

## 2001 ASSEMBLY BILL 68

February 1, 2001 – Introduced by Representatives SCHNEIDER, KREUSER, J. LEHMAN, PLOUFF, BOYLE and WILLIAMS, by request of Larry Aschke. Referred to Joint survey committee on Retirement Systems.

1     **AN ACT** *to amend* 40.02 (15) (a) (intro.), 1. to 4. and 6., (b) and (c) (intro.) and 1.  
2             to 3. , 40.02 (17) (intro.), 40.02 (40), 40.02 (48m) (f), 40.05 (2) (b), 40.25 (7) (a)  
3             (intro.), 40.25 (7) (b), 40.30 (3) and 40.71 (1) (c); and *to create* 40.02 (59) and  
4             40.05 (2) (bx) of the statutes; **relating to:** granting creditable service under the  
5             Wisconsin retirement system for service in the federal peace corps or VISTA  
6             public service programs or in any national service program under the federal  
7             National and Community Service Act of 1990.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, a participating employee under the Wisconsin retirement system (WRS) may receive one year of creditable service under WRS for each year of military service, up to a maximum of four years of military service credit, at the time of retirement in either of the following ways:

1. If the participant left employment covered under WRS to enter military service and returned to the same employer within 180 days after being discharged, the participant may receive one year of military service credit for each year of military service (regardless of the amount of the participant's creditable service).

2. If the participant's military service was performed before 1974 and the participant terminates employment covered under WRS on or after March 9, 1984, the participant may receive up to one, two, three, or four years of military service

**ASSEMBLY BILL 68**

credit if the participant has at least five, ten, fifteen, or twenty years, respectively, of creditable service (not counting previously granted military service credit).

This bill provides for similar granting of creditable service under WRS for service in the federal peace corps or VISTA public service programs or in any national service program under the federal National and Community Service Act of 1990.

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.

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

1           **SECTION 1.** 40.02 (15) (a) (intro.), 1. to 4. and 6., (b) and (c) (intro.) and 1. to 3.  
2 of the statutes are amended to read:

3           40.02 (15) (a) (intro.) “Creditable military or volunteer service” means active  
4 service in the U.S. armed forces or volunteer services, based on the total period of  
5 service in the U.S. armed forces or volunteer services, provided:

6           1. The participant enlisted or was ordered or inducted into active service in the  
7 U.S. armed forces or joined the volunteer services;

8           2. The participant left the employment of a participating employer to enter the  
9 U.S. armed forces or the volunteer services;

10          3. The participant returns to the employment of the employer whose  
11 employment the participant left to enter the U.S. armed forces or the volunteer  
12 services within 180 days of release or discharge from the armed forces or resignation  
13 from the volunteer services, or within 180 days of release from hospitalization  
14 because of injury or sickness resulting from service in the armed forces or volunteer  
15 services;

16          4. The period of service in the U.S. armed forces or volunteer services is not  
17 more than 4 years, unless involuntarily extended for a longer period;

**ASSEMBLY BILL 68**

1           6. The participant upon return from service in the U.S. armed forces or  
2 volunteer services furnishes evidence required to establish the participant's rights  
3 under this chapter; and

4           (b) The creditable military or volunteer service under par. (a) shall be the same  
5 type, as set forth in s. 40.23 (2m) (e), as the participant was receiving prior to entry  
6 into the U.S. armed forces or volunteer services.

7           (c) (intro.) Notwithstanding sub. (17) (intro.) and any other law, any person who  
8 is credited with 5, 10, 15 or 20 or more years of creditable service, not counting any  
9 previously granted creditable military or volunteer service, may receive creditable  
10 military or volunteer service at the time of retirement for not more than 1, 2, 3 or 4  
11 years, respectively, of active service which meets the standards under par. (a) 5., if  
12 applicable, provided:

13           1. This paragraph applies only to active military or volunteer service served  
14 prior to January 1, 1974.

15           2. Any creditable military or volunteer service otherwise granted shall be  
16 included in determining the maximum years to be granted under this paragraph.

17           3. Creditable military or volunteer service under this paragraph shall be  
18 allocated at the time of retirement in proportion to the amount of the participant's  
19 creditable service for each of the types of creditable service set forth in s. 40.23 (2m)  
20 (e) on the date the participant attains 5, 10, 15 or 20 years of creditable service.

21           **SECTION 2.** 40.02 (17) (intro.) of the statutes is amended to read:

22           40.02 (17) (intro.) "Creditable service" means the creditable current and prior  
23 service, expressed in years and fractions of a year to the nearest one-hundredth, for  
24 which a participating employee receives or is considered to receive earnings under  
25 sub. (22) (e) or (em) and for which contributions have been made as required by s.

**ASSEMBLY BILL 68**

1 40.05 (1) and (2) and creditable military or volunteer service, service credited under  
2 s. 40.25 (7) and service credited under s. 40.29, expressed in years and fractions of  
3 years to the nearest one-hundredth. How much service in any annual earnings  
4 period is the full-time equivalent of one year of creditable service shall be  
5 determined by rule by the department and the rules may provide for differing  
6 equivalents for different types of employment. Except as provided under pars. (i) and  
7 (k), the amount of creditable service for periods prior to January 1, 1982, shall be the  
8 amount for which the participant was eligible under the applicable laws and rules  
9 in effect prior to January 1, 1982. No more than one year of creditable service shall  
10 be granted for any annual earnings period. Creditable service is determined in the  
11 following manner for the following persons:

12 **SECTION 3.** 40.02 (40) of the statutes is amended to read:

13 40.02 **(40)** “Leave of absence” means any period during which an employee has  
14 ceased to render services for a participating employer and receive earnings and there  
15 has been no formal termination of the employer–employee relationship. For  
16 purposes of the fund every leave of absence, except a military or volunteer service  
17 leave or union service leave, shall terminate 3 years after it begins or, if earlier, upon  
18 the date specified by the employer in a notification to the department that the  
19 employer–employee relationship has terminated. A leave of absence is not deemed  
20 ended or interrupted by reason of resumption of active duty until the employee has  
21 resumed active performance of duty for 30 consecutive calendar days for at least 50%  
22 of what is considered that employee’s normal work time with that employer. For the  
23 purpose of group health insurance coverage, every leave of absence due to employee  
24 layoff which has not been terminated before 3 years have elapsed shall continue for  
25 affected insured employees until an additional 2 years elapse or until sick leave

**ASSEMBLY BILL 68**

1 credits used to pay health insurance premiums are exhausted, whichever occurs  
2 first.

3 **SECTION 4.** 40.02 (48m) (f) of the statutes is amended to read:

4 40.02 **(48m)** (f) The judgment, decree or order requires the participant to  
5 certify, in a form prescribed by the department, all of the participant's active military  
6 or volunteer service, as described in sub. (15) (a).

7 **SECTION 5.** 40.02 (59) of the statutes is created to read:

8 40.02 **(59)** "Volunteer services" means the federal peace corps or VISTA public  
9 service programs or a national service program described in 42 USC 12572 (a).

10 **SECTION 6.** 40.05 (2) (b) of the statutes is amended to read:

11 40.05 **(2)** (b) Contributions shall be made by each participating employer for  
12 unfunded prior service liability in a percentage of the earnings of each participating  
13 employee. A separate percentage rate shall be determined for the employee  
14 occupational categories under s. 40.23 (2m) as of the employer's effective date of  
15 participation. The rates shall be sufficient to amortize as a level percent of payroll  
16 over a period of 40 years from the later of that date or January 1, 1986, the unfunded  
17 prior service liability for the categories of employees of each employer determined  
18 under s. 40.05 (2) (b), 1981 stats., increased to reflect any creditable prior service  
19 granted on or after January 1, 1986, increased to reflect the effect of 1983 Wisconsin  
20 Act 141, increased at the end of each calendar year after January 1, 1986, by interest  
21 at the assumed rate on the unpaid balance at the end of the year and adjusted under  
22 pars. (bu), (bv) ~~and~~, (bw), and (bx).

23 **SECTION 7.** 40.05 (2) (bx) of the statutes is created to read:

24 40.05 **(2)** (bx) The employer contribution rate determined under par. (b) for  
25 participating employees who served in the volunteer services shall be adjusted to

**ASSEMBLY BILL 68**

1 reflect the cost of granting creditable service for those participating employees under  
2 s. 40.02 (15) and that rate shall be sufficient to amortize the unfunded prior service  
3 liability of the employers over the remainder of the 40-year amortization period  
4 under par. (b).

5 **SECTION 8.** 40.25 (7) (a) (intro.) of the statutes is amended to read:

6 40.25 (7) (a) (intro.) Each participating employee whose creditable service  
7 terminates on or after May 1, 1992, and who has performed service, other than  
8 military or volunteer service, as an employee of the federal government or a state or  
9 local governmental entity in the United States, other than a participating employer,  
10 that is located within or outside of this state, or each participating employee whose  
11 creditable service terminates on or after May 4, 1994, and who has performed service  
12 as an employee for an employer who was not at the time a participating employer but  
13 who subsequently became a participating employer, may receive creditable service  
14 for such service if all of the following conditions are met:

15 **SECTION 9.** 40.25 (7) (b) of the statutes is amended to read:

16 40.25 (7) (b) Creditable service granted under par. (a) shall be calculated in an  
17 amount equal to the year and fractions of a year to the nearest one-hundredth of a  
18 year for service other than military or volunteer service performed for the  
19 governmental entity, as determined by evidence of such service furnished under par.

20 (a) 4. Creditable service granted under par. (a) shall be the same type of creditable  
21 service as the type that is granted to participants who are not executive participating  
22 employees, elected officials or protective occupation participants. A participating  
23 employee may apply to receive part or all of the creditable service that he or she is  
24 eligible to receive under par. (a).

25 **SECTION 10.** 40.30 (3) of the statutes is amended to read:

