



2005 SENATE BILL 488

December 27, 2005 - Introduced by LAW REVISION COMMITTEE. Referred to Joint Survey Committee on Retirement Systems.

- 1 **AN ACT to amend** 40.74 (2) of the statutes; **relating to:** death benefits under the
2 Wisconsin Retirement System (suggested as remedial legislation by the
3 Department of Employee Trust Funds).

Analysis by the Legislative Reference Bureau

Current law authorizes a beneficiary to waive any benefit offered under any plan available to Wisconsin Retirement System participants or administered by the Department of Employee trust Funds. The bill clarifies that any such waiver, when it becomes effective, is absolute and without right of reconsideration or recovery.

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Employee Trust Funds and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SENATE BILL 488**SECTION 1**

1 **SECTION 1.** 40.74 (2) of the statutes is amended to read:

2 40.74 (2) A beneficiary of a deceased participant, annuitant, alternate payee,
3 beneficiary, or employee may waive absolutely and without right of reconsideration
4 or recovery all or part of any benefit payable ~~and the~~ under this chapter. The
5 beneficiary shall then be determined as if the ~~person~~ waiving beneficiary had died
6 prior to ~~filing an application~~ the decedent except that if the person was a beneficiary
7 under group 2 under s. 40.02 (8) (a) 2., payment shall be made as if at least one child
8 had survived the participant, alternate payee, beneficiary, employee, or annuitant.
9 ~~The~~ Unless the department receives the beneficiary's written request to cancel the
10 waiver before the date on which it would otherwise become effective, the waiver shall
11 be effective on the first day of the 2nd month commencing after it is received by the
12 department or the date specified in the waiver, if later. A waiver received after the
13 effective date on which a beneficiary has commenced a monthly annuity under s.
14 40.73 (2) or (3) shall apply to monthly payments payable after the effective date of
15 the waiver. Payment shall be subject to the restrictions specified in s. 40.73 (2) (b).

NOTE: Clarifies that the beneficiary of any benefit payable under ch. 40 may waive
all or a portion of the benefit and will then be treated as having died first.

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(END)