



State of Wisconsin
2009 – 2010 LEGISLATURE

LRB-0798/1

RAC:kjf:rs

2009 ASSEMBLY BILL 199

April 7, 2009 – Introduced by Representatives SUDER, SPANBAUER, MONTGOMERY, MURSAU, A. OTT, HINTZ, BIES and KAUFERT, cosponsored by Senator LASSA. Referred to Committee on Corrections and the Courts.

1 **AN ACT** *to amend* 40.02 (48) (c); and *to create* 40.02 (17) (n), 40.02 (17) (p), 40.02
2 (17) (pm), 40.02 (17) (pt), 40.02 (17) (pz), 40.02 (48) (bc), 40.02 (48) (bd), 40.02
3 (48) (bdm), 40.02 (48) (bdp), 40.02 (48) (bdt), 40.65 (4vm), 40.65 (4vn), 40.65
4 (4vr), 40.65 (4vs) and 40.65 (4w) of the statutes; **relating to:** classifying
5 members of the Parole Commission; psychologists and corrections
6 classification specialists employed by the Department of Corrections who
7 perform duties related to sexually violent person commitments; clerical
8 employees employed at probation, extended supervision, and parole offices; and
9 state employees who are employed at state correctional institutions, juvenile
10 correctional facilities, the mental health institutes at Mendota and Winnebago,
11 the Wisconsin Resource Center, and secure mental health units or facilities for

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1 sexually violent persons as protective occupation participants under the
2 Wisconsin Retirement System.

Analysis by the Legislative Reference Bureau

Under current law, participants under the Wisconsin Retirement System (WRS) whose principal duties involve law enforcement or fire suppression or prevention and require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning are classified as protective occupation participants. Current law specifically classifies police officers, fire fighters, and various other individuals as protective occupation participants. Under the WRS, the normal retirement age of a protective occupation participant is lower than that of other participants and the percentage multiplier used to calculate retirement annuities is higher for protective occupation participants than for other participants.

This bill classifies all of the following state employees as protective occupation participants for the purposes of the WRS:

1. Members of the Parole Commission.
2. State employees who are employed at state correctional institutions, juvenile correctional facilities, the mental health institutes at Mendota and Winnebago, the Wisconsin Resource Center, or secure mental health units or facilities for sexually violent persons.
3. Psychologists employed by the Department of Corrections (DOC) who perform duties related to sexually violent person commitments.
4. Corrections classification specialists employed by DOC who perform duties related to sexually violent person commitments.
5. Clerical employees employed at probation, extended supervision, and parole offices.

Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill.

For further information see the *state* 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:

3 **SECTION 1.** 40.02 (17) (n) of the statutes is created to read:
4 40.02 (17) (n) Notwithstanding par. (d), each participant who is employed at
5 a state correctional institution, a juvenile correctional facility, as defined in s. 938.02
6 (10p), a mental health institute specified in s. 51.05 (1), the Wisconsin Resource

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1 Center, established under s. 46.056, or a secure mental health unit or facility,
2 established under s. 980.065 (2), on or after the effective date of this paragraph
3 [LRB inserts date], shall be granted creditable service as a protective occupation
4 participant for all covered service while employed at a state correctional institution,
5 a juvenile correctional facility, as defined in s. 938.02 (10p), a mental health institute
6 specified in s. 51.05 (1), the Wisconsin Resource Center, established under s. 46.056,
7 or a secure mental health unit or facility, established under s. 980.065 (2), that was
8 earned on or after the effective date of this paragraph [LRB inserts date], but may
9 not be granted creditable service as a protective occupation participant for any
10 covered service while employed at a state correctional institution, a juvenile
11 correctional facility, as defined in s. 938.02 (10p), a mental health institute specified
12 in s. 51.05 (1), the Wisconsin Resource Center, established under s. 46.056, or a
13 secure mental health unit or facility, established under s. 980.065 (2), that was
14 earned before the effective date of this paragraph [LRB inserts date], unless that
15 service was earned while the participant was classified under sub. (48) (a) and s.
16 40.06 (1) (d) as a protective occupation participant.

17 **SECTION 2.** 40.02 (17) (p) of the statutes is created to read:

18 40.02 (17) (p) Notwithstanding par. (d), each participant who is a member of
19 the parole commission on or after the effective date of this paragraph [LRB inserts
20 date], shall be granted creditable service as a protective occupation participant for
21 all covered service while a member of the parole commission that was earned on or
22 after the effective date of this paragraph [LRB inserts date], but may not be
23 granted creditable service as a protective occupation participant for any covered
24 service while a member of the parole commission that was earned before the effective
25 date of this paragraph [LRB inserts date], unless that service was earned while

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1 the participant was classified under sub. (48) (a) and s. 40.06 (1) (d) as a protective
2 occupation participant.

3 **SECTION 3.** 40.02 (17) (pm) of the statutes is created to read:

4 40.02 (17) (pm) Notwithstanding par. (d), each participant who is a
5 psychologist employed by the department of corrections and who performs duties
6 related to ch. 980 on or after the effective date of this paragraph [LRB inserts
7 date], shall be granted creditable service as a protective occupation participant for
8 all covered service while a psychologist employed by the department of corrections
9 and performing duties related to ch. 980 that was earned on or after the effective date
10 of this paragraph [LRB inserts date], but may not be granted creditable service
11 as a protective occupation participant for any covered service while a psychologist
12 employed by the department of corrections and performing duties related to ch. 980
13 that was earned before the effective date of this paragraph [LRB inserts date],
14 unless that service was earned while the participant was classified under sub. (48)
15 (a) and s. 40.06 (1) (d) as a protective occupation participant.

16 **SECTION 4.** 40.02 (17) (pt) of the statutes is created to read:

17 40.02 (17) (pt) Notwithstanding par. (d), each participant who is a clerical
18 employee employed at a probation, extended supervision, and parole office on or after
19 the effective date of this paragraph [LRB inserts date], shall be granted creditable
20 service as a protective occupation participant for all covered service while a clerical
21 employee employed at a probation, extended supervision, and parole office that was
22 earned on or after the effective date of this paragraph [LRB inserts date], but may
23 not be granted creditable service as a protective occupation participant for any
24 covered service while a clerical employee employed at a probation, extended
25 supervision, and parole office that was earned before the effective date of this

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1 paragraph [LRB inserts date], unless that service was earned while the
2 participant was classified under sub. (48) (a) and s. 40.06 (1) (d) as a protective
3 occupation participant.

4 **SECTION 5.** 40.02 (17) (pz) of the statutes is created to read:

5 40.02 (17) (pz) Notwithstanding par. (d), each participant who is a corrections
6 classification specialist employed by the department of corrections and who performs
7 duties related to ch. 980 on or after the effective date of this paragraph [LRB
8 inserts date], shall be granted creditable service as a protective occupation
9 participant for all covered service while a classification specialist employed by the
10 department of corrections and performing duties related to ch. 980 that was earned
11 on or after the effective date of this paragraph [LRB inserts date], but may not be
12 granted creditable service as a protective occupation participant for any covered
13 service while a corrections classification specialist employed by the department of
14 corrections and performing duties related to ch. 980 that was earned before the
15 effective date of this paragraph [LRB inserts date], unless that service was earned
16 while the participant was classified under sub. (48) (a) and s. 40.06 (1) (d) as a
17 protective occupation participant.

18 **SECTION 6.** 40.02 (48) (bc) of the statutes is created to read:

19 40.02 (48) (bc) “Protective occupation participant” includes any participant
20 who is a member of the parole commission if the participant’s employer classifies the
21 participant as a protective occupation participant and the department receives
22 notification of the participant’s name as provided in s. 40.06 (1) (d) and (dm).
23 Notwithstanding par. (a), an employer shall classify a participant who is a member
24 of the parole commission as a protective occupation participant without making a

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1 determination that the principal duties of the participant involve active law
2 enforcement or active fire suppression or prevention.

3 **SECTION 7.** 40.02 (48) (bd) of the statutes is created to read:

4 40.02 **(48)** (bd) “Protective occupation participant” includes any participant
5 who is employed at a state correctional institution, a juvenile correctional facility, as
6 defined in s. 938.02 (10p), a mental health institute specified in s. 51.05 (1), the
7 Wisconsin Resource Center, established under s. 46.056, or a secure mental health
8 unit or facility, established under s. 980.065 (2), if the participant’s employer
9 classifies the participant as a protective occupation participant and the department
10 receives notification of the participant’s name as provided in s. 40.06 (1) (d) and (dm).
11 Notwithstanding par. (a), an employer shall classify a participant who is employed
12 at a state correctional institution, a juvenile correctional facility, as defined in s.
13 938.02 (10p), a mental health institute specified in s. 51.05 (1), the Wisconsin
14 Resource Center, established under s. 46.056, or a secure mental health unit or
15 facility, established under s. 980.065 (2), as a protective occupation participant
16 without making a determination that the principal duties of the participant involve
17 active law enforcement or active fire suppression or prevention.

18 **SECTION 8.** 40.02 (48) (bdm) of the statutes is created to read:

19 40.02 **(48)** (bdm) “Protective occupation participant” includes any participant
20 who is a psychologist employed by the department of corrections and who performs
21 duties related to ch. 980 if the participant’s employer classifies the participant as a
22 protective occupation participant and the department receives notification of the
23 participant’s name as provided in s. 40.06 (1) (d) and (dm). Notwithstanding par. (a),
24 an employer shall classify a participant who is a psychologist employed by the
25 department of corrections and who performs duties related to ch. 980 as a protective

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1 occupation participant without making a determination that the principal duties of
2 the participant involve active law enforcement or active fire suppression or
3 prevention.

4 **SECTION 9.** 40.02 (48) (bdp) of the statutes is created to read:

5 40.02 (48) (bdp) “Protective occupation participant” includes any participant
6 who is a clerical employee employed at a probation, extended supervision, and parole
7 office if the participant’s employer classifies the participant as a protective
8 occupation participant and the department receives notification of the participant’s
9 name as provided in s. 40.06 (1) (d) and (dm). Notwithstanding par. (a), an employer
10 shall classify a participant who is a clerical employee employed at a probation,
11 extended supervision, and parole office as a protective occupation participant
12 without making a determination that the principal duties of the participant involve
13 active law enforcement or active fire suppression or prevention.

14 **SECTION 10.** 40.02 (48) (bdt) of the statutes is created to read:

15 40.02 (48) (bdt) “Protective occupation participant” includes any participant
16 who is a corrections classification specialist employed by the department of
17 corrections and who performs duties related to ch. 980 if the participant’s employer
18 classifies the participant as a protective occupation participant and the department
19 receives notification of the participant’s name as provided in s. 40.06 (1) (d) and (dm).
20 Notwithstanding par. (a), an employer shall classify a participant who is a
21 corrections classification specialist employed by the department of corrections and
22 who performs duties related to ch. 980 as a protective occupation participant without
23 making a determination that the principal duties of the participant involve active
24 law enforcement or active fire suppression or prevention.

25 **SECTION 11.** 40.02 (48) (c) of the statutes is amended to read:

ASSEMBLY BILL 199**SECTION 11**

1 40.02 **(48)** (c) In s. 40.65, “protective occupation participant” means a
2 participating employee who is a police officer, fire fighter, an individual determined
3 by a participating employer under par. (a), (bc), (bd), (bdm), (bdp), (bdt), or (bm) to
4 be a protective occupation participant, county undersheriff, deputy sheriff, state
5 probation and parole officer, county traffic police officer, conservation warden, state
6 forest ranger, field conservation employee of the department of natural resources
7 who is subject to call for forest fire control or warden duty, member of the state traffic
8 patrol, state motor vehicle inspector, University of Wisconsin System full-time police
9 officer, guard or any other employee whose principal duties are supervision and
10 discipline of inmates at a state penal institution, excise tax investigator employed
11 by the department of revenue, person employed under s. 61.66 (1), or special criminal
12 investigation agent employed by the department of justice.

13 **SECTION 12.** 40.65 (4vm) of the statutes is created to read:

14 40.65 **(4vm)** A participant who is a member of the parole commission, who
15 becomes a protective occupation participant on or after the effective date of this
16 subsection [LRB inserts date], is not entitled to a duty disability benefit under this
17 section for an injury or disease occurring before the effective date of this subsection
18 [LRB inserts date].

19 **SECTION 13.** 40.65 (4vn) of the statutes is created to read:

20 40.65 **(4vn)** A participant who is a psychologist employed by the department
21 of corrections and who performs duties related to ch. 980, who becomes a protective
22 occupation participant on or after the effective date of this subsection [LRB inserts
23 date], is not entitled to a duty disability benefit under this section for an injury or
24 disease occurring before the effective date of this subsection [LRB inserts date].

25 **SECTION 14.** 40.65 (4vr) of the statutes is created to read:

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1 40.65 (4vr) A participant who is a clerical employee employed at a probation,
2 extended supervision, and parole office, who becomes a protective occupation
3 participant on or after the effective date of this subsection [LRB inserts date], is
4 not entitled to a duty disability benefit under this section for an injury or disease
5 occurring before the effective date of this subsection [LRB inserts date].

6 **SECTION 15.** 40.65 (4vs) of the statutes is created to read:

7 40.65 (4vs) A participant who is a corrections classification specialist employed
8 by the department of corrections and who performs duties related to ch. 980, who
9 becomes a protective occupation participant on or after the effective date of this
10 subsection [LRB inserts date], is not entitled to a duty disability benefit under this
11 section for an injury or disease occurring before the effective date of this subsection
12 [LRB inserts date].

13 **SECTION 16.** 40.65 (4w) of the statutes is created to read:

14 40.65 (4w) A participant employed at a state correctional institution, a juvenile
15 correctional facility, as defined in s. 938.02 (10p), a mental health institute specified
16 in s. 51.05 (1), the Wisconsin Resource Center, established under s. 46.056, or a
17 secure mental health unit or facility, established under s. 980.065 (2), who becomes
18 a protective occupation participant on or after the effective date of this subsection
19 [LRB inserts date], is not entitled to a duty disability benefit under this section for
20 an injury or disease occurring before the effective date of this subsection [LRB
21 inserts date].

22 **SECTION 17. Effective date.**

23 (1) This act takes effect on the January 1 after publication.

24

(END)