

2003 DRAFTING REQUEST

Bill

Received: **11/25/2002**

Received By: **rchampag**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Kranz**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - miscellaneous**
Employ Pub - retirement

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Kranz - BB0230,

Topic:

Permissive service credits 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>
/?				_____			S&L Retire
/1	rchampag 12/06/2002	kgilfoy 12/06/2002	pgreensl 12/09/2002	_____	lemery 12/09/2002		S&L Retire
/2	rchampag	kgilfoy	rschluet	_____	sbasford		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	01/27/2003	01/27/2003	01/28/2003	_____	01/28/2003		

FE Sent For:

<END>

2003 DRAFTING REQUEST

Bill

Received: 11/25/2002

Received By: rchampag

Wanted: As time permits

Identical to LRB:

For: Administration-Budget

By/Representing: Kranz

This file may be shown to any legislator: NO

Drafter: rchampag

May Contact:

Addl. Drafters:

Subject: Employ Pub - miscellaneous
Employ Pub - retirement

Extra Copies:

Submit via email: YES

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Kranz - BB0230,

Topic:

Permissive service credits 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>
/?							S&L Retire
/1	rchampag 12/06/2002	kgilfoy 12/06/2002	pgreensl 12/09/2002		lemery 12/09/2002		

12-1/27
KMG

pb
1-27-3

FE Sent For:

<END>

2003 DRAFTING REQUEST

Bill

Received: 11/25/2002

Received By: **rchampag**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Kranz**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - miscellaneous
Employ Pub - retirement**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Kranz - BB0230,

Topic:

Permissive service credits 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>
FE Sent For:		11-12/6 kmg	12/9 py	12/9 <END> p818			

Statutory Language Request

Date: 11/22/02
Topic: Permissive Service Credit Purchases
SBO Team: OPS
Analyst: Kranz
Agency: ETF
Agency #: 515

BB0230

Request attached.

**Department of Employee Trust Funds Drafting Request
to the Legislative Reference Bureau**

Draft for Possible 03-05 Budget Bill Introduction

Draft for Possible Introduction as Department-sponsored or Independent Bill

Subject: Permissive Service Credit Purchases

Request Date: Placeholder – Submission Submitted Soon

Reviewed by: Pam Henning

Contact Name in Agency for Drafter (phone no): Pam Henning (267-2929)

Brief Description of Intent:

The 2001 Economic Growth and Tax Relief Reconciliation Act (EGTRRA) included a provision to permit participants of a governmental qualified defined benefit plan [under IRC Section 401(a)] to purchase creditable service that they are otherwise eligible to buy, with tax-deferred dollars that they have accumulated in a Section 403(b) or Section 457 plan. Amendments to certain statutes in Chapter 40 are needed to enable the Department of Employee Trust Funds to implement this new flexibility in the Wisconsin Retirement System.

Changes are needed to identify the eligible plan types that may transfer assets to the WRS for the purchase of permissive service credits. In addition to Section 403(b) and 457 plans, Section 401(k) plan assets may also be used under federal tax laws.

Statutory amendments are also necessary to modify the procedures for calculating and accepting payment for purchasing forfeited service. Current statutes set forth a process that requires payment to be submitted with the participant's application for service purchase. If tax-deferred assets are to be used, different requirements are needed to allow payment to be made by plan to plan transfer of assets after application has been made to buy the service credits. Additionally, currently the calculation of cost of the service purchase is based on an estimate of current year earnings. Adjustments to the cost are often made during the final audit of the service purchase. This procedure will need to be adjusted to calculate a final cost of the service at the time of the application to identify the absolute dollar amount that must be transferred from the eligible plan.

Related Stat. Citations



Additional material(s) are attached if checked

New "Purchase of Creditable Service" Statute

Showing both new language and amendments to present law.

§40.285 Purchase of creditable service.

(1) IN GENERAL.

(a) An application to purchase creditable service must be on a form approved by the department and may not be accepted unless received by the department before the applicant ceases to be a participating employee.

(b) Creditable service granted under this section shall be calculated in an amount equal to the year and fractions of a year to the nearest one-hundredth of a year.

(c) Credit for service purchased under this section is added to a participant's total creditable service but may not be treated as service for a particular annual earnings period.

(d) All aspects of the crediting of any service under this section is subject to any applicable limits and requirements under ~~section 415~~ of the internal revenue code.

(2) TYPES OF SERVICE SUBJECT TO PURCHASE OF CREDIT; AMOUNTS DUE.

Creditable service under the Wisconsin retirement system may be purchased subject to the conditions and requirements of this section, for the following types of service:

(a) *Forfeited service.*¹ A participating employee may reestablish purchase creditable service forfeited, subject to the following ~~conditions and requirements:~~

¹ Title added; text as renumbered from Wis. Stat. § 40.25 (6), then amended.

1. The participating employee must have at least 3 continuous years of creditable service under the fund at the time of application ~~or~~ ~~the~~ ~~reestablishment~~ ~~purchase~~ of creditable service under this subsection paragraph.

2. Applications for ~~reestablishment of creditable service must include all creditable service that has been forfeited except that the~~ The number of years which may be reestablished purchased by an application under this subsection paragraph may not be greater than the accumulated current creditable service of the participating employee at the date of application excluding all creditable service purchased under this section or ss. 40.02 (17) (b), (e), (i), and (k) and 40.25 (6) and (7), 2001 stats., and minus a number of years of creditable service equal to the years of creditable service previously purchased under this paragraph or s. 40.25 (6), 2001 stats., or 10 years, whichever is smaller.

3. The participating employee applying for forfeited creditable service under this subsection shall pay to the fund an amount equal to the employee's statutory contribution on earnings under s. 40.05(1)(a) for each year of forfeited service to be ~~reestablished~~ purchased, based upon the participating employee's final average earnings, determined as if the employee retired on the first day of the annual earnings period during which date the department receives the application ~~except as otherwise provided by the department.~~

3g. The amount payable under this subdivision shall be paid in a lump sum payment, except that the department may, by rule, permit a participating employee to reestablish creditable service by making payments over a period of more than one year as provided in sub. (4) (b).

3r. No employer may pay any amount payable under this subdivision on behalf of any participating employee.

4. Upon receipt by the fund of the total payment required under subd. 3, the creditable service meeting the conditions and requirements of this subsection shall be ~~reestablished~~ credited to the account of the participating employee making the payment.

~~(b)5.~~ Creditable service may be ~~reestablished~~ purchased under this subsection if it was:

~~4.a.~~ Forfeited because of payment of an amount under s.40.25(2) ~~sub. (2)~~;
or

~~b. 2.~~ Forfeited because of receipt of a separation or withdrawal benefit under the applicable laws and rules in effect prior to January 1, 1982.

~~c.~~ Forfeited because of payment of an amount under former s. 40.25 (2m) as in effect between May 16, 1989, and April 24, 1998.

6. A participating employee may purchase service under this paragraph no more than two times in one calendar year unless otherwise provided by the department by rule.

(b) Other governmental service.² Each participating employee whose creditable service terminates on or after May 1, 1992, and who has performed service, other than military service, as an employee of the federal government or a state or local governmental entity in the United States, other than a participating employer, that is located within or outside of this state, or each participating employee whose creditable service terminates on or after May 4,

1994, and who has performed service as an employee for an employer who was not at the time a participating employer but who subsequently became a participating employer, may receive creditable service for such service if ~~all of the following conditions are met:~~

1. The participant files an application to receive creditable service under this paragraph before termination of employment as a participating employee.

2. The participant has at least 3 continuous years of creditable service under the fund at the time of application under subd. 1.

3. The number of years of creditable service applied for under this paragraph does not exceed the number of years of creditable service that the participant has at the date of application ~~or 10 years, whichever is less~~ excluding all creditable service purchased under this section or ss. 40.02 (17) (b), (e), (i), and (k) and 40.25 (6) and (7), 2001 stats., and minus a number of years of creditable service equal to the years of creditable service previously purchased under this paragraph or s. 40.25 (7), 2001 stats.

4. At the time of application under subd. 1, the participant furnishes evidence of such service which is acceptable to the department.

5. ~~At~~ Except as otherwise provided in sub. (4) (b), at the time of application under subd. 1, the participant pays to the department a lump sum equal to the present value of the creditable service applied for under this paragraph, in accordance with rates actuarially determined to be sufficient to fund the cost of the increased benefits that will result from granting the creditable service under

NOT
needed

² Title added; text as renumbered from Wis. Stat. § 40.25 (7), then amended.

this paragraph. The department shall by rule establish different rates for different categories of participants, based on factors recommended by the actuary.

~~(b)6. Creditable service granted under par. (a) shall be calculated in an amount equal to the year and fractions of a year to the nearest one-hundredth of a year for service other than military service performed for the governmental entity, as determined by evidence of such service furnished under par. (a)4. Creditable service granted under par. (a) this paragraph shall be the same type of creditable service as the type that is granted to participants who are not executive participating employees, elected officials or protective occupation participants.~~

7. A participating employee may apply to receive part or all of the creditable service that he or she is eligible to receive under par. (a) this paragraph.

~~(c) If a participant applies to receive creditable service under par. (a) and the department denies the participant creditable service, the department shall refund the participant's lump sum payment made under par. (a)5.~~

~~(d) The lump sum payment under par. (a)5 shall be credited and treated as an employee required contribution for all purposes of the retirement system, except for purposes of s. 40.23(3).~~

~~(e) A participant may transfer available employee additional contribution accumulations to the employee required contribution account under par. (d) as payment of the lump sum under par. (a)5.~~

~~(f)8.~~ A participant may not receive creditable service under ~~par. (a)~~this paragraph for service that is used for the purpose of establishing entitlement to, or the amount of, any other benefit to be paid by any federal, state or local government entity, except a disability or OASDHI benefit or a benefit paid for service in the national guard.

~~(g) The crediting of any service under this subsection is subject to any applicable requirements under section 415 of the Internal Revenue Code.~~

10. A participating employee may purchase service under this paragraph no more than two times in one calendar year unless otherwise provided by the department by rule.

(c) *Uncredited elected official or executive participating employee service.*³

Each executive participating employee whose creditable service terminates on or after May 3, 1988, and each participating employee who is a present or former elected official or an appointee of a present or former elected official and who did not receive creditable service under s. 40.02(17)(e), 1987 stats., or s. 40.02(17)(e), 1989 stats., and whose creditable service terminates on or after August 15, 1991, who was previously in the position of the president of the university of Wisconsin system or in a position designated under s. 20.923(4), (8) or (9), but did not receive creditable service because of age restrictions, may receive creditable service equal to the period of executive service not credited if the participant pays to the department a lump sum payment equal to 5.5% of one-twelfth of the employee's highest earnings in a single annual earnings period multiplied by the number of months of creditable service granted under this

paragraph. ~~That amount shall be credited and treated as an employee required contribution for all purposes of the Wisconsin retirement system.~~

(d) Qualifying service.⁴ Each participating employee in the Wisconsin retirement system whose creditable service terminates on or after January 1, 1982, who was previously a participant in the Wisconsin retirement fund and who has not received a separation benefit may receive creditable service equal to the period of service during any qualifying period under s. 41.02(6)(c), 1969 stats., s. 66.901(4)(d), 1967 stats., or under any predecessor statute, but not to exceed 6 months. The additional creditable service shall be granted upon application by the employee if the applicant pays to the department a lump sum payment equal to 5% of one-twelfth of the employee's highest earnings in a single annual earnings period multiplied by the number of months of creditable service granted under this paragraph. ~~That amount shall be credited and treated as an employee required contribution for all purposes of the Wisconsin retirement system.~~

(e) Teacher improvement leave.⁵ Each participating employee in the Wisconsin retirement system whose creditable service terminates on or after April 25, 1990, and whose earnings include compensation for teacher improvement leave granted by the board of regents of Wisconsin state colleges during the period beginning on January 1, 1964, and ending on August 31, 1967, in a written and satisfied contract, may receive creditable service for the period for which those earnings were received in an amount not to exceed one year if all of the following apply:

³ Title added; text as renumbered from Wis. Stat. § 40.02 (17) (e), then amended.

⁴ Title added; text as renumbered from Wis. Stat. § 40.02 (17) (b), then amended.

1. The participant meets the requirements of this paragraph and submits an application to the board of regents of the university of Wisconsin system.

2. The board of regents of the university of Wisconsin system certifies the creditable service requested under subd. 1.

3. The participant pays to the department a lump sum equal to 5% of one-twelfth of the employee's highest earnings in a single annual earnings period multiplied by the number of months of creditable service that is granted under this paragraph. ~~That amount shall be credited and treated as employee required contributions for all purposes of the Wisconsin retirement system.~~

4. No employer may pay any amount payable under this ~~subdivision~~paragraph on behalf of any participating employee.

(f) Uncredited junior teaching service.⁶ Each participating employee whose creditable service terminates on or after May 11, 1990, and who submits to the department proof that the participant performed service in this state as a junior teacher, as defined in s. 42.20(6), 1955 stats., that was not credited under s. 42.40, 1955 stats., shall receive creditable service for the period for which that service was performed, even if the participant did not become a member of the state teachers retirement system after performing that service, if:

1. ~~the~~The participant pays to the department a lump sum equal to 5% of one-twelfth of the employee's highest earnings in a single annual earnings period multiplied by the number of months of creditable service that is granted under

⁵ Title added; text as renumbered from Wis. Stat. § 40.02 (17) (i), then amended.

⁶ Title added; text as renumbered from Wis. Stat. § 40.02 (17) (k), then amended.

this paragraph. That amount shall be credited and treated as employee required contributions for all purposes of the Wisconsin retirement system.

2. No employer may pay any amount payable under this paragraph on behalf of any participating employee.

(3) APPLICATION PROCESS.

(a) Department preparation of forms. Upon request from a participating employee, the department shall ~~prepare provide~~ an application form ~~including~~ ~~that includes a written an~~ estimate of the cost of purchasing the service identified by the participating employee.

(b) Certification of plan to plan transfers. Upon request from a participating employee, the department shall provide a transfer certification form ~~as needed~~ for payments made by a plan ~~to~~ plan transfer as provided in sub. (5) (b). ~~The participating employee must submit a~~ separate transfer certification form ~~must be submitted~~ to the department ~~by the participating employee~~ for each plan from which funds will be transferred for the purpose of purchasing creditable service under this paragraph.

[Yet to be determined]

(4) PAYMENT. (a) Required with application. Except as provided in par. (b) the department may not accept an application under this section which is not accompanied by full payment of the amount shown on the department estimate for the purchase of creditable service.

1. The participant may use his or her accumulated after-tax additional contributions made under s. 40.05 (1) (a) 5., including interest, to make payment.

2. The participant may use his or her accumulated contributions, including interest, treated by the department as contributions to a tax sheltered annuity under section 403(b) of the internal revenue code, to make payment, if the participating employee's section 403(b) plan authorizes the transfer.

(b) Other payment options. Notwithstanding par. (a), The department may accept an application under this section if payment of at least 10% of the cost stated on the department estimate is included with the application, in the same manner as authorized under par. (a), and the remainder of the estimated cost is received by the department no later than within 90 days after receipt of the application, in the form of a ~~plan-to-plan~~ transfer under sub. (5) (b).

(c) Final cost calculation and additional payment. The department may audit the transaction and make necessary corrections to the estimated cost to reflect the amount due under sub. (2). Except as otherwise provided in sub. (7), if the final amount due to purchase the creditable service for which the participant

is qualified is more than the amount received, the department shall notify the participant of the amount of the shortfall and allow the participant 30 calendar days to pay the remaining cost. If payment is not received within 30 calendar days after the date on which the department sends notice of the shortfall, the department shall complete the creditable service purchase by prorating the amount of service credited based on the payment amount actually received. The department, by rule, shall specify how a forfeited service purchase shall be prorated when the participant forfeited service under more than one category of employment under s. 40.23 (2m) (e) 1. to 4. The department shall then notify the participant of the amount and category of service credited.

(d) Amounts received and retained by the department for the purchase of service under sub. (2) shall be credited and treated as employee required contributions for all purposes of the Wisconsin retirement system, except that amounts received for the purchase of service under sub. (2) (b), may not be included in any of the following:

1. The participant's required contributions to be equaled by an amount from the employer accumulation reserve purposes of s. 40.23 (3)

2. The employee required contribution accumulations doubled under s. 40.73 (1) (am).

(5) TRANSFER OF FUNDS; PLAN TO PLAN TRANSFERS.

(a) ⁷ Transfer from specified benefit plans under this chapter. Subject to any applicable limitations under the internal revenue code, a participating

⁷ Text is from Wis. Stat. § 40.05 (1) (a) 7., renumbered and amended.

employee may elect to use part or all of his or her any of the following to purchase creditable service under this section:

1. ~~accumulated~~ Accumulated after-tax additional contributions, including interest, made under subd.s. 40.05 (1) (a) 5.

2. ~~other than~~ Accumulated contributions treated by the department as contributions to a tax sheltered annuity under section 403(b) of the internal revenue code, to purchase creditable service under this chapter provided the employer sponsoring the section 403(b) plan authorizes the transfer.

(b). Other plan to plan transfers. The department may also accept a plan to plan transfer from any of the following:

1. Accumulated contributions under a state deferred compensation plan under subch. VII.

2. The trustee of any other plan qualified under section 401(a), 401(k), 403(b) or 457 of the internal revenue code to purchase creditable service under this section.

(c) Payment shortfall. If the amount received from the participant, together with timely plan to plan transfers received by the department is less than the payment required under sub. (2) for the purchase of the creditable service for which the participant qualified, the department shall proceed under sub. (4) (c).

(6) REFUNDS. Except as provided in sub. (7), if the total amount received by the department exceeds the amount specified in sub. (2) for the purchase of the creditable service for which the participant qualifies, the department shall refund the difference. The department shall pay any refund to the participant, up

to the amount received from the participant. Any remaining amount shall be returned to the the applicable account in the trust fund for transfers under sub. (5) (a) 1., 2., or 3. or to the trustee of a plan which was the source of a plan to plan transfer under sub. (5) (b) for the purpose of purchasing the service. When more than one plan to plan transfer occurred, the department may determine which transfer to refund, in whole or part. Under no circumstance may funds transferred to the department by a plan to plan transfer be paid to the participant.

(7) LIMIT ON CORRECTIONS. No payment due under sub. (4) (c) may be required and no refund due under sub. (6) may be paid if the amount is \$25 or less.



Sean

DOA:.....Kranz – BB0230, Permissive service credits under the Wisconsin Retirement System

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

1

^{DON'T GEN. CAT.}
AN ACT ... relating to: the budget.

Analysis by the Legislative Reference Bureau
RETIREMENT AND GROUP INSURANCE

Currently, participants in the Wisconsin Retirement System (WRS) may purchase creditable service under the WRS that was previously forfeited. Generally, for each year of forfeited service to be purchased, the participant must pay an amount equal to the employee's required contributions, based upon the employee's final average earnings, determined as if the employee retired on the date DETF receives an application to purchase the service. Also, the employee must purchase all of his or her forfeited service at the same time.

In addition, under current law, a participating employee may purchase creditable service under the WRS for service performed as an employee of another governmental unit that is not a participating employer under the WRS. To purchase this service, the employee must pay an amount equal to the present value of the creditable service, determined in accordance with rates actuarially sufficient to fund the cost of the increased benefits that will result from granting the creditable service.

Currently, participating employees may also use any additional accumulated contributions to purchase creditable service for forfeited service and other governmental service. This bill provides for additional ways to purchase creditable service for forfeited service and other governmental service. Under the bill, participating employees may transfer moneys to the employee trust fund to purchase

on which
had

creditable service for forfeited service and other governmental service from tax sheltered annuity plans, such as those currently offered to state employees who work at the UW System; governmental deferred compensation plans, such as those currently offered to all state employees by the deferred compensation board; and deferred compensation plans offered in the private sector, which plans are commonly known as 401 (k) plans.

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:

SECTION 1. 40.02 (17) (intro.) of the statutes is amended to read:

40.02 (17) (intro.) "Creditable service" means the creditable current and prior service, expressed in years and fractions of a year to the nearest one-hundredth, for which a participating employee receives or is considered to receive earnings under sub. (22) (e) or (em) and for which contributions have been made as required by s. 40.05 (1) and (2) and creditable military service, service credited under s. 40.25 (7) 40.285 (2) (b) and service credited under s. 40.29, expressed in years and fractions of years to the nearest one-hundredth. How much service in any annual earnings period is the full-time equivalent of one year of creditable service shall be determined by rule by the department and the rules may provide for differing equivalents for different types of employment. Except as provided under pars. (i) and (k) s. 40.285 (2) (e) and (f), the amount of creditable service for periods prior to January 1, 1982, shall be the amount for which the participant was eligible under the applicable laws and rules in effect prior to January 1, 1982. No more than one year of creditable service shall be granted for any annual earnings period. Creditable service is determined in the following manner for the following persons:

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; 1999 a. 9, 11, 42, 63, 65, 83; 2001 a. 16, 38, 103, 104, 109.

1 **SECTION 2.** 40.02 (17) (b) of the statutes is renumbered 40.285 (2) (d) and
2 amended to read:

3 40.285 (2) (d) Qualifying service. Each participating employee in the Wisconsin
4 retirement system whose creditable service terminates on or after January 1, 1982,
5 who was previously a participant in the Wisconsin retirement fund and who has not
6 received a separation benefit may receive creditable service equal to the period of
7 service during any qualifying period under s. 41.02 (6) (c), 1969 stats., s. 66.901 (4)
8 (d), 1967 stats., or under any predecessor statute, but not to exceed 6 months. The
9 additional creditable service shall be granted upon application by the employee if the
10 applicant pays to the department a lump sum payment equal to 5% of one-twelfth
11 of the employee's highest earnings in a single annual earnings period multiplied by
12 the number of months of creditable service granted under this paragraph. ~~That~~
13 ~~amount shall be credited and treated as an employee required contribution for all~~
14 ~~purposes of the Wisconsin retirement system.~~

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; 1999 a. 9, 11, 42, 63, 65, 83; 2001 a. 16, 38, 103, 104, 109.

15 **SECTION 3.** 40.02 (17) (e) of the statutes is renumbered 40.285 (2) (c) and
16 amended to read:

17 40.285 (2) (c) Uncredited elected official and executive participating employee
18 service. Each executive participating employee whose creditable service terminates
19 on or after May 3, 1988, and each participating employee who is a present or former
20 elected official or an appointee of a present or former elected official and who did not
21 receive creditable service under s. 40.02 (17) (e), 1987 stats., or s. 40.02 (17) (e), 1989
22 stats., and whose creditable service terminates on or after August 15, 1991, who was

1 previously in the position of the president of the University of Wisconsin System or
 2 in a position designated under s. 20.923 (4), (8), or (9), but did not receive creditable
 3 service because of age restrictions, may receive creditable service equal to the period
 4 of executive service not credited if the participant pays to the department a lump sum
 5 payment equal to 5.5% of one-twelfth of the employee's highest earnings in a single
 6 annual earnings period multiplied by the number of months of creditable service
 7 granted under this paragraph. ~~That amount shall be credited and treated as an~~
 8 ~~employee required contribution for all purposes of the Wisconsin retirement system.~~

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; 1999 a. 9, 11, 42, 63, 65, 83; 2001 a. 16, 38, 103, 104, 109.

9 SECTION 4. 40.02 (17) (i) of the statutes is renumbered 40.285 (2) (e)^v and 40.285

10 (2) (e) (intro.) and 3., as renumbered, ^{are} amended to read:

11 40.285 (2) (e) Teacher improvement leave. ^(intro.) Each participating employee in the
 12 Wisconsin retirement system whose creditable service terminates on or after April
 13 25, 1990, and whose earnings include compensation for teacher improvement leave
 14 granted by the board of regents of the Wisconsin state colleges State Colleges during
 15 the period beginning on January 1, 1964, and ending on August 31, 1967, in a written
 16 and satisfied contract, may receive creditable service for the period for which those
 17 earnings were received in an amount not to exceed one year if all of the following
 18 apply:

19 3. The participant pays to the department a lump sum equal to 5% of
 20 one-twelfth of the employee's highest earnings in a single annual earnings period
 21 multiplied by the number of months of creditable service that is granted under this
 22 paragraph. ~~That amount shall be credited and treated as employee required~~
 23 ~~contributions for all purposes of the Wisconsin retirement system. No~~

1 **4. The employer may does not** pay any amount payable under this subdivision
2 **paragraph** on behalf of any participating employee.

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; 1999 a. 9, 11, 42, 63, 65, 83; 2001 a. 16, 38, 103, 104, 109.

3 **SECTION 5.** 40.02 (17) (k) of the statutes is renumbered 40.285 (2) (f) and
4 amended to read:

5 40.285 (2) (f) Uncredited junior teaching service. Each participating employee
6 whose creditable service terminates on or after May 11, 1990, and who submits to the
7 department proof that the participant performed service in this state as a junior
8 teacher, as defined in s. 42.20 (6), 1955 stats., that was not credited under s. 42.40,
9 1955 stats., shall receive creditable service for the period for which that service was
10 performed, even if the participant did not become a member of the state teachers
11 retirement system after performing that service, if all of the following occur:

12 1. The participant pays to the department a lump sum equal to 5% of
13 one-twelfth of the employee's highest earnings in a single annual earnings period
14 multiplied by the number of months of creditable service that is granted under this
15 paragraph. ~~That amount shall be credited and treated as employee required~~
16 ~~contributions for all purposes of the Wisconsin retirement system. No~~

17 2. The employer may does not pay any amount payable under this paragraph
18 on behalf of any participating employee.

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; 1999 a. 9, 11, 42, 63, 65, 83; 2001 a. 16, 38, 103, 104, 109.

19 **SECTION 6.** 40.05 (1) (a) 7. of the statutes is repealed.

20 **SECTION 7.** 40.05 (2) (bw) of the statutes is amended to read:

21 40.05 (2) (bw) The employer contribution rate determined under par. (b) for the
22 University of Wisconsin System shall be adjusted to reflect the cost of granting

1 creditable service under s. ~~40.02 (17) (i)~~ 40.285 (2) (e) and that rate shall be sufficient
2 to amortize the unfunded prior service liability of the employers over the remainder
3 of the 40-year amortization period under par. (b).

History: 1981 c. 96, 274, 278, 386; 1983 a. 9 s. 6; 1983 a. 27, 30; 1983 a. 46 ss. 2 to 4, 7; 1983 a. 140; 1983 a. 141 ss. 7 to 12, 20; 1983 a. 290, 504, 538; 1985 a. 29, 119, 135, 225; 1987 a. 27, 83, 107, 309, 356, 363; 1987 a. 403 s. 256; 1989 a. 13, 14, 31, 119, 122, 166, 182, 189, 230, 336, 355, 359; 1991 a. 32, 39, 107, 113, 141, 152, 189, 269; 1995 a. 27, 81, 88, 89, 240, 302; 1997 a. 35, 58, 149; 1999 a. 9, 11, 13, 104; 2001 a. 16.

4 **SECTION 8.** 40.05 (2) (g) 1. of the statutes is amended to read:

5 40.05 (2) (g) 1. A participating employer may make contributions as provided
6 in its compensation agreements for any participating employee in addition to the
7 employer contributions required by this subsection. The additional employer
8 contributions made under this paragraph shall be available for all benefit purposes
9 and shall be administered and invested on the same basis as employee additional
10 contributions made under sub. (1) (a) 5., except that ss. 40.24 (1) (f) and, 40.25 (4),
11 and ~~(6) (a) 3.~~ 40.285 (2) (a) 1. c. do not apply to additional employer contributions
12 made under this paragraph.

History: 1981 c. 96, 274, 278, 386; 1983 a. 9 s. 6; 1983 a. 27, 30; 1983 a. 46 ss. 2 to 4, 7; 1983 a. 140; 1983 a. 141 ss. 7 to 12, 20; 1983 a. 290, 504, 538; 1985 a. 29, 119, 135, 225; 1987 a. 27, 83, 107, 309, 356, 363; 1987 a. 403 s. 256; 1989 a. 13, 14, 31, 119, 122, 166, 182, 189, 230, 336, 355, 359; 1991 a. 32, 39, 107, 113, 141, 152, 189, 269; 1995 a. 27, 81, 88, 89, 240, 302; 1997 a. 35, 58, 149; 1999 a. 9, 11, 13, 104; 2001 a. 16.

13 **SECTION 9.** 40.23 (2m) (em) 1. a. of the statutes is amended to read:

14 40.23 (2m) (em) 1. a. Any creditable service forfeited by a participating
15 employee before January 1, 2000, and which is subsequently reestablished by the
16 participating employee under s. ~~40.25 (6)~~ 40.285 (2) (a), shall be considered to have
17 been performed before January 1, 2000.

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; 1999 a. 11.

18 **SECTION 10.** 40.23 (2m) (em) 1. b. of the statutes is amended to read:

19 40.23 (2m) (em) 1. b. Any creditable service received under s. ~~40.25 (7)~~ 40.285
20 (2) (b), which is based on service performed before January 1, 2000, shall be
21 considered to have been performed before January 1, 2000.

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; 1999 a. 11.

22 **SECTION 11.** 40.25 (3) of the statutes is amended to read:

1 40.25 (3) Upon administrative approval of payment of an amount under either
2 sub. (1) or (2), the participant's account shall be closed and there shall be no further
3 right, interest or claim on the part of the former participant to any benefit from the
4 Wisconsin retirement system except as provided by subs. sub. (5) and ~~(6)~~ s. 40.285
5 (2)(a). Any former participant who is subsequently employed by any participating
6 employer shall be treated as a new participating employee for all purposes of this
7 chapter. New accumulations of contributions and credits and the computation of any
8 future benefits shall bear no relationship to any accumulations and credits paid as
9 single sums under sub. (1) or (2).

10 History: 1981 c. 96, 201; 1981 c. 386 ss. 14 to 16, 19; 1983 a. 290; 1989 a. 13, 166; 1991 a. 152, 269; 1993 a. 229, 360, 426; 1995 a. 302; 1997 a. 69, 173, 237; 1999 a. 32.

11 **SECTION 12.** 40.25 (6) of the statutes is repealed.

12 **SECTION 13.** 40.25 (7) of the statutes is repealed.

13 **SECTION 14.** 40.285 of the statutes is created to read:

14 **40.285 Purchase of creditable service. (1) GENERAL REQUIREMENTS. (a)**
15 *Deadline for purchase of creditable service.* An application to purchase creditable
16 service must be received by the department, on a form provided by the department,
17 before the applicant terminates covered employment.

18 (b) *Calculation of creditable service.* Creditable service purchased under this
19 section shall be calculated in an amount equal to the year and fractions of a year to
20 the nearest one-hundredth of a year.

21 (c) *Use of creditable service.* Credit for service purchased under this section is
22 added to a participant's total creditable service, but may not be treated as service for
 a particular annual earnings period.

1 (d) *Applicability of Internal Revenue Code.* The crediting of service under this
2 section is subject to any applicable limit or requirement under the Internal Revenue
3 Code.

4 (2) CONDITIONS FOR THE PURCHASE OF DIFFERENT TYPES OF CREDITABLE SERVICE. (a)
5 *Forfeited service.* 1. A participating employee may purchase creditable service
6 forfeited in the manner specified in subd. 2., subject to all of the following:

7 a. The participating employee must have at least 3 continuous years of
8 creditable service at the time of application to purchase the creditable service.

9 b. The number of years that may be purchased may not be greater than the
10 accumulated current creditable service of the participating employee at the date of
11 application, excluding all creditable service purchased under this section or ^{s.} 40.02
12 (17) (b), (e), (i), and (k), 2001 stats., ^{s.} 40.25 (6), 2001 stats., and ^{s.} 40.25 (7), 2001 stats., less
13 the number of years of creditable service previously purchased under this paragraph
14 or s. 40.25 (6), 2001 stats.

15 c. The participating employee pays to the fund an amount equal to the
16 employee's statutory contribution on earnings under s. 40.05 (1) (a) for each year of
17 forfeited service to be purchased, based upon the participating employee's final
18 average earnings, determined as if the employee ^{had} retired on the first day of the annual
19 earnings period during which the department receives the application. The amount
20 payable shall be paid in a lump sum payment, except as provided in sub. (4) (b), and
21 no employer may pay any amount payable on behalf of a participating employee.

22 d. Upon receipt by the fund of the total payment required under this
23 subdivision, the creditable service meeting the conditions and requirements of this
24 paragraph shall be credited to the account of the participating employee making the
25 payment.

1 2. Creditable service may be purchased under this paragraph if it was forfeited
2 as a result of any of the following:

3 a. Payment of an amount under s. 40.25 (2)✓.

4 b. The receipt of a separation or withdrawal benefit under the applicable laws
5 and rules in effect prior to January 1, 1982.

6 c. Payment of an amount under s. 40.25 (2m), 1997 stats., during the period
7 that begins on May 16, 1989, and ends on April 24, 1998.

8 3. Unless otherwise provided by the department by rule, a participating
9 employee may not purchase creditable service under this paragraph more than 2
10 times in any calendar year.

11 (b) *Other governmental service.* 1. Each participating employee whose
12 creditable service terminates on or after May 1, 1992, and who has performed
13 service, other than military service, as an employee of the federal government or a
14 state or local governmental entity in the United States, other than a participating
15 employer, that is located within or outside of this state, or each participating
16 employee whose creditable service terminates on or after May 4, 1994, and who has
17 performed service as an employee for an employer who was not at the time a
18 participating employer but who subsequently became a participating employer, may
19 receive creditable service for such service if all of the following occur:

20 a. The participant has at least 3 continuous years of creditable service at the
21 time of application.

22 b. The number of years of creditable service applied for under this paragraph
23 does not exceed the number of years of creditable service that the participant has at
24 the date of application, excluding all creditable service purchased under this section
25 or [✓]s. 40.02 (17) (b), (e), (i), and (k), 2001 stats., [✓]40.25 (6), 2001 stats., and [✓](7), 2001
[✓]s. 40.25

1 stats., less the number of years of creditable service previously purchased under this
2 paragraph or s. 40.25 (7), 2001 stats.

3 c. At the time of application, the participant furnishes evidence of such service
4 that is acceptable to the department.

5 d. Except as provided in sub. (4) (b), at the time of application ~~the~~, the
6 participant pays to the department a lump sum equal to the present value of the
7 creditable service applied for under this paragraph, in accordance with rates
8 actuarially determined to be sufficient to fund the cost of the increased benefits that
9 will result from granting the creditable service under this paragraph. The
10 department shall by rule establish different rates for different categories of
11 participants, based on factors recommended by the actuary.

12 2. The creditable service granted under this paragraph shall be the same type
13 of creditable service as the type that is granted to participants who are not executive
14 participating employees, elected officials, or protective occupation participants.

15 3. A participating employee may apply to receive part or all of the creditable
16 service that he or she is eligible to receive under this paragraph.

17 4. A participant may not receive creditable service under this paragraph for
18 service that is used for the purpose of establishing entitlement to, or the amount of,
19 any other benefit to be paid by any federal, state, or local government entity, except
20 a disability or OASDHI benefit or a benefit paid for service in the national guard.

21 5. Unless otherwise provided by the department by rule, a participating
22 employee may not purchase creditable service under this paragraph more than 2
23 times in any calendar year.

24 (3) APPLICATION PROCESS. (a) *Provision of application forms and estimates.*
25 Upon request, the department shall provide a participating employee an application

1 form for the purchase of creditable service under sub. (2) and shall also provide to the
2 participating employee an estimate of the cost of purchasing the creditable service.

3 (b) *Certification of plan-to-plan transfers.* Upon request, the department shall
4 provide a participating employee a transfer certification form for payments made by
5 a plan-to-plan transfer under sub. (5) (b). If the participating employee intends to
6 make payments from more than one plan, the participating employee must submit
7 to the department a separate transfer certification form for each plan from which
8 moneys will be transferred.

9 (4) PAYMENT. ^(a) *Required with application.* Except as provided in par. (b), the
10 department may not accept an application for the purchase of creditable service
11 without payment in full of the department's estimated cost of creditable service
12 accompanying the application. A participating employee may also do any of the
13 following:

14 1. Use his or her accumulated after-tax additional contributions that are made
15 under s. 40.05 (1) (a) 5., including interest, to make payment.

16 2. Use his or her accumulated contributions, including interest, to a tax
17 sheltered annuity under section 403 (b) of the Internal Revenue Code, to make
18 payment, but only if the participating employee's plan under section 403 (b) of the
19 Internal Revenue Code authorizes the transfer.

20 (b) *Alternate payment options.* Notwithstanding par. (a), the department may
21 accept an application under this section without full payment if payment of at least
22 10% of the department's estimate of the cost of the creditable service is included with
23 the application, in the manner required under par. (a), and the remaining balance
24 is received by the department no later than 90 days after receipt of the application,
25 in the form of a plan-to-plan transfer under sub. (5) (b).

1 (c) *Final cost calculation for purchase of creditable service.* The department
2 may audit any transaction to purchase creditable service under this subsection and
3 make any necessary correction to the estimated cost of purchasing the creditable
4 service to reflect the amount due under sub. (2). Except as otherwise ^{keep} provided in sub.
5 (7), if the department determines that the final amount that is due is more than the
6 amount paid to the department, the department shall notify the participant of the
7 amount of the shortfall. If payment of the amount of the shortfall is not received by
8 the department within 30 calendar days after the date on which the department
9 sends notice to the participant, the department shall complete the creditable service
10 purchase transaction by prorating the amount of creditable service that is purchased
11 based on the payment amount actually received and shall notify the participant of
12 the amount and category of service that is credited. The department, by rule, shall
13 specify how a forfeited service purchase is prorated when the participant forfeited
14 service under more than one category of employment under s. 40.23 (2m) (e).

15 (d) *Treatment of amounts to purchase creditable service.* All amounts retained
16 by the department for the purchase of creditable service under sub. (2) shall be
17 credited and treated as employee required contributions for all purposes of the
18 Wisconsin retirement system, except that amounts received for the purchase of
19 creditable service under sub. (2) (b) may not be used for the purpose of making
20 calculations under s. 40.23 (3) or 40.73 (1) (am).

21 (5) TRANSFER OF FUNDS; PLAN-TO-PLAN TRANSFERS. (a) *Transfer from certain*
22 *benefit plans.* Subject to any applicable limitations under the Internal Revenue
23 Code, a participating employee may elect to use part or all of any of the following to
24 purchase creditable service under this section:

1 1. Accumulated after-tax additional contributions, including interest, made
2 under s. 40.05 (1) (a) 5. ✓

3 2. Accumulated contributions treated by the department as contributions to a
4 tax sheltered annuity under section 403 (b) of the Internal Revenue Code, but only
5 if the employer sponsoring the annuity plan authorizes the transfer.

6 (b) *Other plan^v-to^v-plan transfers.* The department may also accept a plan^v-to^v-plan
7 transfer from any of the following:

8 1. Accumulated contributions under a state deferred compensation plan under
9 subch. VII. ✓

10 2. The trustee of any plan qualified under sections 401 (a) ~~401~~ (k), 403 (b), or
11 457 of the Internal Revenue Code, but only if the purpose of the transfer is to
12 purchase creditable service under this section.

13 (c) *Payment shortfall.* If the department determines that the amount paid to
14 the department to purchase creditable service under this subsection, together with
15 the amount transferred under a plan^v-to^v-plan transfer, is less than the amount that
16 is required to purchase the creditable service, the department shall notify the
17 participant of the amount of the shortfall. If payment of the amount of the shortfall
18 is not received by the department within 30 calendar days after the date on which
19 the department sends notice to the participant, the department shall complete the
20 creditable service purchase transaction by prorating the amount of creditable service
21 that is purchased based on the payment amount actually received and shall notify
22 the participant of the amount and category of service that is credited. The
23 department, by rule, shall specify how a forfeited service purchase is prorated when
24 the participant forfeited service under more than one category of employment under
25 s. 40.23 (2m) (e). ✓

1 (6) REFUNDS. Except as provided in sub. (7), if the department determines that
2 the amount paid to the department to purchase creditable service, including any
3 amount in a plan-to-plan transfer, is greater than the amount that is required to
4 purchase the creditable service, as determined by the department, the department
5 shall refund the difference. The department shall pay any refund to the participant,
6 up to the amount received from the participant. Any remaining amount shall be
7 returned to the ~~trust~~ applicable account in the trust fund for transfers under sub. (5)
8 (a) or to the trustee of a plan which was the source of a plan-to-plan transfer under
9 sub. (5) (b). When more than one plan-to-plan transfer ~~occurs~~ ^{occurs}, the department may
10 determine which transfer is to be refunded, in whole or part. No funds transferred
11 to the department by a plan-to-plan transfer may be refunded to a participant.

12 (7) LIMIT ON PAYMENT OF CORRECTIONS. The department may not require a
13 participant to pay any shortfall under sub. (4) (c) or (5) (c) that is \$25 or less. The
14 department may not pay any refund under sub. (6) if the amount of the refund is \$25
15 or less.

16 SECTION 15. 111.91 (2) (j) of the statutes is amended to read:

17 111.91 (2) (j) Creditable service to which s. 40.25 (7) (f) ~~40.285 (2) (b) 4.~~ applies.

18 History: 1971 c. 270; 1975 c. 39, 224; 1977 c. 196; 1979 c. 221; 1983 a. 27; 1985 a. 42; 1987 a. 27, 287, 331; 1989 a. 13, 31, 323; 1991 a. 269, 289; 1995 a. 27, 289; 1995 a. 302 s. 48; 1997 a. 27, 35, 155, 237; 1999 a. 9, 95, 115, 155; 2001 a. 16, 26.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0912/1dn

RAC: *king*

Jon Kranz:

Please find attached the draft providing for additional ways to purchase forfeited and other ~~other~~ governmental creditable service under the WRS. I have tried to prepare the draft as close as possible to the text of the DETF submitted version but I have made some stylistic, minor organizational, and some changes for the sake of clarity. In addition, I have made a couple of substantive changes that should be carefully reviewed by DETF. These include the following:

1. In s. 40.285 (1), I specified that the form must be "provided" by DETF rather than "approved" by DETF. The reason is that under s. 40.285 (3) DETF is required to provide the application form.
2. Rather than renumbering, amending, and then repealing parts of s. 40.25 (6) and (7), I simply created s. 40.285 (2) (a) and (b) from the appropriate text in s. 40.25 (6) and (7). While the preferred drafting practice is usually to renumber and amend statutory material, I decided that the non-agency reader of the text would be better able to understand and review the new permissive purchase of creditable service program with newly created text. There is no legal effect of preparing the draft in this manner. → *nn* *A*
3. I did not include the provision in the DETF submitted text under s. 40.285 (2) (b)1. The reason is that s. 40.285 (1) (a) already covers this requirement. *A*
4. I drafted the two provisions under s. 40.285 (3) relating to the application process, but I am not certain that this can be the entire process. The two provisions simply require DETF to provide forms and estimates. This material might be better placed in the general requirements section under s. 40.285 (1).
5. Under s. 40.285 (4), with the exception of s. 40.285 (4) (c), I changed the references from "participant" to "participating employee" since only a participating employee can apply to purchase creditable service under s. 40.285, as provided in s. 40.285 (1) (a). I did not change the reference in s. 40.285 (4) (c) because, theoretically, a person could apply to purchase the service while he or she is a participating employee, but at the time DETF discovers an overestimate or an underestimate the person could have terminated covered employment.
6. Under s. 40.285 (5) (c), I recreated the process rather than simply refer to the process under s. 40.285 (4) (c).

Once you have had an opportunity to review the draft, please call me and I can answer any questions you might have. One final thought: the draft prohibits DETF from refunding any amount \$25 or under to a person who has overpaid for the purchase of his or her creditable service based upon a DETF estimate of the cost of the creditable service. You may wish to see if any other agencies in state government are prohibited by law from making refunds up to \$25 that are due ^{of} individuals based on agency estimates of amounts due. _e

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0912/1dn
RAC:kmg:pg

December 9, 2002

Jon Kranz:

Please find attached the draft providing for additional ways to purchase forfeited and other governmental creditable service under the WRS. I have tried to prepare the draft as close as possible to the text of the DETF submitted version but I have made some stylistic, minor organizational, and some changes for the sake of clarity. In addition, I have made a couple of substantive changes that should be carefully reviewed by DETF. These include the following:

1. In s. 40.285 (1), I specified that the form must be "provided" by DETF rather than "approved" by DETF. The reason is that under s. 40.285 (3) DETF is required to provide the application form.
2. Rather than renumbering, amending, and then repealing parts of s. 40.25 (6) and (7), I simply created s. 40.285 (2) (a) and (b) from the appropriate text in s. 40.25 (6) and (7). While the preferred drafting practice is usually to renumber and amend statutory material, I decided that the nonagency reader of the text would be better able to understand and review the new permissive purchase of creditable service program with newly created text. There is no legal effect of preparing the draft in this manner.
3. I did not include the provision in the DETF submitted text under s. 40.285 (2) (b)
 1. The reason is that s. 40.285 (1) (a) already covers this requirement.
4. I drafted the two provisions under s. 40.285 (3) relating to the application process, but I am not certain that this can be the entire process. The two provisions simply require DETF to provide forms and estimates. This material might be better placed in the general requirements section under s. 40.285 (1).
5. Under s. 40.285 (4), with the exception of s. 40.285 (4) (c), I changed the references from "participant" to "participating employee" since only a participating employee can apply to purchase creditable service under s. 40.285, as provided in s. 40.285 (1) (a). I did not change the reference in s. 40.285 (4) (c) because, theoretically, a person could apply to purchase the service while he or she is a participating employee, but at the time DETF discovers an overestimate or an underestimate the person could have terminated covered employment.
6. Under s. 40.285 (5) (c), I recreated the process rather than simply refer to the process under s. 40.285 (4) (c).

Once you have had an opportunity to review the draft, please call me and I can answer any questions you might have. One final thought: the draft prohibits DETF from refunding any amount of \$25 or under to a person who has overpaid for the purchase of his or her creditable service based upon a DETF estimate of the cost of the creditable service. You may wish to see if any other agencies in state government are prohibited by law from making refunds up to \$25 that are due individuals based on agency estimates of amounts due.

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

I have compared the LRB draft with my last draft of the proposed legislation. In many cases, the differences between the two are editorial and I have ignored such differences.

I do note the following concerns, in order of their appearance in the draft legislation, some of which are policy issues for DETF management:

Page 7, line 6.

To avoid any confusion over the deadline, caused when a person terminates employment then becomes a participating employee again, I suggest we return to something closer to the original draft and provide that the application must be received from a person who is a participating employee:

“received by the department, on a form provided by the department, before the from an applicant terminates covered employment who is a participating employment on the date of receipt.”

Page 7, line 12.

To make the limits of purchased service clear, my original draft included some language that the LRB version drops. In order to make it clear, for example, that repurchasing service does not result in backdating a participant's WRS rights, the language should be restored:

“... service purchased under this section is added to a participant's total creditable service, but may not be treated as service for a particular annual earnings period and does not confer any other rights or benefits.”

Page 7, lines 23 to Page 8, line 2.

Use of the disjunctive “or” appears more appropriate than the conjunctive “and” in listing the possible statutes under which service might have been purchased. We do not want to create any impression that service must have been repurchased under two or more sections before it counts.

To avoid any ambiguity in referring to prior laws for purchasing service, we should be sure the reference covers all periods from creation of the WRS to the effective date of this legislation. To do so, the reference to prior law should be revised to read:

“... excluding all creditable service purchased under this section or ss. 40.02 (17) (b), (e), (i), and (k), 2001 stats., s. 40.25 (6), 2001 stats., and s. or 40.25 (7), 1981, 1983, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999 or 2001 stats., less the number of years of creditable service previously purchased under this paragraph or s. 40.25 (6), 1981, 1983, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999 or 2001 stats.”

Page 8, lines 20-21

The LRB changes to my draft are not editorial and change the meaning of the provision unacceptably. The original draft read: "Forfeited because of payment of an amount under former s. 40.25 (2m) as in effect between May 16, 1989, and April 24, 1998." This picked up anyone who received a separation benefit under the old non-vested provision, regardless of when the benefit was paid. Although the law was in effect only for a limited period, it still applies to anyone who left participating employment before its repeal, in the event the person now takes a separation benefit. The LRB draft refers to the date payment was actually made. This should be dropped. We also want to avoid any ambiguity about which version of the statute is being referred to. The intent is to cover all versions of the statute between 1989 and 1998. So, I recommend the draft either return to the original language or edit the LRB language to read: "Payment of an amount under s. 40.25 (2m), 1991, 1993, 1995, 1997 stats., ~~during the period that begins on May 16, 1989, and ends on April 24, 1998.~~"

Page 9, lines 14-17

SAME COMMENT AS FOR PAGE 7, LINES 23 TO PAGE 8, LINE 2.

Use of the disjunctive "or" appears more appropriate than the conjunctive "and" in listing the possible statutes under which service might have been purchased. We do not want to create any impression that service must have been repurchased under two or more sections before it counts.

To avoid any ambiguity in referring to prior laws for purchasing service, we should be sure the reference covers all periods from creation of the WRS to the effective date of this legislation. To do so, the reference to prior law should be revised to read:

"... excluding all creditable service purchased under this section ~~and~~ or ss. 40.02 (17) (b), (e), (i), and (k), 2001 stats., 40.25 (6), 2001 stats., and 40.25 (7), 1981, 1983, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999 or 2001 stats., less the number of years of creditable service previously purchased under this paragraph or s. 40.25 (7), 1981, 1983, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999 or 2001 stats."

Page 13, lines 4.

To match proposed s. 40.285 (4) (c) [see page 11, line 21], which LRB copied to create this s. 40.285 (5) (c), there needs to be a reference to sub. (7). Proposed s. 40.285 (7) already contains a matching cross-reference to both sub. (4)(c) and (5)(c) [see page 14, line 5].

"... shall notify the participant of the amount of the shortfall. Except as otherwise provided in sub. (7), if ~~if~~ payment of the amount of the shortfall is not received by the department within 30 calendar days ...

NOTE: [Policy issue.]

With respect to both the proposed s. 40.285 (4) (c) [see page 11, line 21] and the proposed s. 40.285 (5) (c) [page 13, line 4], the literal language of the statute will require the DETF to notify the participant that there was a shortfall even when it was \$25 or less and the DETF is prohibited from collecting it. This may be a good idea for customer relations. Alternatively, with a slight rewrite of both ss. (4) (c) and (5) (c), DETF could relieve itself of the administrative costs of notifying the participant of a shortfall of \$25 or less, that DETF won't be collecting.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0912/X 2
RAC:kmg:pg

soon

RMF

DOA:.....Kranz – BB0230, Permissive service credits under the Wisconsin Retirement System

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

*Don't
Gen. Cat.*

1

AN ACT ..., relating to: the budget.

Analysis by the Legislative Reference Bureau

RETIREMENT AND GROUP INSURANCE

Currently, participants in the Wisconsin Retirement System (WRS) may purchase creditable service under the WRS that was previously forfeited. Generally, for each year of forfeited service to be purchased, the participant must pay an amount equal to the employee's required contributions, based upon the employee's final average earnings, determined as if the employee had retired on the date on which DETF receives an application to purchase the service. Also, the employee must purchase all of his or her forfeited service at the same time.

In addition, under current law, a participating employee may purchase creditable service under the WRS for service performed as an employee of another governmental unit that is not a participating employer under the WRS. To purchase this service, the employee must pay an amount equal to the present value of the creditable service, determined in accordance with rates actuarially sufficient to fund the cost of the increased benefits that will result from granting the creditable service.

Currently, participating employees may also use any additional accumulated contributions to purchase creditable service for forfeited service and other governmental service. This bill provides for additional ways to purchase creditable service for forfeited service and other governmental service. Under the bill, participating employees may transfer moneys to the employee trust fund to purchase

creditable service for forfeited service and other governmental service from tax sheltered annuity plans, such as those currently offered to state employees who work at the UW System; governmental deferred compensation plans, such as those currently offered to all state employees by the Deferred Compensation Board; and deferred compensation plans offered in the private sector, which plans are commonly known as 401 (k) plans.

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

2 40.02 (17) (intro.) “Creditable service” means the creditable current and prior
3 service, expressed in years and fractions of a year to the nearest one-hundredth, for
4 which a participating employee receives or is considered to receive earnings under
5 sub. (22) (e) or (em) and for which contributions have been made as required by s.
6 40.05 (1) and (2) and creditable military service, service credited under s. 40.25 (7)
7 40.285 (2) (b) and service credited under s. 40.29, expressed in years and fractions
8 of years to the nearest one-hundredth. How much service in any annual earnings
9 period is the full-time equivalent of one year of creditable service shall be
10 determined by rule by the department and the rules may provide for differing
11 equivalents for different types of employment. Except as provided under ~~pars. (i) and~~
12 ~~(k)~~ s. 40.285 (2) (e) and (f), the amount of creditable service for periods prior to
13 January 1, 1982, shall be the amount for which the participant was eligible under
14 the applicable laws and rules in effect prior to January 1, 1982. No more than one
15 year of creditable service shall be granted for any annual earnings period. Creditable
16 service is determined in the following manner for the following persons:

1 **SECTION 2.** 40.02 (17) (b) of the statutes is renumbered 40.285 (2) (d) and
2 amended to read:

3 40.285 (2) (d) Qualifying service. Each participating employee in the Wisconsin
4 retirement system whose creditable service terminates on or after January 1, 1982,
5 who was previously a participant in the Wisconsin retirement fund and who has not
6 received a separation benefit may receive creditable service equal to the period of
7 service during any qualifying period under s. 41.02 (6) (c), 1969 stats., s. 66.901 (4)
8 (d), 1967 stats., or under any predecessor statute, but not to exceed 6 months. The
9 additional creditable service shall be granted upon application by the employee if the
10 applicant pays to the department a lump sum payment equal to 5% of one-twelfth
11 of the employee's highest earnings in a single annual earnings period multiplied by
12 the number of months of creditable service granted under this paragraph. That
13 amount shall be credited and treated as an employee required contribution for all
14 purposes of the Wisconsin retirement system.

15 **SECTION 3.** 40.02 (17) (e) of the statutes is renumbered 40.285 (2) (c) and
16 amended to read:

17 40.285 (2) (c) Uncredited elected official and executive participating employee
18 service. Each executive participating employee whose creditable service terminates
19 on or after May 3, 1988, and each participating employee who is a present or former
20 elected official or an appointee of a present or former elected official and who did not
21 receive creditable service under s. 40.02 (17) (e), 1987 stats., or s. 40.02 (17) (e), 1989
22 stats., and whose creditable service terminates on or after August 15, 1991, who was
23 previously in the position of the president of the University of Wisconsin System or
24 in a position designated under s. 20.923 (4), (8), or (9), but did not receive creditable
25 service because of age restrictions, may receive creditable service equal to the period

1 of executive service not credited if the participant pays to the department a lump sum
2 payment equal to 5.5% of one-twelfth of the employee's highest earnings in a single
3 annual earnings period multiplied by the number of months of creditable service
4 granted under this paragraph. ~~That amount shall be credited and treated as an~~
5 ~~employee required contribution for all purposes of the Wisconsin retirement system.~~

6 SECTION 4. 40.02 (17) (i) of the statutes is renumbered 40.285 (2) (e), and 40.285
7 (2) (e) (intro.) and 3., as renumbered, are amended to read:

8 40.285 (2) (e) Teacher improvement leave. (intro.) Each participating employee
9 in the Wisconsin retirement system whose creditable service terminates on or after
10 April 25, 1990, and whose earnings include compensation for teacher improvement
11 leave granted by the board of regents of the Wisconsin state colleges State Colleges
12 during the period beginning on January 1, 1964, and ending on August 31, 1967, in
13 a written and satisfied contract, may receive creditable service for the period for
14 which those earnings were received in an amount not to exceed one year if all of the
15 following apply:

16 3. The participant pays to the department a lump sum equal to 5% of
17 one-twelfth of the employee's highest earnings in a single annual earnings period
18 multiplied by the number of months of creditable service that is granted under this
19 paragraph. ~~That amount shall be credited and treated as employee required~~
20 ~~contributions for all purposes of the Wisconsin retirement system. No~~

21 4. The employer may does not pay any amount payable under this subdivision
22 paragraph on behalf of any participating employee.

23 SECTION 5. 40.02 (17) (k) of the statutes is renumbered 40.285 (2) (f) and
24 amended to read:

1 40.285 (2) (f) Uncredited junior teaching service. Each participating employee
2 whose creditable service terminates on or after May 11, 1990, and who submits to the
3 department proof that the participant performed service in this state as a junior
4 teacher, as defined in s. 42.20 (6), 1955 stats., that was not credited under s. 42.40,
5 1955 stats., shall receive creditable service for the period for which that service was
6 performed, even if the participant did not become a member of the state teachers
7 retirement system after performing that service, if all of the following occur:

8 1. The participant pays to the department a lump sum equal to 5% of
9 one-twelfth of the employee's highest earnings in a single annual earnings period
10 multiplied by the number of months of creditable service that is granted under this
11 paragraph. That amount shall be credited and treated as employee required
12 contributions for all purposes of the Wisconsin retirement system. No

13 2. The employer may does not pay any amount payable under this paragraph
14 on behalf of any participating employee.

15 **SECTION 6.** 40.05 (1) (a) 7. of the statutes is repealed.

16 **SECTION 7.** 40.05 (2) (bw) of the statutes is amended to read:

17 40.05 (2) (bw) The employer contribution rate determined under par. (b) for the
18 University of Wisconsin System shall be adjusted to reflect the cost of granting
19 creditable service under s. ~~40.02 (17) (i)~~ 40.285 (2) (e) and that rate shall be sufficient
20 to amortize the unfunded prior service liability of the employers over the remainder
21 of the 40-year amortization period under par. (b).

22 **SECTION 8.** 40.05 (2) (g) 1. of the statutes is amended to read:

23 40.05 (2) (g) 1. A participating employer may make contributions as provided
24 in its compensation agreements for any participating employee in addition to the
25 employer contributions required by this subsection. The additional employer

1 contributions made under this paragraph shall be available for all benefit purposes
2 and shall be administered and invested on the same basis as employee additional
3 contributions made under sub. (1) (a) 5., except that ss. 40.24 (1) (f) and, 40.25 (4),
4 and ~~(6) (a) 3.~~ 40.285 (2) (a) 1. c. do not apply to additional employer contributions
5 made under this paragraph.

6 **SECTION 9.** 40.23 (2m) (em) 1. a. of the statutes is amended to read:

7 40.23 **(2m)** (em) 1. a. Any creditable service forfeited by a participating
8 employee before January 1, 2000, and which is subsequently reestablished by the
9 participating employee under s. ~~40.25 (6)~~ 40.285 (2) (a), shall be considered to have
10 been performed before January 1, 2000.

11 **SECTION 10.** 40.23 (2m) (em) 1. b. of the statutes is amended to read:

12 40.23 **(2m)** (em) 1. b. Any creditable service received under s. ~~40.25 (7)~~ 40.285
13 (2) (b), which is based on service performed before January 1, 2000, shall be
14 considered to have been performed before January 1, 2000.

15 **SECTION 11.** 40.25 (3) of the statutes is amended to read:

16 40.25 **(3)** Upon administrative approval of payment of an amount under either
17 sub. (1) or (2), the participant's account shall be closed and there shall be no further
18 right, interest or claim on the part of the former participant to any benefit from the
19 Wisconsin retirement system except as provided by ~~subs.~~ sub. (5) and ~~(6)~~ s. 40.285
20 (2) (a). Any former participant who is subsequently employed by any participating
21 employer shall be treated as a new participating employee for all purposes of this
22 chapter. New accumulations of contributions and credits and the computation of any
23 future benefits shall bear no relationship to any accumulations and credits paid as
24 single sums under sub. (1) or (2).

25 **SECTION 12.** 40.25 (6) of the statutes is repealed.

1 SECTION 13. 40.25 (7) of the statutes is repealed.

2 SECTION 14. 40.285 of the statutes is created to read:

3 **40.285 Purchase of creditable service.** (1) GENERAL REQUIREMENTS. (a)

4 *Deadline for purchase of creditable service.* An application to purchase creditable
5 service must be received by the department, on a form provided by the department,

6 *before the applicant terminates covered employment from an employee who is a participating employee on the day that the department receives the application*

7 (b) *Calculation of creditable service.* Creditable service purchased under this
8 section shall be calculated in an amount equal to the year and fractions of a year to
9 the nearest one-hundredth of a year.

10 (c) *Use of creditable service.* Credit for service purchased under this section is
11 added to a participant's total creditable service, but may not be treated as service for
12 a particular annual earnings period *and does not confer any other rights or benefits*

13 (d) *Applicability of Internal Revenue Code.* The crediting of service under this
14 section is subject to any applicable limit or requirement under the Internal Revenue
15 Code.

16 (2) CONDITIONS FOR THE PURCHASE OF DIFFERENT TYPES OF CREDITABLE SERVICE. (a)

17 *Forfeited service.* 1. A participating employee may purchase creditable service
18 forfeited in the manner specified in subd. 2., subject to all of the following:

19 a. The participating employee must have at least 3 continuous years of
20 creditable service at the time of application to purchase the creditable service.

21 b. The number of years that may be purchased may not be greater than the
22 accumulated current creditable service of the participating employee at the date of
23 application, excluding all creditable service purchased under this section or s. 40.02

24 ~~(17) (b), (e), (i), and (k), 2001 stats., s. 40.25 (6), 2001 stats., and s. 40.25 (7), 2001~~

Insert
8-1

stats., less the number of years of creditable service previously purchased under this paragraph or s. 40.25 (6), 2001 stats.

2

3

c. The participating employee pays to the fund an amount equal to the employee's statutory contribution on earnings under s. 40.05 (1) (a) for each year of forfeited service to be purchased, based upon the participating employee's final average earnings, determined as if the employee had retired on the first day of the annual earnings period during which the department receives the application. The amount payable shall be paid in a lump sum payment, except as provided in sub. (4) (b), and no employer may pay any amount payable on behalf of a participating employee.

4

5

6

7

8

9

10

11

d. Upon receipt by the fund of the total payment required under this subdivision, the creditable service meeting the conditions and requirements of this paragraph shall be credited to the account of the participating employee making the payment.

12

13

14

2. Creditable service may be purchased under this paragraph if it was forfeited as a result of any of the following:

15

16

a. Payment of an amount under s. 40.25 (2).

17

b. The receipt of a separation or withdrawal benefit under the applicable laws and rules in effect prior to January 1, 1982.

18

19

c. Payment of an amount under s. 40.25 (2m), 1997 stats. during the period that begins on May 16, 1989, and ends on April 24, 1998.

20

21

1991, 1993, 1995, and

22

3. Unless otherwise provided by the department by rule, a participating employee may not purchase creditable service under this paragraph more than 2 times in any calendar year.

23

24

1 (b) *Other governmental service.* 1. Each participating employee whose
2 creditable service terminates on or after May 1, 1992, and who has performed
3 service, other than military service, as an employee of the federal government or a
4 state or local governmental entity in the United States, other than a participating
5 employer, that is located within or outside of this state, or each participating
6 employee whose creditable service terminates on or after May 4, 1994, and who has
7 performed service as an employee for an employer who was not at the time a
8 participating employer but who subsequently became a participating employer, may
9 receive creditable service for such service if all of the following occur:

10 a. The participant has at least 3 continuous years of creditable service at the
11 time of application.

12 b. The number of years of creditable service applied for under this paragraph
13 does not exceed the number of years of creditable service that the participant has at
14 the date of application, excluding all creditable service purchased under this section
15 or ~~s. 40.02 (17) (b), (e), (i), and (k), 2001 stats., s. 40.25 (6), 2001 stats., and s. 40.25~~
16 ~~(7), 2001 stats., less the number of years of creditable service previously purchased~~
17 ~~under this paragraph or s. 40.25 (7), 2001 stats.~~

18 c. At the time of application, the participant furnishes evidence of such service
19 that is acceptable to the department.

20 d. Except as provided in sub. (4) (b), at the time of application, the participant
21 pays to the department a lump sum equal to the present value of the creditable
22 service applied for under this paragraph, in accordance with rates actuarially
23 determined to be sufficient to fund the cost of the increased benefits that will result
24 from granting the creditable service under this paragraph. The department shall by

Insert
9-17

1 rule establish different rates for different categories of participants, based on factors
2 recommended by the actuary.

3 2. The creditable service granted under this paragraph shall be the same type
4 of creditable service as the type that is granted to participants who are not executive
5 participating employees, elected officials, or protective occupation participants.

6 3. A participating employee may apply to receive part or all of the creditable
7 service that he or she is eligible to receive under this paragraph.

8 4. A participant may not receive creditable service under this paragraph for
9 service that is used for the purpose of establishing entitlement to, or the amount of,
10 any other benefit to be paid by any federal, state, or local government entity, except
11 a disability or OASDHI benefit or a benefit paid for service in the national guard.

12 5. Unless otherwise provided by the department by rule, a participating
13 employee may not purchase creditable service under this paragraph more than 2
14 times in any calendar year.

15 (3) APPLICATION PROCESS. (a) *Provision of application forms and estimates.*
16 Upon request, the department shall provide a participating employee an application
17 form for the purchase of creditable service under sub. (2) and shall also provide to the
18 participating employee an estimate of the cost of purchasing the creditable service.

19 (b) *Certification of plan-to-plan transfers.* Upon request, the department shall
20 provide a participating employee a transfer certification form for payments made by
21 a plan-to-plan transfer under sub. (5) (b). If the participating employee intends to
22 make payments from more than one plan, the participating employee must submit
23 to the department a separate transfer certification form for each plan from which
24 moneys will be transferred.

1 (4) PAYMENT. (a) *Required with application.* Except as provided in par. (b), the
2 department may not accept an application for the purchase of creditable service
3 without payment in full of the department's estimated cost of creditable service
4 accompanying the application. A participating employee may also do any of the
5 following:

6 1. Use his or her accumulated after-tax additional contributions that are made
7 under s. 40.05 (1) (a) 5., including interest, to make payment.

8 2. Use his or her accumulated contributions, including interest, to a tax
9 sheltered annuity under section 403 (b) of the Internal Revenue Code, to make
10 payment, but only if the participating employee's plan under section 403 (b) of the
11 Internal Revenue Code authorizes the transfer.

12 (b) *Alternate payment options.* Notwithstanding par. (a), the department may
13 accept an application under this section without full payment if payment of at least
14 10% of the department's estimate of the cost of the creditable service is included with
15 the application, in the manner required under par. (a), and the remaining balance
16 is received by the department no later than 90 days after receipt of the application,
17 in the form of a plan-to-plan transfer under sub. (5) (b).

18 (c) *Final cost calculation for purchase of creditable service.* The department
19 may audit any transaction to purchase creditable service under this subsection and
20 make any necessary correction to the estimated cost of purchasing the creditable
21 service to reflect the amount due under sub. (2). Except as otherwise provided in sub.
22 (7), if the department determines that the final amount that is due is more than the
23 amount paid to the department, the department shall notify the participant of the
24 amount of the shortfall. If payment of the amount of the shortfall is not received by
25 the department within 30 calendar days after the date on which the department

1 sends notice to the participant, the department shall complete the creditable service
2 purchase transaction by prorating the amount of creditable service that is purchased
3 based on the payment amount actually received and shall notify the participant of
4 the amount and category of service that is credited. The department, by rule, shall
5 specify how a forfeited service purchase is prorated when the participant forfeited
6 service under more than one category of employment under s. 40.23 (2m) (e).

7 (d) *Treatment of amounts to purchase creditable service.* All amounts retained
8 by the department for the purchase of creditable service under sub. (2) shall be
9 credited and treated as employee required contributions for all purposes of the
10 Wisconsin retirement system, except that amounts received for the purchase of
11 creditable service under sub. (2) (b) may not be used for the purpose of making
12 calculations under s. 40.23 (3) or 40.73 (1) (am).

13 (5) TRANSFER OF FUNDS; PLAN-TO-PLAN TRANSFERS. (a) *Transfer from certain*
14 *benefit plans.* Subject to any applicable limitations under the Internal Revenue
15 Code, a participating employee may elect to use part or all of any of the following to
16 purchase creditable service under this section:

17 1. Accumulated after-tax additional contributions, including interest, made
18 under s. 40.05 (1) (a) 5.

19 2. Accumulated contributions treated by the department as contributions to a
20 tax sheltered annuity under section 403 (b) of the Internal Revenue Code, but only
21 if the employer sponsoring the annuity plan authorizes the transfer.

22 (b) *Other plan-to-plan transfers.* The department may also accept a plan to
23 plan transfer from any of the following:

24 1. Accumulated contributions under a state deferred compensation plan under
25 subch. VII.

1 2. The trustee of any plan qualified under sections 401 (a) or (k), 403 (b), or 457
2 of the Internal Revenue Code, but only if the purpose of the transfer is to purchase
3 creditable service under this section.

Except as otherwise provided in

sub. (7) 11X

4 (c) *Payment shortfall.* ~~If~~ the department determines that the amount paid to
5 the department to purchase creditable service under this subsection, together with
6 the amount transferred under a plan-to-plan transfer, is less than the amount that
7 is required to purchase the creditable service, the department shall notify the
8 participant of the amount of the shortfall. If payment of the amount of the shortfall
9 is not received by the department within 30 calendar days after the date on which
10 the department sends notice to the participant, the department shall complete the
11 creditable service purchase transaction by prorating the amount of creditable service
12 that is purchased based on the payment amount actually received and shall notify
13 the participant of the amount and category of service that is credited. The
14 department, by rule, shall specify how a forfeited service purchase is prorated when
15 the participant forfeited service under more than one category of employment under
16 s. 40.23 (2m) (e).

17 (6) REFUNDS. Except as provided in sub. (7), if the department determines that
18 the amount paid to the department to purchase creditable service, including any
19 amount in a plan-to-plan transfer, is greater than the amount that is required to
20 purchase the creditable service, as determined by the department, the department
21 shall refund the difference. The department shall pay any refund to the participant,
22 up to the amount received from the participant. Any remaining amount shall be
23 returned to the applicable account in the trust fund for transfers under sub. (5) (a)
24 or to the trustee of a plan which was the source of a plan-to-plan transfer under sub.
25 (5) (b). When more than one plan-to-plan transfer occurs, the department may

1 determine which transfer is to be refunded, in whole or part. No funds transferred
2 to the department by a plan-to-plan transfer may be refunded to a participant.

3 (7) LIMIT ON PAYMENT OF CORRECTIONS. The department may not require a
4 participant to pay any shortfall under sub. (4) (c) or (5) (c) that is \$25 or less. The
5 department may not pay any refund under sub. (6) if the amount of the refund is \$25
6 or less.

7 **SECTION 15.** 111.91 (2) (j) of the statutes is amended to read:

8 111.91 (2) (j) Creditable service to which s. ~~40.25 (7) (f)~~ 40.285 (2) (b) 4. applies.

9 (END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0912/2ins
.RAC:.....

Insert 8-1:

Not s. 40.02 (17) (b), 1981, 1983, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., s. 40.02 (17) (e), 1987, 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., s. 40.02 (17) (i), 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., s. 40.02 (17) (k), 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., s. 40.25 (6), 1981, 1983, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., or s. 40.25 (7), 1991, 1993, 1995, 1997, 1999, and 2001 stats., less the number of years of creditable service previously purchased under this paragraph or s. 40.25 (6), 1981, 1983, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats.

Insert 9-17:

Not s. 40.02 (17) (b), 1981, 1983, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., s. 40.02 (17) (e), 1987, 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., s. 40.02 (17) (i), 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., s. 40.02 (17) (k), 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., s. 40.25 (6), 1981, 1983, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., or s. 40.25 (7), 1991, 1993, 1995, 1997, 1999, and 2001 stats., less the number of years of creditable service previously purchased under this paragraph or s. 40.25 (7), 1991, 1993, 1995, 1997, 1999, and 2001 stats.

^



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0912/2

RAC:kmg:rs

DOA:.....Kranz – BB0230, Permissive service credits under the Wisconsin Retirement System

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

RETIREMENT AND GROUP INSURANCE

Currently, participants in the Wisconsin Retirement System (WRS) may purchase creditable service under the WRS that was previously forfeited. Generally, for each year of forfeited service to be purchased, the participant must pay an amount equal to the employee's required contributions, based upon the employee's final average earnings, determined as if the employee had retired on the date on which DETF receives an application to purchase the service. Also, the employee must purchase all of his or her forfeited service at the same time.

In addition, under current law, a participating employee may purchase creditable service under the WRS for service performed as an employee of another governmental unit that is not a participating employer under the WRS. To purchase this service, the employee must pay an amount equal to the present value of the creditable service, determined in accordance with rates actuarially sufficient to fund the cost of the increased benefits that will result from granting the creditable service.

Currently, participating employees may also use any additional accumulated contributions to purchase creditable service for forfeited service and other governmental service. This bill provides for additional ways to purchase creditable service for forfeited service and other governmental service. Under the bill, participating employees may transfer moneys to the employee trust fund to purchase

creditable service for forfeited service and other governmental service from tax sheltered annuity plans, such as those currently offered to state employees who work at the UW System; governmental deferred compensation plans, such as those currently offered to all state employees by the Deferred Compensation Board; and deferred compensation plans offered in the private sector, which plans are commonly known as 401 (k) plans.

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

2 40.02 (17) (intro.) “Creditable service” means the creditable current and prior
3 service, expressed in years and fractions of a year to the nearest one-hundredth, for
4 which a participating employee receives or is considered to receive earnings under
5 sub. (22) (e) or (em) and for which contributions have been made as required by s.
6 40.05 (1) and (2) and creditable military service, service credited under s. ~~40.25 (7)~~
7 40.285 (2) (b) and service credited under s. 40.29, expressed in years and fractions
8 of years to the nearest one-hundredth. How much service in any annual earnings
9 period is the full-time equivalent of one year of creditable service shall be
10 determined by rule by the department and the rules may provide for differing
11 equivalents for different types of employment. Except as provided under ~~pars. (i) and~~
12 ~~(k)~~ s. 40.285 (2) (e) and (f), the amount of creditable service for periods prior to
13 January 1, 1982, shall be the amount for which the participant was eligible under
14 the applicable laws and rules in effect prior to January 1, 1982. No more than one
15 year of creditable service shall be granted for any annual earnings period. Creditable
16 service is determined in the following manner for the following persons:

1 **SECTION 2.** 40.02 (17) (b) of the statutes is renumbered 40.285 (2) (d) and
2 amended to read:

3 40.285 (2) (d) Qualifying service. Each participating employee in the Wisconsin
4 retirement system whose creditable service terminates on or after January 1, 1982,
5 who was previously a participant in the Wisconsin retirement fund and who has not
6 received a separation benefit may receive creditable service equal to the period of
7 service during any qualifying period under s. 41.02 (6) (c), 1969 stats., s. 66.901 (4)
8 (d), 1967 stats., or under any predecessor statute, but not to exceed 6 months. The
9 additional creditable service shall be granted upon application by the employee if the
10 applicant pays to the department a lump sum payment equal to 5% of one-twelfth
11 of the employee's highest earnings in a single annual earnings period multiplied by
12 the number of months of creditable service granted under this paragraph. ~~That~~
13 ~~amount shall be credited and treated as an employee required contribution for all~~
14 ~~purposes of the Wisconsin retirement system.~~

15 **SECTION 3.** 40.02 (17) (e) of the statutes is renumbered 40.285 (2) (c) and
16 amended to read:

17 40.285 (2) (c) Uncredited elected official and executive participating employee
18 service. Each executive participating employee whose creditable service terminates
19 on or after May 3, 1988, and each participating employee who is a present or former
20 elected official or an appointee of a present or former elected official and who did not
21 receive creditable service under s. 40.02 (17) (e), 1987 stats., or s. 40.02 (17) (e), 1989
22 stats., and whose creditable service terminates on or after August 15, 1991, who was
23 previously in the position of the president of the University of Wisconsin System or
24 in a position designated under s. 20.923 (4), (8), or (9), but did not receive creditable
25 service because of age restrictions, may receive creditable service equal to the period

1 of executive service not credited if the participant pays to the department a lump sum
2 payment equal to 5.5% of one-twelfth of the employee's highest earnings in a single
3 annual earnings period multiplied by the number of months of creditable service
4 granted under this paragraph. ~~That amount shall be credited and treated as an~~
5 ~~employee required contribution for all purposes of the Wisconsin retirement system.~~

6 SECTION 4. 40.02 (17) (i) of the statutes is renumbered 40.285 (2) (e), and 40.285
7 (2) (e) (intro.) and 3., as renumbered, are amended to read:

8 40.285 (2) (e) Teacher improvement leave. (intro.) Each participating employee
9 in the Wisconsin retirement system whose creditable service terminates on or after
10 April 25, 1990, and whose earnings include compensation for teacher improvement
11 leave granted by the board of regents of ~~the Wisconsin state colleges~~ State Colleges
12 during the period beginning on January 1, 1964, and ending on August 31, 1967, in
13 a written and satisfied contract, may receive creditable service for the period for
14 which those earnings were received in an amount not to exceed one year if all of the
15 following apply:

16 3. The participant pays to the department a lump sum equal to 5% of
17 one-twelfth of the employee's highest earnings in a single annual earnings period
18 multiplied by the number of months of creditable service that is granted under this
19 paragraph. ~~That amount shall be credited and treated as employee required~~
20 ~~contributions for all purposes of the Wisconsin retirement system. No~~

21 4. The employer may does not pay any amount payable under this subdivision
22 paragraph on behalf of any participating employee.

23 SECTION 5. 40.02 (17) (k) of the statutes is renumbered 40.285 (2) (f) and
24 amended to read:

1 40.285 (2) (f) Uncredited junior teaching service. Each participating employee
2 whose creditable service terminates on or after May 11, 1990, and who submits to the
3 department proof that the participant performed service in this state as a junior
4 teacher, as defined in s. 42.20 (6), 1955 stats., that was not credited under s. 42.40,
5 1955 stats., shall receive creditable service for the period for which that service was
6 performed, even if the participant did not become a member of the state teachers
7 retirement system after performing that service, if all of the following occur:

8 1. The participant pays to the department a lump sum equal to 5% of
9 one-twelfth of the employee's highest earnings in a single annual earnings period
10 multiplied by the number of months of creditable service that is granted under this
11 paragraph. ~~That amount shall be credited and treated as employee required~~
12 ~~contributions for all purposes of the Wisconsin retirement system. No~~

13 2. The employer ~~may~~ does not pay any amount payable under this paragraph
14 on behalf of any participating employee.

15 **SECTION 6.** 40.05 (1) (a) 7. of the statutes is repealed.

16 **SECTION 7.** 40.05 (2) (bw) of the statutes is amended to read:

17 40.05 (2) (bw) The employer contribution rate determined under par. (b) for the
18 University of Wisconsin System shall be adjusted to reflect the cost of granting
19 creditable service under s. 40.02 (17) (i) 40.285 (2) (e) and that rate shall be sufficient
20 to amortize the unfunded prior service liability of the employers over the remainder
21 of the 40-year amortization period under par. (b).

22 **SECTION 8.** 40.05 (2) (g) 1. of the statutes is amended to read:

23 40.05 (2) (g) 1. A participating employer may make contributions as provided
24 in its compensation agreements for any participating employee in addition to the
25 employer contributions required by this subsection. The additional employer

1 contributions made under this paragraph shall be available for all benefit purposes
2 and shall be administered and invested on the same basis as employee additional
3 contributions made under sub. (1) (a) 5., except that ss. 40.24 (1) (f) and, 40.25 (4),
4 and ~~(6) (a) 3.~~ 40.285 (2) (a) 1. c. do not apply to additional employer contributions
5 made under this paragraph.

6 **SECTION 9.** 40.23 (2m) (em) 1. a. of the statutes is amended to read:

7 40.23 (2m) (em) 1. a. Any creditable service forfeited by a participating
8 employee before January 1, 2000, and which is subsequently reestablished by the
9 participating employee under s. ~~40.25 (6)~~ 40.285 (2) (a), shall be considered to have
10 been performed before January 1, 2000.

11 **SECTION 10.** 40.23 (2m) (em) 1. b. of the statutes is amended to read:

12 40.23 (2m) (em) 1. b. Any creditable service received under s. ~~40.25 (7)~~ 40.285
13 (2) (b), which is based on service performed before January 1, 2000, shall be
14 considered to have been performed before January 1, 2000.

15 **SECTION 11.** 40.25 (3) of the statutes is amended to read:

16 40.25 (3) Upon administrative approval of payment of an amount under either
17 sub. (1) or (2), the participant's account shall be closed and there shall be no further
18 right, interest or claim on the part of the former participant to any benefit from the
19 Wisconsin retirement system except as provided by ~~subs.~~ sub. (5) and ~~(6)~~ s. 40.285
20 (2) (a). Any former participant who is subsequently employed by any participating
21 employer shall be treated as a new participating employee for all purposes of this
22 chapter. New accumulations of contributions and credits and the computation of any
23 future benefits shall bear no relationship to any accumulations and credits paid as
24 single sums under sub. (1) or (2).

25 **SECTION 12.** 40.25 (6) of the statutes is repealed.

1 **SECTION 13.** 40.25 (7) of the statutes is repealed.

2 **SECTION 14.** 40.285 of the statutes is created to read:

3 **40.285 Purchase of creditable service. (1) GENERAL REQUIREMENTS. (a)**
4 *Deadline for purchase of creditable service.* An application to purchase creditable
5 service must be received by the department, on a form provided by the department,
6 from an applicant who is a participating employee on the day that the department
7 receives the application.

8 (b) *Calculation of creditable service.* Creditable service purchased under this
9 section shall be calculated in an amount equal to the year and fractions of a year to
10 the nearest one–hundredth of a year.

11 (c) *Use of creditable service.* Credit for service purchased under this section is
12 added to a participant’s total creditable service, but may not be treated as service for
13 a particular annual earnings period and does not confer any other rights or benefits.

14 (d) *Applicability of Internal Revenue Code.* The crediting of service under this
15 section is subject to any applicable limit or requirement under the Internal Revenue
16 Code.

17 **(2) CONDITIONS FOR THE PURCHASE OF DIFFERENT TYPES OF CREDITABLE SERVICE. (a)**
18 *Forfeited service.* 1. A participating employee may purchase creditable service
19 forfeited in the manner specified in subd. 2., subject to all of the following:

20 a. The participating employee must have at least 3 continuous years of
21 creditable service at the time of application to purchase the creditable service.

22 b. The number of years that may be purchased may not be greater than the
23 accumulated current creditable service of the participating employee at the date of
24 application, excluding all creditable service purchased under this section or s. 40.02
25 (17) (b), 1981, 1983, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats.,

1 s. 40.02 (17) (e), 1987, 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., s. 40.02
2 (17) (i), 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., s. 40.02 (17) (k), 1989,
3 1991, 1993, 1995, 1997, 1999, and 2001 stats., s. 40.25 (6), 1981, 1983, 1985, 1987,
4 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., s. or 40.25 (7), 1991, 1993, 1995,
5 1997, 1999, and 2001 stats., less the number of years of creditable service previously
6 purchased under this paragraph or s. 40.25 (6), 1981, 1983, 1985, 1987, 1989, 1991,
7 1993, 1995, 1997, 1999, and 2001 stats.

8 c. The participating employee pays to the fund an amount equal to the
9 employee's statutory contribution on earnings under s. 40.05 (1) (a) for each year of
10 forfeited service to be purchased, based upon the participating employee's final
11 average earnings, determined as if the employee had retired on the first day of the
12 annual earnings period during which the department receives the application. The
13 amount payable shall be paid in a lump sum payment, except as provided in sub. (4)
14 (b), and no employer may pay any amount payable on behalf of a participating
15 employee.

16 d. Upon receipt by the fund of the total payment required under this
17 subdivision, the creditable service meeting the conditions and requirements of this
18 paragraph shall be credited to the account of the participating employee making the
19 payment.

20 2. Creditable service may be purchased under this paragraph if it was forfeited
21 as a result of any of the following:

22 a. Payment of an amount under s. 40.25 (2).

23 b. The receipt of a separation or withdrawal benefit under the applicable laws
24 and rules in effect prior to January 1, 1982.

25 c. Payment of an amount under s. 40.25 (2m), 1991, 1993, 1995, and 1997 stats.

1 3. Unless otherwise provided by the department by rule, a participating
2 employee may not purchase creditable service under this paragraph more than 2
3 times in any calendar year.

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

13 a. The participant has at least 3 continuous years of creditable service at the
14 time of application.

15 b. The number of years of creditable service applied for under this paragraph
16 does not exceed the number of years of creditable service that the participant has at
17 the date of application, excluding all creditable service purchased under this section
18 or s. 40.02 (17) (b), 1981, 1983, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999, and
19 2001 stats., s. 40.02 (17) (e), 1987, 1989, 1991, 1993, 1995, 1997, 1999, and 2001
20 stats., s. 40.02 (17) (i), 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., s. 40.02
21 (17) (k), 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., s. 40.25 (6), 1981, 1983,
22 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999, and 2001 stats., or s. 40.25 (7), 1991,
23 1993, 1995, 1997, 1999, and 2001 stats., less the number of years of creditable service
24 previously purchased under this paragraph or s. 40.25 (7), 1991, 1993, 1995, 1997,
25 1999, and 2001 stats.

1 c. At the time of application, the participant furnishes evidence of such service
2 that is acceptable to the department.

3 d. Except as provided in sub. (4) (b), at the time of application, the participant
4 pays to the department a lump sum equal to the present value of the creditable
5 service applied for under this paragraph, in accordance with rates actuarially
6 determined to be sufficient to fund the cost of the increased benefits that will result
7 from granting the creditable service under this paragraph. The department shall by
8 rule establish different rates for different categories of participants, based on factors
9 recommended by the actuary.

10 2. The creditable service granted under this paragraph shall be the same type
11 of creditable service as the type that is granted to participants who are not executive
12 participating employees, elected officials, or protective occupation participants.

13 3. A participating employee may apply to receive part or all of the creditable
14 service that he or she is eligible to receive under this paragraph.

15 4. A participant may not receive creditable service under this paragraph for
16 service that is used for the purpose of establishing entitlement to, or the amount of,
17 any other benefit to be paid by any federal, state, or local government entity, except
18 a disability or OASDHI benefit or a benefit paid for service in the national guard.

19 5. Unless otherwise provided by the department by rule, a participating
20 employee may not purchase creditable service under this paragraph more than 2
21 times in any calendar year.

22 (3) APPLICATION PROCESS. (a) *Provision of application forms and estimates.*
23 Upon request, the department shall provide a participating employee an application
24 form for the purchase of creditable service under sub. (2) and shall also provide to the
25 participating employee an estimate of the cost of purchasing the creditable service.

1 (b) *Certification of plan-to-plan transfers.* Upon request, the department shall
2 provide a participating employee a transfer certification form for payments made by
3 a plan-to-plan transfer under sub. (5) (b). If the participating employee intends to
4 make payments from more than one plan, the participating employee must submit
5 to the department a separate transfer certification form for each plan from which
6 moneys will be transferred.

7 (4) PAYMENT. (a) *Required with application.* Except as provided in par. (b), the
8 department may not accept an application for the purchase of creditable service
9 without payment in full of the department's estimated cost of creditable service
10 accompanying the application. A participating employee may also do any of the
11 following:

12 1. Use his or her accumulated after-tax additional contributions that are made
13 under s. 40.05 (1) (a) 5., including interest, to make payment.

14 2. Use his or her accumulated contributions, including interest, to a tax
15 sheltered annuity under section 403 (b) of the Internal Revenue Code, to make
16 payment, but only if the participating employee's plan under section 403 (b) of the
17 Internal Revenue Code authorizes the transfer.

18 (b) *Alternate payment options.* Notwithstanding par. (a), the department may
19 accept an application under this section without full payment if payment of at least
20 10% of the department's estimate of the cost of the creditable service is included with
21 the application, in the manner required under par. (a), and the remaining balance
22 is received by the department no later than 90 days after receipt of the application,
23 in the form of a plan-to-plan transfer under sub. (5) (b).

24 (c) *Final cost calculation for purchase of creditable service.* The department
25 may audit any transaction to purchase creditable service under this subsection and

1 make any necessary correction to the estimated cost of purchasing the creditable
2 service to reflect the amount due under sub. (2). Except as otherwise provided in sub.
3 (7), if the department determines that the final amount that is due is more than the
4 amount paid to the department, the department shall notify the participant of the
5 amount of the shortfall. If payment of the amount of the shortfall is not received by
6 the department within 30 calendar days after the date on which the department
7 sends notice to the participant, the department shall complete the creditable service
8 purchase transaction by prorating the amount of creditable service that is purchased
9 based on the payment amount actually received and shall notify the participant of
10 the amount and category of service that is credited. The department, by rule, shall
11 specify how a forfeited service purchase is prorated when the participant forfeited
12 service under more than one category of employment under s. 40.23 (2m) (e).

13 (d) *Treatment of amounts to purchase creditable service.* All amounts retained
14 by the department for the purchase of creditable service under sub. (2) shall be
15 credited and treated as employee required contributions for all purposes of the
16 Wisconsin retirement system, except that amounts received for the purchase of
17 creditable service under sub. (2) (b) may not be used for the purpose of making
18 calculations under s. 40.23 (3) or 40.73 (1) (am).

19 (5) TRANSFER OF FUNDS; PLAN-TO-PLAN TRANSFERS. (a) *Transfer from certain*
20 *benefit plans.* Subject to any applicable limitations under the Internal Revenue
21 Code, a participating employee may elect to use part or all of any of the following to
22 purchase creditable service under this section:

23 1. Accumulated after-tax additional contributions, including interest, made
24 under s. 40.05 (1) (a) 5.

1 2. Accumulated contributions treated by the department as contributions to a
2 tax sheltered annuity under section 403 (b) of the Internal Revenue Code, but only
3 if the employer sponsoring the annuity plan authorizes the transfer.

4 (b) *Other plan-to-plan transfers.* The department may also accept a plan to
5 plan transfer from any of the following:

6 1. Accumulated contributions under a state deferred compensation plan under
7 subch. VII.

8 2. The trustee of any plan qualified under sections 401 (a) or (k), 403 (b), or 457
9 of the Internal Revenue Code, but only if the purpose of the transfer is to purchase
10 creditable service under this section.

11 (c) *Payment shortfall.* Except as otherwise provided in sub. (7), if the
12 department determines that the amount paid to the department to purchase
13 creditable service under this subsection, together with the amount transferred
14 under a plan-to-plan transfer, is less than the amount that is required to purchase
15 the creditable service, the department shall notify the participant of the amount of
16 the shortfall. If payment of the amount of the shortfall is not received by the
17 department within 30 calendar days after the date on which the department sends
18 notice to the participant, the department shall complete the creditable service
19 purchase transaction by prorating the amount of creditable service that is purchased
20 based on the payment amount actually received and shall notify the participant of
21 the amount and category of service that is credited. The department, by rule, shall
22 specify how a forfeited service purchase is prorated when the participant forfeited
23 service under more than one category of employment under s. 40.23 (2m) (e).

24 (6) REFUNDS. Except as provided in sub. (7), if the department determines that
25 the amount paid to the department to purchase creditable service, including any

1 amount in a plan-to-plan transfer, is greater than the amount that is required to
2 purchase the creditable service, as determined by the department, the department
3 shall refund the difference. The department shall pay any refund to the participant,
4 up to the amount received from the participant. Any remaining amount shall be
5 returned to the applicable account in the trust fund for transfers under sub. (5) (a)
6 or to the trustee of a plan which was the source of a plan-to-plan transfer under sub.
7 (5) (b). When more than one plan-to-plan transfer occurs, the department may
8 determine which transfer is to be refunded, in whole or part. No funds transferred
9 to the department by a plan-to-plan transfer may be refunded to a participant.

10 (7) LIMIT ON PAYMENT OF CORRECTIONS. The department may not require a
11 participant to pay any shortfall under sub. (4) (c) or (5) (c) that is \$25 or less. The
12 department may not pay any refund under sub. (6) if the amount of the refund is \$25
13 or less.

14 **SECTION 15.** 111.91 (2) (j) of the statutes is amended to read:

15 111.91 (2) (j) Creditable service to which s. ~~40.25 (7) (f)~~ 40.285 (2) (b) 4. applies.

16 (END)