



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0760/P2
MIM:emw&amn

P3

DOA:.....Sherwin, BB0085 - Group disability benefit insurance plans offered to state employees

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

STATE EMPLOYMENT

Oversight of group disability benefit insurance plans

Under current law, the Group Insurance Board oversees the group income continuation insurance (ICI) plan and the group long-term disability insurance (LTDI) plan. This bill transfers oversight of those plans to the Employee Trust Funds Board.

Providing election for named survivor or beneficiary

The bill allows a named survivor or beneficiary of an applicant for a disability annuity to waive rights to a disability death benefit and elect to receive a participating employee death benefit. The waiver is irrevocable.

Limitation on earned income under disability annuity

The bill provides that if an individual who is receiving a regular disability annuity earns income that exceeds the annual earnings limit in two calendar years within a five-year period, that individual's disability annuity benefit payments will be terminated.

Group LTDI plan

Under current law, the ETFB may determine that the GIB must establish a group insurance plan to provide certain disability annuity or death benefits. Under

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this authority, the GIB currently oversees a group LTDI plan. The bill provides explicit statutory authority for the ETFB to establish the LTDI plan, and, as described above, the bill transfers oversight of the LTDI plan from the GIB to the ETFB.

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.** 20.515 (1) (um) of the statutes is amended to read:

2 20.515 (1) (um) *Benefit administration.* From the public employee trust fund,
3 biennially, the amounts in the schedule to pay other parties for medical and
4 vocational evaluations used in determinations of eligibility for benefits under ss.
5 40.61, 40.63, 40.64, and 40.65.

6 **SECTION 2.** 40.02 (22) (b) 6. of the statutes is amended to read:

7 40.02 (22) (b) 6. Lump sum payments at termination for accumulated vacation,
8 sick leave, or compensatory time, ~~except that for disability purposes any lump sum~~
9 ~~payments shall be treated as a continuation of the employee's earnings and service~~
10 ~~at the employee's then current rate of pay.~~ This subdivision does not exclude
11 payments which are broadly applicable to the employees of the employer regardless
12 of age, length of service, or likelihood of employment termination.

13 **SECTION 3.** 40.03 (1) (i) of the statutes is amended to read:

14 40.03 (1) (i) May determine that some or all of the disability annuities and
15 death benefits provided from the Wisconsin retirement system shall instead be
16 provided through group insurance plans ~~to be established by the group insurance~~
17 ~~board~~ either as separate plans or as integral parts of the group life and income
18 continuation insurance plans established under this chapter.

1 **SECTION 4.** 40.03 (1) (p) of the statutes is amended to read:

2 40.03 (1) (p) May, upon the recommendation of the actuary, transfer in whole
3 or in part the assets and reserves held in any account described in s. 40.04 (9) to a
4 different account described in s. 40.04 (9), for the purpose of providing any group
5 insurance benefit offered by the group insurance board.

6 **SECTION 5.** 40.03 (1) (q) of the statutes is created to read:

7 40.03 (1) (q) For the purpose of the group income continuation insurance plan
8 established under ss. 40.61 and 40.62 and the group long-term disability insurance
9 plan established under s. 40.64:

10 1. May, on behalf of the state, enter into a contract or contracts with one or more
11 insurers authorized to transact insurance business in this state for the purpose of
12 providing the plans.

13 2. May, wholly or partially in lieu of subd. 1., on behalf of the state, provide the
14 plans on a self-insured basis.

15 3. May take any action as trustees that is considered advisable and not
16 specifically prohibited or delegated to some other governmental agency to carry out
17 the purpose and intent of the plans.

18 4. May apportion all excess moneys becoming available to the board through
19 operation of the plans to reduce premium payments in following contract years or to
20 establish reserves to stabilize costs in subsequent years. If the board determines
21 that the excess became available due to favorable experience of specific groups of
22 employers or specific employee groups, the board may make the apportionment in
23 a manner designated to benefit the specific employers or employee groups only, or to
24 a greater extent than other employers and employee groups.

1 5. Shall take prompt action to liquidate any actuarial or cash deficit that occurs
2 in the accounts and reserves maintained in the fund for the plans.

3 6. Shall accept timely appeals of determinations made by the department
4 affecting any right or benefit under the plans.

5 **SECTION 6.** 40.03 (2) (i) of the statutes is amended to read:

6 40.03 (2) (i) ~~Shall~~ Except as provided under pars. (ig) and (ir), shall promulgate,
7 ~~with the approval of the board, all rules, except rules promulgated under par. (ig) or~~
8 ~~(ir), that are required for the efficient administration of the fund or of any of the~~
9 ~~benefit plans established by this chapter. In addition to being approved by the board,~~
10 ~~and shall promulgate rules as necessary for a long-term disability insurance plan~~ /
11 ~~established under s. 40.64. All rules promulgated under this paragraph are subject~~
12 ~~to board approval under sub. (1) (m). Except rules promulgated under s. 40.30 (6),~~
13 ~~the rules promulgated under this paragraph relating to teachers must be approved~~
14 ~~are subject to approval by the teachers retirement board and under sub. (7) (d).~~
15 ~~Except rules promulgated under s. 40.30 (6), the rules promulgated under this~~
16 ~~paragraph relating to participants other than teachers must be approved~~ are subject
17 to approval by the Wisconsin retirement board, except rules promulgated under s.
18 40.30 under sub. (8) (d).

19 **SECTION 7.** 40.03 (2) (ig) of the statutes is amended to read:

20 40.03 (2) (ig) Shall promulgate, with the approval of the group insurance board,
21 all rules required for the administration of the group health, long-term care, ~~income~~ /
22 ~~continuation~~ or life insurance plans established under subchs. IV to and VI and
23 health savings accounts under subch. IV.

24 **SECTION 8.** 40.03 (6) (intro.) of the statutes is amended to read:

1 40.03 (6) GROUP INSURANCE BOARD. (intro.) ~~The~~ With respect to the group
2 insurance plans provided for by this chapter other than the group income
3 continuation insurance plan established under ss. 40.61 and 40.62 and the group
4 long-term disability insurance plan established under s. 40.64, the group insurance
5 board:

6 **SECTION 9.** 40.03 (6) (a) 1. of the statutes is amended to read:

7 40.03 (6) (a) 1. Except as provided in par. (m), shall, on behalf of the state, enter
8 into a contract or contracts with one or more insurers authorized to transact
9 insurance business in this state for the purpose of providing the group insurance
10 plans ~~provided for by this chapter; or,~~

11 **SECTION 10.** 40.03 (6) (d) (intro.) of the statutes is amended to read:

12 40.03 (6) (d) (intro.) May take any action as trustees which ~~that~~ is deemed
13 considered advisable and not specifically prohibited or delegated to some other
14 governmental agency, to carry out the purpose and intent of the group insurance
15 plans ~~provided under this chapter,~~ including, but not limited to, provisions in the
16 appropriate contracts relating to:

17 **SECTION 11.** 40.03 (6) (i) of the statutes is amended to read:

18 40.03 (6) (i) Shall accept timely appeals of determinations made by the
19 department affecting any right or benefit under ~~any~~ the group insurance ~~plan~~
20 ~~provided for under this chapter~~ plans that are overseen by the group insurance
21 board.

22 **SECTION 12.** 40.04 (2) (a) of the statutes is amended to read:

23 40.04 (2) (a) An administrative account shall be maintained within the fund
24 from which administrative costs of the department shall be paid, except charges for
25 services performed by the investment board, costs of medical and vocational

1 evaluations used in determinations of eligibility for benefits under ss. 40.61, 40.63,
2 40.64, and 40.65, and costs of contracting for insurance data collection and analysis
3 services under s. 40.03 (6) (j). ✓

4 **SECTION 13.** 40.23 (1) (bm) of the statutes is amended to read:

5 40.23 (1) (bm) If an application by a participant age 55 or over, or by a protective
6 occupation participant age 50 or over, for long-term disability insurance benefits
7 under s. 40.64 is disapproved under rules promulgated by the department, the date
8 which that would have been the effective date for the insurance benefits shall be is
9 the retirement annuity effective date if requested by the applicant within 60 days of
10 the disapproval or, if the disapproval is appealed, within 60 days of the final
11 disposition of the appeal. R

12 **SECTION 14.** 40.61 (3) of the statutes is amended to read:

13 40.61 (3) ~~Any~~ An employer under s. 40.02 (28), other than the state, may offer
14 to all of its employees ~~an~~ a group income continuation insurance plan through a
15 program offered by the ~~group insurance~~ board. Notwithstanding sub. (2) and ss.
16 40.05 (5) and 40.62, the department may by rule establish different eligibility
17 standards or contribution requirements for ~~such~~ those employees and employers and
18 may by rule limit the categories of employers which that may be included as
19 participating employers under this subchapter. ✓

20 **SECTION 15.** 40.62 (1) of the statutes is amended to read:

21 40.62 (1) The ~~group insurance~~ board shall establish ~~an~~ a group income
22 continuation insurance plan providing for full or partial payment of the financial loss
23 of earnings incurred as a result of injury or illness with separate provisions for
24 short-term insurance with a benefit duration of no more than one year and
25 long-term insurance covering injury or illness of indefinite duration. ~~Employees~~ An ✓

1 employee insured under the plan ~~shall be~~ is eligible for benefits upon exhaustion of
2 accumulated sick leave and completion of the elimination period established by the
3 group insurance board.

4 **SECTION 16.** 40.63 (8) (f) of the statutes is amended to read:

5 40.63 (8) (f) ~~If an employer certifies that an employee's date of termination of~~
6 ~~employment is being extended past the last day worked due to any payment for~~
7 ~~accumulated sick leave, vacation or compensatory time, a participating employee~~
8 ~~may file an application for a disability annuity as if the last day worked were the last~~
9 ~~day paid. Regardless of the application date for a disability annuity, The department~~
10 ~~will consider the date of termination of employment for effective date purposes shall~~
11 ~~be deemed to be the last day for which the participant was paid, including any~~
12 ~~payment for accumulated leave time the employee used, but if a disability annuity~~
13 ~~applicant whose application has been approved dies before the last day paid, but~~
14 ~~after the last day worked, the effective date is the date of death.~~

15 **SECTION 17.** 40.63 (8) (h) (intro.), 1. and 2. of the statutes are amended to read:

16 40.63 (8) (h) (intro.) ~~If an applicant dies prior to the date a decision regarding~~
17 ~~the approval or disapproval of an application for a disability benefit becomes final~~
18 ~~under sub. (5) the department makes a determination to approve or deny the~~
19 ~~application, the department will consider the application is deemed to have been~~
20 ~~approved prior to the applicant's death if all of the following are true:~~

21 1. ~~The applicant was eligible for the disability benefit; met one of the~~
22 ~~requirements for eligibility under sub. (1) (a) on the date of death.~~

23 2. ~~The department received an application for the disability benefit in the form~~
24 ~~approved by the department and at least one written qualifying medical certification~~
25 ~~required under sub. (1) (d); and before the date of death.~~

SECTION 18

1 **SECTION 18.** 40.63 (8) (h) 4. of the statutes is created to read:

2 40.63 (8) (h) 4. The applicant's employer certifies that on the date of death the
3 applicant was on a leave of absence or had terminated participating employment and
4 was not expected to resume active service for the employer due to a mental or
5 physical impairment as described in sub. (1) (b).

6 **SECTION 19.** 40.63 (8) (hm) of the statutes is created to read:

7 40.63 (8) (hm) For the purpose of par. (h), the named survivor or beneficiary
8 of an applicant for a disability benefit under this section may waive the right to
9 ~~receive the disability benefit and elect instead to receive a death benefit calculated~~
10 according to s. 40.73 (1) (am). The named survivor or beneficiary must designate the
11 waiver and election in writing in a form approved by the department. A waiver made
12 under this paragraph is irrevocable upon receipt by the department.

13 **SECTION 20.** 40.63 (9) (c) (intro.) of the statutes is amended to read:

14 40.63 (9) (c) (intro.) The disability annuity shall be terminated and no payment
15 shall be payable to an annuitant after the first of the month in which ~~a determination~~
16 ~~is made by the department that~~ makes any of the following determinations:

17 **SECTION 21.** 40.63 (9) (c) 1. of the statutes is amended to read:

18 40.63 (9) (c) 1. The written physician's report required in par. (a) indicates that
19 the annuitant has recovered from the disability so the annuitant is no longer
20 disabled to the extent required under sub. (1) (b);

21 **SECTION 22.** 40.63 (9) (c) 2. of the statutes is amended to read:

22 40.63 (9) (c) 2. The annuitant refuses to submit to an examination under par.
23 (a); ~~or.~~

24 **SECTION 23.** 40.63 (9) (c) 4. of the statutes is created to read:

1 40.63 (9) (c) 4. The annuitant's earnings or other earned income from any
2 source for personal services exceeds the amount established under sub. (11) during
3 2 calendar years within a 5-year period, except that this subdivision does not apply
4 to an annuitant who is receiving payment under sub. (4).

5 **SECTION 24.** 40.64 of the statutes is created to read:

6 **40.64 Long-term disability insurance coverage.** The board may establish
7 a group long-term disability insurance plan.

8 **SECTION 9113. Nonstatutory provisions; Employee Trust Funds.**

9 (1) **TRANSFER OF OVERSIGHT OF GROUP DISABILITY BENEFIT INSURANCE PLANS.**

10 (a) *Tangible personal property.* On the effective date of this paragraph, all
11 tangible personal property, including records, of the group insurance board that is
12 primarily related to the group income continuation insurance plan or long-term
13 disability insurance plan, as determined by the secretary of employee trust funds,
14 is transferred to the employee trust funds board.

15 (b) *Contracts.* All contracts entered into by the group insurance board in effect
16 on the effective date of this paragraph that are primarily related to the group income
17 continuation insurance plan or long-term disability insurance plan, as determined
18 by the secretary of employee trust funds, remain in effect and are transferred to the
19 employee trust funds board. The employee trust funds board shall carry out any
20 obligations under those contracts unless modified or rescinded by the employee trust
21 funds board to the extent allowed under the contract.

22 (c) *Rules.* All rules promulgated by the group insurance board in effect on the
23 effective date of this paragraph that are primarily related to the group income
24 continuation insurance plan or long-term disability insurance plan remain in effect

1 until their specified expiration dates or until amended or repealed by the employee
2 trust funds board.

3 (d) *Pending matters.* Any matter pending with the group insurance board on
4 the effective date of this paragraph that is primarily related to the group income
5 continuation insurance plan or long-term disability insurance plan, as determined
6 by the secretary of employee trust funds, is transferred to the employee trust funds
7 board. All materials submitted to or actions taken by the group insurance board with
8 respect to the pending matter are considered as having been submitted to or taken
9 by the employee trust funds board.

10 **SECTION 9313. Initial applicability; Employee Trust Funds.**

11 (1) **TERMINATION OF THE WISCONSIN RETIREMENT SYSTEM DISABILITY ANNUITY FOR**
12 **ANNUITANT WHO EXCEEDS ANNUAL EARNINGS LIMIT.** The treatment of s. 40.63 (9) (c) 4.
13 first applies to a 5-year period that begins on January 1, 2020.

14 (END)





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Board oversight of

DOA:.....Sherwin, BB0085 - Group disability benefit insurance plans offered to state employees

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Analysis by the Legislative Reference Bureau
STATE GOVERNMENT
STATE EMPLOYMENT

1. Oversight of group disability benefit insurance plans

Under current law, the Group Insurance Board oversees the group income continuation insurance plan and the group long-term disability insurance (LTDI) plan. This bill transfers oversight of those plans to the Employee Trust Funds Board. The bill provides explicit statutory authority for the ETFB to establish the LTDI plan.

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:

2 SECTION 1. 20.515 (1) (um) of the statutes is amended to read:
3 20.515 (1) (um) *Benefit administration.* From the public employee trust fund,
4 biennially, the amounts in the schedule to pay other parties for medical and

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1 vocational evaluations used in determinations of eligibility for benefits under ss.
2 40.61, 40.63, 40.64, and 40.65.

3 **SECTION 2.** 40.03 (1) (i) of the statutes is amended to read:

4 40.03 (1) (i) May determine that some or all of the disability annuities and
5 death benefits provided from the Wisconsin retirement system shall instead be
6 provided through group insurance plans ~~to be established by the group insurance~~
7 ~~board~~ either as separate plans or as integral parts of the group life and income
8 continuation insurance plans established under this chapter.

9 **SECTION 3.** 40.03 (1) (p) of the statutes is amended to read:

10 40.03 (1) (p) May, upon the recommendation of the actuary, transfer in whole
11 or in part the assets and reserves held in any account described in s. 40.04 (9) to a
12 different account described in s. 40.04 (9), for the purpose of providing any group
13 insurance benefit ~~offered by the group insurance board.~~

14 **SECTION 4.** 40.03 (1) (q) of the statutes is created to read:

15 40.03 (1) (q) For the purpose of the group income continuation insurance plan
16 established under ss. 40.61 and 40.62 and the group long-term disability insurance
17 plan established under s. 40.64:

18 1. May, on behalf of the state, enter into a contract or contracts with one or more
19 insurers authorized to transact insurance business in this state for the purpose of
20 providing the plans.

21 2. May, wholly or partially in lieu of subd. 1., on behalf of the state, provide the
22 plans on a self-insured basis.

23 3. May take any action as trustees that is considered advisable and not
24 specifically prohibited or delegated to some other governmental agency to carry out
25 the purpose and intent of the plans.

1 4. May apportion all excess moneys becoming available to the board through
2 operation of the plans to reduce premium payments in following contract years or to
3 establish reserves to stabilize costs in subsequent years. If the board determines
4 that the excess became available due to favorable experience of specific groups of
5 employers or specific employee groups, the board may make the apportionment in
6 a manner designated to benefit the specific employers or employee groups only, or to
7 a greater extent than other employers and employee groups.

8 5. Shall take prompt action to liquidate any actuarial or cash deficit that occurs
9 in the accounts and reserves maintained in the fund for the plans.

10 6. Shall accept timely appeals of determinations made by the department
11 affecting any right or benefit under the plans.

12 **SECTION 5.** 40.03 (2) (i) of the statutes is amended to read:

13 40.03 (2) (i) Shall Except as provided under pars. (ig) and (ir), shall promulgate,
14 with the approval of the board, all rules, except rules promulgated under par. (ig) or
15 (ir), that are required for the efficient administration of the fund or of any of the
16 benefit plans established by this chapter. In addition to being approved by the board,
17 and shall promulgate rules as necessary for a long-term disability insurance plan
18 established under s. 40.64. All rules promulgated under this paragraph are subject
19 to board approval under sub. (1) (m). Except rules promulgated under s. 40.30 (6),
20 the rules promulgated under this paragraph relating to teachers must be approved
21 are subject to approval by the teachers retirement board and under sub. (7) (d).
22 Except rules promulgated under s. 40.30 (6), the rules promulgated under this
23 paragraph relating to participants other than teachers must be approved are subject
24 to approval by the Wisconsin retirement board, except rules promulgated under s.
25 40.30 under sub. (8) (d).

1 **SECTION 6.** 40.03 (2) (ig) of the statutes is amended to read:

2 40.03 (2) (ig) Shall promulgate, with the approval of the group insurance board,
3 all rules required for the administration of the group health, long-term care, income
4 continuation or life insurance plans established under subchs. IV to and VI and
5 health savings accounts under subch. IV.

6 **SECTION 7.** 40.03 (6) (intro.) of the statutes is amended to read:

7 40.03 (6) GROUP INSURANCE BOARD. (intro.) The With respect to the group
8 insurance plans provided for by this chapter other than the group income
9 continuation insurance plan established under ss. 40.61 and 40.62 and the group
10 long-term disability insurance plan established under s. 40.64, the group insurance
11 board:

12 **SECTION 8.** 40.03 (6) (a) 1. of the statutes is amended to read:

13 40.03 (6) (a) 1. Except as provided in par. (m), shall, on behalf of the state, enter
14 into a contract or contracts with one or more insurers authorized to transact
15 insurance business in this state for the purpose of providing the group insurance
16 plans provided for by this chapter; or,

17 **SECTION 9.** 40.03 (6) (d) (intro.) of the statutes is amended to read:

18 40.03 (6) (d) (intro.) May take any action as trustees which that is deemed
19 considered advisable and not specifically prohibited or delegated to some other
20 governmental agency; to carry out the purpose and intent of the group insurance
21 plans ~~provided under this chapter~~, including, but not limited to, provisions in the
22 appropriate contracts relating to:

23 **SECTION 10.** 40.03 (6) (i) of the statutes is amended to read:

24 40.03 (6) (i) Shall accept timely appeals of determinations made by the
25 department affecting any right or benefit under any the group insurance plan

1 ~~provided for under this chapter plans that are overseen by the group insurance~~
2 ~~board.~~

3 **SECTION 11.** 40.04 (2) (a) of the statutes is amended to read:

4 40.04 (2) (a) An administrative account shall be maintained within the fund
5 from which administrative costs of the department shall be paid, except charges for
6 services performed by the investment board, costs of medical and vocational
7 evaluations used in determinations of eligibility for benefits under ss. 40.61, 40.63,
8 40.64, and 40.65, and costs of contracting for insurance data collection and analysis
9 services under s. 40.03 (6) (j).

10 **SECTION 12.** 40.23 (1) (bm) of the statutes is amended to read:

11 40.23 (1) (bm) If an application by a participant age 55 or over, or by a protective
12 occupation participant age 50 or over, for long-term disability insurance benefits
13 under s. 40.64 is disapproved under rules promulgated by the department, the date
14 ~~which that~~ would have been the effective date for the insurance benefits ~~shall be is~~
15 the retirement annuity effective date if requested by the applicant within 60 days of
16 the disapproval or, if the disapproval is appealed, within 60 days of the final
17 disposition of the appeal.

18 **SECTION 13.** 40.61 (3) of the statutes is amended to read:

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20 to all of its employees an a group income continuation insurance plan through a
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22 40.05 (5) and 40.62, the department may by rule establish different eligibility
23 standards or contribution requirements for ~~such those~~ employees and employers and
24 may by rule limit the categories of employers ~~which that~~ may be included as
25 participating employers under this subchapter.

1 **SECTION 14.** 40.62 (1) of the statutes is amended to read:

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3 continuation insurance plan providing for full or partial payment of the financial loss
4 of earnings incurred as a result of injury or illness with separate provisions for
5 short-term insurance with a benefit duration of no more than one year and
6 long-term insurance covering injury or illness of indefinite duration. ~~Employees~~ An
7 employee insured under the plan shall be is eligible for benefits upon exhaustion of
8 accumulated sick leave and completion of the elimination period established by the
9 ~~group insurance~~ board.

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11 **40.64 Long-term disability insurance coverage.** The board may establish
12 a group long-term disability insurance plan.

13 **SECTION 9113. Nonstatutory provisions; Employee Trust Funds.**

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15 (a) *Tangible personal property.* On the effective date of this paragraph, all
16 tangible personal property, including records, of the group insurance board that is
17 primarily related to the group income continuation insurance plan or long-term
18 disability insurance plan, as determined by the secretary of employee trust funds,
19 is transferred to the employee trust funds board.

20 (b) *Contracts.* All contracts entered into by the group insurance board in effect
21 on the effective date of this paragraph that are primarily related to the group income
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24 employee trust funds board. The employee trust funds board shall carry out any

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15

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0760/P3dn
MIM:emw&amn

(P2)

(P3)

1 This draft reconciles LRB-1012^(P2) and LRB-0760^(P3). All of these drafts should continue to
2 appear in the compiled bill.

3

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2019 - 2020 LEGISLATURE

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7 different account described in s. 40.04 (9), for the purpose of providing any group
8 insurance benefit ~~offered by the group insurance board.~~

9 **SECTION 3.** 40.03 (1) (q) of the statutes is created to read:

10 40.03 (1) (q) For the purpose of the group income continuation insurance plan
11 established under ss. 40.61 and 40.62 and the group long-term disability insurance
12 plan established under s. 40.64:

13 1. May, on behalf of the state, enter into a contract or contracts with one or more
14 insurers authorized to transact insurance business in this state for the purpose of
15 providing the plans.

16 2. May, wholly or partially in lieu of subd. 1., on behalf of the state, provide the
17 plans on a self-insured basis.

18 3. May take any action as trustees that is considered advisable and not
19 specifically prohibited or delegated to some other governmental agency to carry out
20 the purpose and intent of the plans.

21 4. May apportion all excess moneys becoming available to the board through
22 operation of the plans to reduce premium payments in following contract years or to
23 establish reserves to stabilize costs in subsequent years. If the board determines
24 that the excess became available due to favorable experience of specific groups of
25 employers or specific employee groups, the board may make the apportionment in

1 a manner designated to benefit the specific employers or employee groups only, or to
2 a greater extent than other employers and employee groups.

3 5. Shall take prompt action to liquidate any actuarial or cash deficit that occurs
4 in the accounts and reserves maintained in the fund for the plans.

5 6. Shall accept timely appeals of determinations made by the department
6 affecting any right or benefit under the plans.

7 **SECTION 4.** 40.03 (2) (i) of the statutes is amended to read:

8 40.03 (2) (i) Shall Except as provided under pars. (ig) and (ir), shall promulgate,
9 with the approval of the board, all rules, except rules promulgated under par. (ig) or
10 (ir), that are required for the efficient administration of the fund or of any of the
11 benefit plans established by this chapter. In addition to being approved by the board,
12 and shall promulgate rules as necessary for a long-term disability insurance plan
13 established under s. 40.64. All rules promulgated under this paragraph are subject
14 to board approval under sub. (1) (m). Except rules promulgated under s. 40.30 (6),
15 the rules promulgated under this paragraph relating to teachers must be approved
16 are subject to approval by the teachers retirement board and under sub. (7) (d).
17 Except rules promulgated under s. 40.30 (6), the rules promulgated under this
18 paragraph relating to participants other than teachers must be approved are subject
19 to approval by the Wisconsin retirement board, except rules promulgated under s.
20 40.30 under sub. (8) (d).

21 **SECTION 5.** 40.03 (2) (ig) of the statutes is amended to read:

22 40.03 (2) (ig) Shall promulgate, with the approval of the group insurance board,
23 all rules required for the administration of the group health, long-term care, income
24 continuation or life insurance plans established under subchs. IV to and VI and
25 health savings accounts under subch. IV.

SECTION 6

1 **SECTION 6.** 40.03 (6) (intro.) of the statutes is amended to read:

2 40.03 (6) GROUP INSURANCE BOARD. (intro.) The With respect to the group
3 insurance plans provided for by this chapter other than the group income
4 continuation insurance plan established under ss. 40.61 and 40.62 and the group
5 long-term disability insurance plan established under s. 40.64, the group insurance
6 board:


7 **SECTION 7.** 40.03 (6) (a) 1. of the statutes is amended to read:

8 40.03 (6) (a) 1. Except as provided in par. (m), shall, on behalf of the state, enter
9 into a contract or contracts with one or more insurers authorized to transact
10 insurance business in this state for the purpose of providing the group insurance
11 plans provided for by this chapter; or.

12 **SECTION 8.** 40.03 (6) (d) (intro.) of the statutes is amended to read:


13 40.03 (6) (d) (intro.) May take any action as trustees which that is deemed
14 considered advisable and not specifically prohibited or delegated to some other
15 governmental agency, to carry out the purpose and intent of the group insurance
16 plans provided under this chapter, including, but not limited to, provisions in the
17 appropriate contracts relating to:

18 **SECTION 9.** 40.03 (6) (i) of the statutes is amended to read:

19 40.03 (6) (i) Shall accept timely appeals of determinations made by the
20 department affecting any right or benefit under any the group insurance plan
21 provided for under this chapter plans that are overseen by the group insurance
22 board. 

23 **SECTION 10.** 40.04 (2) (a) of the statutes is amended to read:

24 40.04 (2) (a) An administrative account shall be maintained within the fund
25 from which administrative costs of the department shall be paid, except charges for



1 services performed by the investment board, costs of medical and vocational
2 evaluations used in determinations of eligibility for benefits under ss. 40.61, 40.63,
3 40.64, and 40.65, and costs of contracting for insurance data collection and analysis
4 services under s. 40.03 (6) (j).

5 **SECTION 11.** 40.23 (1) (bm) of the statutes is amended to read:

6 40.23 (1) (bm) If an application by a participant age 55 or over, or by a protective
7 occupation participant age 50 or over, for long-term disability insurance benefits
8 under s. 40.64 is disapproved under rules promulgated by the department, the date
9 ~~which that~~ would have been the effective date for the insurance benefits shall be is
10 the retirement annuity effective date if requested by the applicant within 60 days of
11 the disapproval or, if the disapproval is appealed, within 60 days of the final
12 disposition of the appeal.

13 **SECTION 12.** 40.61 (3) of the statutes is amended to read:

14 40.61 (3) Any An employer under s. 40.02 (28), other than the state, may offer
15 to all of its employees ~~an~~ a group income continuation insurance plan through a
16 program offered by the ~~group insurance~~ board. Notwithstanding sub. (2) and ss.
17 40.05 (5) and 40.62, the department may by rule establish different eligibility
18 standards or contribution requirements for ~~such~~ those employees and employers and
19 may by rule limit the categories of employers ~~which that~~ may be included as
20 participating employers under this subchapter.

21 **SECTION 13.** 40.62 (1) of the statutes is amended to read:

22 40.62 (1) The ~~group insurance~~ board shall establish ~~an~~ a group income
23 continuation insurance plan providing for full or partial payment of the financial loss
24 of earnings incurred as a result of injury or illness with separate provisions for
25 short-term insurance with a benefit duration of no more than one year and

X

1 long-term insurance covering injury or illness of indefinite duration. ~~Employees An~~
2 ~~employee insured under the plan shall be is~~ eligible for benefits upon exhaustion of
3 accumulated sick leave and completion of the elimination period established by the
4 group insurance board.

5 **SECTION 14.** 40.64 of the statutes is created to read:

6 **40.64 Long-term disability insurance coverage.** The board may establish
7 a group long-term disability insurance plan.

8 **SECTION 9113. Nonstatutory provisions; Employee Trust Funds.**

9 (1) TRANSFER OF OVERSIGHT OF GROUP DISABILITY BENEFIT INSURANCE PLANS.

10 (a) *Tangible personal property.* On the effective date of this paragraph, all
11 tangible personal property, including records, of the group insurance board that is
12 primarily related to the group income continuation insurance plan or long-term
13 disability insurance plan, as determined by the secretary of employee trust funds,
14 is transferred to the employee trust funds board.

15 (b) *Contracts.* All contracts entered into by the group insurance board in effect
16 on the effective date of this paragraph that are primarily related to the group income
17 continuation insurance plan or long-term disability insurance plan, as determined
18 by the secretary of employee trust funds, remain in effect and are transferred to the
19 employee trust funds board. The employee trust funds board shall carry out any
20 obligations under those contracts unless modified or rescinded by the employee trust
21 funds board to the extent allowed under the contract.

22 (c) *Rules.* All rules promulgated by the group insurance board in effect on the
23 effective date of this paragraph that are primarily related to the group income
24 continuation insurance plan or long-term disability insurance plan remain in effect

1 until their specified expiration dates or until amended or repealed by the employee
2 trust funds board.

3 (d) *Pending matters.* Any matter pending with the group insurance board on
4 the effective date of this paragraph that is primarily related to the group income
5 continuation insurance plan or long-term disability insurance plan, as determined
6 by the secretary of employee trust funds, is transferred to the employee trust funds
7 board. All materials submitted to or actions taken by the group insurance board with
8 respect to the pending matter are considered as having been submitted to or taken
9 by the employee trust funds board.

10

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0760/P4⁵dn

MIM:emw&amj

Take

Date

1

stop

P3

Both

2 This draft reconciles LRB-0760/P4 and LRB-1012/P1. All of these drafts should
3 continue to appear in the compiled bill.

4

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0760/P5dn
MIM:ahc

February 25, 2019

This draft reconciles LRB-0760/P4 and LRB-1012/P1. Both of these drafts should continue to appear in the compiled bill.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0760/P5
MIM:amn&ahe

DOA:.....Sherwin, BB0085 - Board oversight of group disability benefit insurance plans offered to state employees

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

RETIREMENT AND GROUP INSURANCE

DISABILITY PLANS

1. Oversight of group disability benefit insurance plans

Under current law, the Group Insurance Board oversees the group income continuation insurance plan and the group long-term disability insurance (LTDI) plan. This bill transfers oversight of those plans to the Employee Trust Funds Board. The bill provides explicit statutory authority for the ETFB to establish the LTDI plan.

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:

2 **SECTION 1.** 40.03 (1) (i) of the statutes is amended to read:

3 40.03 (1) (i) May determine that some or all of the disability annuities and
4 death benefits provided from the Wisconsin retirement system shall instead be

1 provided through group insurance plans ~~to be established by the group insurance~~
2 ~~board~~ either as separate plans or as integral parts of the group life and income
3 continuation insurance plans established under this chapter.

4 **SECTION 2.** 40.03 (1) (p) of the statutes is amended to read:

5 40.03 (1) (p) May, upon the recommendation of the actuary, transfer in whole
6 or in part the assets and reserves held in any account described in s. 40.04 (9) to a
7 different account described in s. 40.04 (9), for the purpose of providing any group
8 insurance benefit ~~offered by the group insurance board.~~

9 **SECTION 3.** 40.03 (1) (q) of the statutes is created to read:

10 40.03 (1) (q) For the purpose of the group income continuation insurance plan
11 established under ss. 40.61 and 40.62 and the group long-term disability insurance
12 plan established under s. 40.64:

13 1. May, on behalf of the state, enter into a contract or contracts with one or more
14 insurers authorized to transact insurance business in this state for the purpose of
15 providing the plans.

16 2. May, wholly or partially in lieu of subd. 1., on behalf of the state, provide the
17 plans on a self-insured basis.

18 3. May take any action as trustees that is considered advisable and not
19 specifically prohibited or delegated to some other governmental agency to carry out
20 the purpose and intent of the plans.

21 4. May apportion all excess moneys becoming available to the board through
22 operation of the plans to reduce premium payments in following contract years or to
23 establish reserves to stabilize costs in subsequent years. If the board determines
24 that the excess became available due to favorable experience of specific groups of
25 employers or specific employee groups, the board may make the apportionment in

1 a manner designated to benefit the specific employers or employee groups only, or to
2 a greater extent than other employers and employee groups.

3 5. Shall take prompt action to liquidate any actuarial or cash deficit that occurs
4 in the accounts and reserves maintained in the fund for the plans.

5 6. Shall accept timely appeals of determinations made by the department
6 affecting any right or benefit under the plans.

7 **SECTION 4.** 40.03 (2) (i) of the statutes is amended to read:

8 40.03 (2) (i) Shall Except as provided under pars. (ig) and (ir), shall promulgate,
9 with the approval of the board, all rules, except rules promulgated under par. (ig) or
10 (ir), that are required for the efficient administration of the fund or of any of the
11 benefit plans established by this chapter. In addition to being approved by the board,
12 and shall promulgate rules as necessary for a long-term disability insurance plan
13 established under s. 40.64. All rules promulgated under this paragraph are subject
14 to board approval under sub. (1) (m). Except rules promulgated under s. 40.30 (6),
15 the rules promulgated under this paragraph relating to teachers must be approved
16 are subject to approval by the teachers retirement board and under sub. (7) (d).
17 Except rules promulgated under s. 40.30 (6), the rules promulgated under this
18 paragraph relating to participants other than teachers must be approved are subject
19 to approval by the Wisconsin retirement board, except rules promulgated under s.
20 40.30 under sub. (8) (d).

21 **SECTION 5.** 40.03 (2) (ig) of the statutes is amended to read:

22 40.03 (2) (ig) Shall promulgate, with the approval of the group insurance board,
23 all rules required for the administration of the group health, long-term care, income
24 continuation or life insurance plans established under subchs. IV to and VI and
25 health savings accounts under subch. IV.

1 **SECTION 6.** 40.03 (6) (intro.) of the statutes is amended to read:

2 40.03 (6) GROUP INSURANCE BOARD. (intro.) ~~The~~ With respect to the group
3 insurance plans provided for by this chapter other than the group income
4 continuation insurance plan established under ss. 40.61 and 40.62 and the group
5 long-term disability insurance plan established under s. 40.64, the group insurance
6 board:

7 **SECTION 7.** 40.03 (6) (a) 1. of the statutes is amended to read:

8 40.03 (6) (a) 1. Except as provided in par. (m), shall, on behalf of the state, enter
9 into a contract or contracts with one or more insurers authorized to transact
10 insurance business in this state for the purpose of providing the group insurance
11 plans provided for by this chapter; or,

12 **SECTION 8.** 40.03 (6) (d) (intro.) of the statutes is amended to read:

13 40.03 (6) (d) (intro.) May take any action as trustees which that is deemed
14 considered advisable and not specifically prohibited or delegated to some other
15 governmental agency, to carry out the purpose and intent of the group insurance
16 plans provided under this chapter, including, but not limited to, provisions in the
17 appropriate contracts relating to:

18 **SECTION 9.** 40.03 (6) (i) of the statutes is amended to read:

19 40.03 (6) (i) Shall accept timely appeals of determinations made by the
20 department affecting any right or benefit under any the group insurance plan
21 provided for under this chapter plans that are overseen by the group insurance
22 board.

23 **SECTION 10.** 40.23 (1) (bm) of the statutes is amended to read:

24 40.23 (1) (bm) If an application by a participant age 55 or over, or by a protective
25 occupation participant age 50 or over, for long-term disability insurance benefits

1 under s. 40.64 is disapproved under rules promulgated by the department, the date
2 ~~which that~~ would have been the effective date for the insurance benefits ~~shall be~~ is
3 the retirement annuity effective date if requested by the applicant within 60 days of
4 the disapproval or, if the disapproval is appealed, within 60 days of the final
5 disposition of the appeal.

6 **SECTION 11.** 40.61 (3) of the statutes is amended to read:

7 40.61 (3) ~~Any~~ An employer under s. 40.02 (28), other than the state, may offer
8 to all of its employees an a group income continuation insurance plan through a
9 program offered by the ~~group insurance~~ board. Notwithstanding sub. (2) and ss.
10 40.05 (5) and 40.62, the department may by rule establish different eligibility
11 standards or contribution requirements for such those employees and employers and
12 may by rule limit the categories of employers ~~which that~~ may be included as
13 participating employers under this subchapter.

14 **SECTION 12.** 40.62 (1) of the statutes is amended to read:

15 40.62 (1) The ~~group insurance~~ board shall establish an a group income
16 continuation insurance plan providing for full or partial payment of the financial loss
17 of earnings incurred as a result of injury or illness with separate provisions for
18 short-term insurance with a benefit duration of no more than one year and
19 long-term insurance covering injury or illness of indefinite duration. ~~Employees~~ An
20 employee insured under the plan shall be is eligible for benefits upon exhaustion of
21 accumulated sick leave and completion of the elimination period established by the
22 ~~group insurance~~ board.

23 **SECTION 13.** 40.64 of the statutes is created to read:

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25 a group long-term disability insurance plan.

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2 (1) TRANSFER OF OVERSIGHT OF GROUP DISABILITY BENEFIT INSURANCE PLANS.

3 (a) *Tangible personal property.* On the effective date of this paragraph, all
4 tangible personal property, including records, of the group insurance board that is
5 primarily related to the group income continuation insurance plan or long-term
6 disability insurance plan, as determined by the secretary of employee trust funds,
7 is transferred to the employee trust funds board.

8 (b) *Contracts.* All contracts entered into by the group insurance board in effect
9 on the effective date of this paragraph that are primarily related to the group income
10 continuation insurance plan or long-term disability insurance plan, as determined
11 by the secretary of employee trust funds, remain in effect and are transferred to the
12 employee trust funds board. The employee trust funds board shall carry out any
13 obligations under those contracts unless modified or rescinded by the employee trust
14 funds board to the extent allowed under the contract.

15 (c) *Rules.* All rules promulgated by the group insurance board in effect on the
16 effective date of this paragraph that are primarily related to the group income
17 continuation insurance plan or long-term disability insurance plan remain in effect
18 until their specified expiration dates or until amended or repealed by the employee
19 trust funds board.

20 (d) *Pending matters.* Any matter pending with the group insurance board on
21 the effective date of this paragraph that is primarily related to the group income
22 continuation insurance plan or long-term disability insurance plan, as determined
23 by the secretary of employee trust funds, is transferred to the employee trust funds
24 board. All materials submitted to or actions taken by the group insurance board with

1 respect to the pending matter are considered as having been submitted to or taken
2 by the employee trust funds board.

3 (END)