core package except for the multiplier increase has been agreed to. We expect resolution on that (major) issue shortly. I faxed you a sheet from DOA which indicates the core package that has been agreed on so far. The technical aspects of the distribution and timing of the TAA roll out can be taken care of Thursday, and then we should just need to plug in the amount of the rollout and the multiplier increase numbers when that is settled.
Thanks!

Champagne, Rick

From: Stella, Dave
Sent: Friday, September 24, 1999 3:31 PM
To: Champagne, Rick
Subject: RE: .

Rick,

Are these changes ok?

Section 1. 40.05 (2) (cm) is created to read:

40.05 (2) (cm) The unfunded prior service liability balance of the Wisconsin retirement system under par. (b) and of each employer that makes contributions under par. (b) may be adjusted to reflect any changes in the assumed rate and the assumption for across-the board salary increases as provided in 40.02 (7) if the actuary recommends and the board approves the changes or if otherwise provided by law.

Do we need to specify how the liability change is computed or can we leave it that it can be adjusted as the actuary recommends. I would prefer to have the actuary recommend the method. Also, the credit balance approach discussed in yesterday's meeting included savings from the spread changes in 3274. Wouldn't that approach be contrary to this language? This language has the balance adjusted while that approach actually creates a credit account with the amount of the adjustment.

Dave

-----Original Message-----

From: Champagne, Rick
Sent: Friday, September 24, 1999 12:24 PM
To: Stella, Dave
Subject:

Dave --

Here is my first crack at some language to give the ETF board the authority to change the UAAL balance based on changes in the actuarial assumptions. Will this language work for ETF?

Section 1. 40.05 (2) (cm) of the statutes is created to read:

40.05 (2) (cm) The unfunded prior service liability balance of the Wisconsin retirement system under par. (b) and of each employer that makes contributions under par. (b) may be adjusted annually to reflect any change in the actuarial assumption for across-the board salary increases that is used for valuing the liabilities of the Wisconsin retirement system if the actuary recommends and the board approves the change or if otherwise provided by law.

If you have time, let me know what you think. I'll be back in the office after 2PM. Thanks

Rick