

## 2003 SENATE BILL 386

January 14, 2004 - Introduced by Senators RISSER, CHVALA, WIRCH, BRESKE and LASSA, cosponsored by Representatives FREESE, BERCEAU, BOYLE, TURNER, BLACK, ALBERS, POCAN, J. LEHMAN, MILLER, SHERMAN, PLOUFF, MUSSER, SINICKI and TAYLOR. Referred to Joint Survey Committee on Retirement Systems.

1     **AN ACT** *to amend* 40.02 (17) (intro.), 40.22 (2) (a), 40.22 (2m) (intro.), 40.22 (2m)  
2           (a), 40.22 (3) (b) and 40.23 (2m) (fm); and *to create* 40.02 (33) (d) of the statutes;  
3           **relating to:** retirement benefits provided to educational support personnel  
4           under the Wisconsin Retirement System.

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

This bill increases Wisconsin Retirement System (WRS) benefits provided to an “educational support personnel employee” who is defined under current law as any school district employee other than a teacher, librarian, or administrator. The bill makes the following changes to the WRS:

1. Under current law, to become covered under the WRS, an individual must work for a covered employer at least one-third of what is considered full-time employment, as determined by the Department of Employee Trust Funds (DETF) by rule. For all WRS participants, other than teachers, librarians, and administrators, DETF defines full-time employment to be 1,904 hours per year and one-third employment to be 600 hours per year. In contrast, for teachers, librarians, and administrators, DETF defines full-time employment to be 1,320 hours per year and one-third employment to be 440 hours per year. This bill requires that educational support personnel employees and teachers, librarians, and administrators must be treated the same in terms of qualifying for coverage under the WRS, with full-time employment for educational support personnel employees set at 1,320 hours per year.

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2. Under current law, the initial amount of a WRS annuity is calculated according to one of two methods. One method consists in determining the initial annuity amount based on the sum of a participant's accumulated additional and employee required contributions plus an amount equal to the participant's accumulated employee required contributions. The other method is to use a retirement formula the variables of which are a participant's years of service, formula multiplier, and final average earnings. The initial annuity amount that a WRS participant may receive is the higher amount, as determined under the two methods.

This bill provides that the final average earnings of an educational support personnel employee are increased by 25 percent for the purpose of determining the initial amount of a WRS retirement annuity under the second method.

3. Under current law, for early retirement purposes under the WRS, a participant, other than a teacher, librarian, or administrator, with at least 0.75 of a year of creditable service in any annual earnings period must be treated as having one year of creditable service for that annual earnings period. To be eligible for the treatment, the participant must have earned only a partial year of creditable service in at least five of the ten annual earnings periods immediately preceding the annual earnings period in which the participant terminated covered employment. This bill reduces the amount that is required for the purpose of calculating what constitutes a year of creditable service from 0.75 to 0.65 of a year of creditable service. The result is that WRS participants need to have worked fewer hours in a year in order to qualify for this treatment for early retirement purposes.

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 (17) (intro.) of the statutes, as affected by 2003 Wisconsin Act  
2 33, is amended to read:

3           40.02 (17) (intro.) "Creditable service" means the creditable current and prior  
4 service, expressed in years and fractions of a year to the nearest one-hundredth, for  
5 which a participating employee receives or is considered to receive earnings under  
6 sub. (22) (e) or (em) and for which contributions have been made as required by s.  
7 40.05 (1) and (2) and creditable military service, service credited under s. 40.285 (2)

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1 (b) and service credited under s. 40.29, expressed in years and fractions of years to  
2 the nearest one-hundredth. How much service in any annual earnings period is the  
3 full-time equivalent of one year of creditable service shall be determined by rule by  
4 the department and the rules may provide for differing equivalents for different  
5 types of employment, except that the full-time equivalent of one year of creditable  
6 service for an educational support personnel employee is 1,320 hours. Except as  
7 provided under s. 40.285 (2) (e) and (f), the amount of creditable service for periods  
8 prior to January 1, 1982, shall be the amount for which the participant was eligible  
9 under the applicable laws and rules in effect prior to January 1, 1982. No more than  
10 one year of creditable service shall be granted for any annual earnings period.  
11 Creditable service is determined in the following manner for the following persons:

12 **SECTION 2.** 40.02 (33) (d) of the statutes is created to read:

13 40.02 (33) (d) For an educational support personnel employee, the amount  
14 calculated under par. (a) multiplied by 1.25.

15 **SECTION 3.** 40.22 (2) (a) of the statutes is amended to read:

16 40.22 (2) (a) Except as provided in sub. (2m), the employee is not expected to  
17 work at least one-third of what is considered full-time employment by the  
18 department, as determined by rule, or, for an educational support personnel  
19 employee, as specified under s. 40.02 (17) (intro.).

20 **SECTION 4.** 40.22 (2m) (intro.) of the statutes is amended to read:

21 40.22 (2m) (intro.) An employee who is not expected to work at least one-third  
22 of what is considered full-time employment by the department, as determined by  
23 rule, or, for an educational support personnel employee, as specified under s. 40.02  
24 (17) (intro.), and who is not otherwise excluded under sub. (2) from becoming a  
25 participating employee shall become a participating employee if he or she is

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1 subsequently employed by the state agency or other participating employer for either  
2 of the following periods:

3 **SECTION 5.** 40.22 (2m) (a) of the statutes is amended to read:

4 40.22 **(2m)** (a) At least one year for at least one-third of what is considered  
5 full-time employment by the department, as determined by rule, or, for an  
6 educational support personnel employee, as specified under s. 40.02 (17) (intro.).

7 **SECTION 6.** 40.22 (3) (b) of the statutes is amended to read:

8 40.22 **(3)** (b) The first day after completion of one year of employment for at  
9 least one-third of what is considered full-time employment by the department, as  
10 determined by rule, or, for an educational support personnel employee, as specified  
11 under s. 40.02 (17) (intro.), if the person becomes a participating employee under sub.  
12 (2m) after the employer's effective date of participation.

13 **SECTION 7.** 40.23 (2m) (fm) of the statutes is amended to read:

14 40.23 **(2m)** (fm) Notwithstanding s. 40.02 (17) (intro.), for purposes of  
15 determining creditable service under par. (f) 2., participants with at least ~~0.75~~ 0.65  
16 of a year of creditable service in any annual earnings period shall be treated as  
17 having one year of creditable service for that annual earnings period. To be eligible  
18 for the treatment provided by this paragraph, the participant must have earned only  
19 a partial year of creditable service in at least 5 of the 10 annual earnings periods  
20 immediately preceding the annual earnings period in which the participant  
21 terminated covered employment, and the participant must notify the department of  
22 the applicability of this paragraph to the participant's service. The participant is not  
23 eligible for the treatment provided by this paragraph if such notification is provided  
24 by the participant later than 60 days after the participant's annuity effective date.

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1 This paragraph does not apply to service credited under s. 40.02 (15) or to creditable  
2 service as a teacher.

3 **SECTION 8. Initial applicability.**

4 (1) This act first applies to the calculation of benefits provided to participants  
5 in the Wisconsin Retirement System who are participating employees in the  
6 Wisconsin Retirement System on the effective date of this subsection.

7 (END)