



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4359/1
RAC&FFK:all

2015 SENATE BILL 553

January 12, 2016 – Introduced by LAW REVISION COMMITTEE. Referred to Committee on Senate Organization.

1 **AN ACT** *to repeal* 40.04 (3) (ab) and 40.21 (1m); *to amend* 40.02 (48m) (e), 40.04
2 (3) (intro.), 40.21 (1), 40.23 (1) (a) 1., 40.23 (1) (d), 40.26 (2) (b), 40.26 (2) (c) and
3 40.26 (3); and *to create* 40.03 (2) (cm) of the statutes; **relating to:** remedial
4 legislation affecting the Wisconsin Retirement System and the Department of
5 Employee Trust Funds (suggested as remedial legislation by the Department
6 of Employee Trust Funds).

Analysis by the Legislative Reference Bureau

This bill makes the following remedial changes to the Wisconsin Retirement System (WRS) and the operation of the Department of Employee Trust Funds (DETF):

1. The bill clarifies the treatment and uses of moneys credited to memorandum accounts of WRS participants who suspend their annuities in order to return to covered employment.

2. The bill specifically authorizes the secretary of employee trust funds to implement any payment processing system to pay moneys owing to any person under benefit plans administered by DETF, including payment by direct deposit, electronic benefit transfer cards or other prepaid cards, electronic funds transfer, and automated clearinghouse procedures.

3. Under current law, one requirement of a qualified domestic relations order (QDRO) is that the determination of an alternate payee share in the QDRO may not

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require benefits to be paid to the alternate payee if those benefits are also required to be paid to another alternate payee. The bill clarifies that the determination of the alternate payee share in a QDRO may not require benefits to be paid to an alternate payee if a court has already required those benefits to be paid to another alternate payee under a previously determined QDRO.

4. The bill eliminates references to the transaction amortization account in the core retirement investment trust of the public employee trust fund, which no longer exists.

5. The bill eliminates a duplicative reference to a federated library system under the WRS.

6. Currently, among the conditions that a participant in the WRS must meet in order to qualify for an annuity is one that requires the individual to have separated from WRS-covered employment for at least 30 days. Other WRS provisions prohibit a participant from receiving an annuity if the individual returns to covered employment within 75 days after terminating employment. The bill eliminates the 30-day requirement for receiving an annuity under the WRS.

7. The bill eliminates a requirement under the WRS that an application for an annuity may not be filed more than 90 days before the employee's anticipated termination date from employment.

8. The bill changes application deadlines for an employer to join the WRS. Under current law, if an employer elects to join the WRS and DETF receives the application on or before November 15, the effective date of inclusion is the ensuing January 1. If DETF receives the application after November 15, the effective date of inclusion is the January 1 after the ensuing January 1. The bill eliminates this provision.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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:

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. and 5., 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.

1 **SECTION 1.** 40.02 (48m) (e) of the statutes is amended to read:
2 40.02 (**48m**) (e) The determination of the alternate payee share does not
3 require that benefits be paid to the alternate payee if those benefits are also required

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1 to be paid to another alternate payee under another judgment, decree, or order
2 previously determined to be a qualified domestic relations order or to the internal
3 revenue service under a lien placed on the participant's account under section 64 of
4 the Internal Revenue Code.

NOTE: A qualified domestic relations order (QDRO) is a judgment, decree, or order issued by a court pursuant to a domestic relations law of any U.S. state or territory that meets certain criteria. Under current law, one requirement of a QDRO is that the determination of an alternate payee share may not require benefits to be paid to the alternate payee if those benefits are also required to be paid to another alternate payee. This SECTION clarifies that a determination of the alternate payee share in a QDRO may not require benefits to be paid to the alternate payee if a court has also required those benefits to be paid to another alternate payee under another QDRO.

5 **SECTION 2.** 40.03 (2) (cm) of the statutes is created to read:

6 40.03 (2) (cm) May implement any payment processing system to pay moneys
7 owing to any person under benefit plans administered by the department, including
8 payment by direct deposit, electronic benefit transfer cards or other prepaid cards,
9 electronic funds transfer, and automated clearinghouse procedures.

NOTE: Authorizes the secretary of employee trust funds to implement any payment processing system to pay moneys owing to any person under benefit plans administered by the Department of Employee Trust Funds.

10 **SECTION 3.** 40.04 (3) (intro.) of the statutes is amended to read:

11 40.04 (3) (intro.) A core retirement investment trust and a variable retirement
12 investment trust shall be maintained within the fund under the jurisdiction and
13 management of the investment board for the purpose of managing the investments
14 of the retirement reserve accounts and of any other accounts of the fund as
15 determined by the board, including the accounts of separate retirement systems.
16 Within the core retirement investment trust there shall be maintained ~~a transaction~~
17 ~~amortization account~~ and a market recognition account, and any other accounts as
18 are established by the board or the investment board. A current income account shall
19 be maintained in the variable retirement investment trust. All costs of owning,

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1 operating, protecting, and acquiring property in which either trust has an interest
2 shall be charged to the current income or market recognition account of the trust
3 having the interest in the property.

NOTE: Eliminates a reference to the transaction amortization account within the core retirement investment trust. The transaction amortization account has been closed.

4 **SECTION 4.** 40.04 (3) (ab) of the statutes is repealed.

NOTE: Deletes the procedure required to be used to distribute the balance of the transaction amortization account and deletes the requirement that the Department of Employee Trust Funds close the transaction amortization account after the entire balance has been distributed. The transaction amortization account has been closed under this procedure.

5 **SECTION 5.** 40.21 (1) of the statutes is amended to read:

6 40.21 (1) Any employer shall be included within and thereafter subject to the
7 provisions of the Wisconsin retirement system by so electing, through adoption of a
8 resolution by the governing body of the employer. ~~If the official notice of election to~~
9 ~~be included has been received by the department on or before November 15 the~~
10 ~~effective date of participation of the employer shall be the ensuing January 1. If the~~
11 ~~department receives the notice of election after November 15 the effective date shall~~
12 ~~be the January 1 after the ensuing January 1.~~

NOTE: Eliminates a provision that delays the effective date of an employer's inclusion in the Wisconsin Retirement System (WRS). Current law provides that if an employer elects to join the WRS and the Department of Employee Trust Funds receives the application on or before November 15, the effective date of inclusion is the ensuing January 1. If the application is received after November 15, the effective date of inclusion is the January 1 after the ensuing January 1.

13 **SECTION 6.** 40.21 (1m) of the statutes is repealed.

NOTE: Deletes a procedure that allows the governing body of a federated public library system whose territory lies within a single county with a population of 500,000 to become a Wisconsin Retirement System participating employer if the governing body adopts a resolution. Current law provides that if this procedure is followed, the resolution's effective date must be June 1, 1994.

14 **SECTION 7.** 40.23 (1) (a) 1. of the statutes is amended to read:

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1 40.23 (1) (a) 1. The participant is separated, regardless of cause, and continues
2 to be separated until the annuity effective date, ~~the date 30 days after the application~~
3 ~~is received by the department or the date 30 days after separation, whichever is later,~~
4 from all employment meeting the qualifications for inclusion specified in s. 40.22 for
5 any participating employer.

NOTE: Eliminates a requirement that a participant in the Wisconsin Retirement System (WRS) must be separated from WRS-covered employment for at least 30 days to qualify for an annuity under the WRS.

6 **SECTION 8.** 40.23 (1) (d) of the statutes is amended to read:

7 40.23 (1) (d) Notwithstanding par. (c), an application for an annuity to be
8 effective on the day following termination of employment may be filed ~~up to 90 days~~
9 prior to the employee's anticipated termination date. The anticipated termination
10 date shall be stated in the application and the department shall not make an annuity
11 payment until the employee has terminated. ~~The department shall reject any~~
12 ~~application that is filed more than 90 days prior to the employee's termination date.~~

NOTE: Eliminates a requirement under the Wisconsin Retirement System that the Department of Employee Trust Funds must reject any application for an annuity that is filed more than 90 days before the employee's termination date.

13 **SECTION 9.** 40.26 (2) (b) of the statutes is amended to read:

14 40.26 (2) (b) *Crediting of amounts under suspended annuity.* The amount of
15 the annuity payments which would have been paid under the suspended annuity,
16 from the original annuity suspension date to the subsequent retirement date, shall
17 be credited to a memorandum account ~~which is subject to ss. 40.04 (4) (a) 2., 2g. and~~
18 ~~2m. and 40.08 (1m).~~

NOTE: Removes cross-references to provisions concerning employee reserve accounts that are inapplicable to memorandum accounts and removes a cross-reference to the division of employee benefits that is unnecessary.

19 **SECTION 10.** 40.26 (2) (c) of the statutes is amended to read:

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1 40.26 (2) (c) *Establishment of subsequent retirement account.* Upon becoming
2 a participating employee, a subsequent retirement account shall be established,
3 ~~including any amounts in a memorandum account under par. (b), which includes~~
4 crediting of interest, and any contributions made and creditable service earned
5 during the subsequent participating employment.

6 **SECTION 11.** 40.26 (3) of the statutes is amended to read:

7 40.26 (3) Upon subsequent retirement ~~and application for an annuity,~~ the
8 suspended annuity shall be reinstated ~~and the, including any amounts in a~~
9 memorandum account under sub. (2) (b). Upon application, the subsequent annuity
10 ~~of a former annuitant~~ shall be computed as an original annuity, based upon the
11 participant's attained age on the effective date of the subsequent annuity, in an
12 optional form as elected by the participant under s. 40.24. ~~The subsequent annuity~~
13 ~~shall be initiated at the same time the suspended annuity is reinstated.~~

NOTE: Under current law, when a Wisconsin Retirement System (WRS) annuitant reenters employment as a WRS participating employee, the original annuity is suspended and a new account is created for any subsequent period of employment as a WRS participating employee. The amount of the annuity payments which would have been paid under the suspended annuity are credited to a memorandum account. The subsequent retirement account includes any amounts in the memorandum account, interest, and any contributions made and creditable service earned during the subsequent period of employment. Upon subsequent retirement, the suspended annuity is reinstated and the subsequent annuity is computed as an original annuity

SECTION 10 provides that amounts in a memorandum account are not included in a subsequent retirement account. SECTION 11 provides that, upon subsequent retirement, any amounts in a memorandum account are included in the suspended annuity. In addition, SECTION 11 provides that the subsequent annuity is computed as an original annuity upon application from the annuitant, as opposed to automatically upon subsequent retirement.