

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 344**

January 30, 2004 – Offered by COMMITTEE ON LABOR, SMALL BUSINESS DEVELOPMENT
AND CONSUMER AFFAIRS.

1 **AN ACT to amend** 40.27 (2) (intro.) and 40.27 (2) (c); and **to create** 40.27 (2) (d)
2 of the statutes; **relating to:** payment of fixed annuities under the Wisconsin
3 Retirement System.

Analysis by the Legislative Reference Bureau

Current law governing annuity increases under the Wisconsin Retirement System (WRS) provides that no fixed annuity increase in any year may be granted to annuitants if the increase will not result in at least a two percent increase in the amount of annuities then in force. This substitute amendment reduces the percentage threshold to 0.5 percent. In addition, the substitute amendment provides that, in any year in which a deficit in the fixed annuity reserve occurs and such a deficit would result in a 0.5 percent or greater decrease in the amount of annuities then in force, the fixed annuity increases previously granted in prior years may be reduced. (Current law does not establish a percentage threshold for deficits in the fixed annuity reserve.) However, for both fixed annuity increases and decreases, the substitute amendment authorizes the Department of Employee Trust Funds to change the percentage thresholds by rule.

Under current law, the secretary of employee trust funds, with the approval of the Employee Trust Funds Board, must promulgate all rules that are required for the efficient administration of the employee trust fund and the benefit plans offered under the WRS. Current law also requires that any rules relating to teachers must

be approved by the Teachers Retirement Board and any rules affecting other WRS participants must be approved by the Wisconsin Retirement Board. This substitute amendment provides that for rules governing fixed annuity increases and decreases under the WRS the approval of the Teachers Retirement Board and the Wisconsin Retirement Board is not required.

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

1 **SECTION 1.** 40.27 (2) (intro.) of the statutes is amended to read:

2 40.27 (2) FIXED ANNUITY RESERVE SURPLUS DISTRIBUTIONS. (intro.) Surpluses in
3 the fixed annuity reserve established under s. 40.04 (6) and (7) shall be distributed
4 by the board if the distribution will result in at least a ~~2%~~ 0.5 percent increase in the
5 amount of annuities in force, except as otherwise provided by the department by rule,
6 on recommendation of the actuary, as follows:

7 **SECTION 2.** 40.27 (2) (c) of the statutes is amended to read:

8 40.27 (2) (c) The distributions shall not be offset against any other benefit being
9 received but shall be paid in full, nor shall any other benefit being received be
10 reduced by the distributions. The annuity reserve surplus distributions authorized
11 under this subsection may be revoked by the board in part or in total as to future
12 payments upon recommendation of the actuary if a deficit occurs in the fixed annuity
13 reserves and such deficit would result in a 0.5 percent or greater decrease in the
14 amount of annuities in force, except as otherwise provided by the department by rule.

15 **SECTION 3.** 40.27 (2) (d) of the statutes is created to read:

16 40.27 (2) (d) Notwithstanding s. 40.03 (2) (i), (7) (d), and (8) (d), the department
17 may promulgate rules under this subsection without the approval of the teachers
18 retirement board and the Wisconsin retirement board.

19 **SECTION 4. Nonstatutory provisions.**

1 (1) EMERGENCY RULES. Before January 1, 2005, the department of employee
2 trust funds may, using the procedure under section 227.24 of the statutes,
3 promulgate emergency rules under section 40.27 (2) of the statutes, as affected by
4 this act, for the period before any permanent rules become effective, but not to exceed
5 the period authorized under section 227.24 (1) (c) and (2) of the statutes.
6 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department
7 is not required to provide evidence that promulgating a rule under this subsection
8 as an emergency rule is necessary for the preservation of the public peace, health,
9 safety, or welfare and is not required to provide a finding of emergency for a rule
10 promulgated under this subsection.

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(END)