

Senate Bill 415

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CHAPTER 355, LAWS OF 1967

AN ACT to amend 66.901 (4a) and (11c), 66.903 (2) (f) 5, 66.9045 (1) and (5), 66.906 (2) (c) 3. c and d and (3b), 66.907 (2) (a) 1, (c) 2 and (3) (b) 1 and (c) 2 and 66.908 (2) (g); to repeal and recreate 66.901 (4e); and to create 66.901 (11a) (c) of the statutes, reducing the normal retirement age and years of service requirement for protective occupation participants under the Wisconsin retirement fund.

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

SECTION 1. 66.901 (4a) of the statutes is amended to read:

66.901 (4a) "Participating employe" means an employe other than an annuitant receiving a retirement annuity or a disability annuity who is currently in the service of a participating municipality, or an employe who is on a leave of absence, subject to the limitations in s. 66.903 (1) (b), but after December 31, 1965, no person who becomes an employe on or after the date he attains age 70 if not employed in a protective occupation, or age 63 if employed in a protective occupation, shall become a participating employe. *After June 30, 1974, no person employed in a protective occupation who becomes an employe on or after the date he attains age 58 shall become a participating employe.*

SECTION 2. 66.901 (4e) of the statutes is repealed and recreated to read:

66.901 (4e) (a) "Protective occupation participant" means any participant whose principal duties involve active law enforcement or active fire suppression or prevention, provided such duties require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. This definition is deemed to include any participant whose name is certified to the fund as provided in par. (d) and who is a conservation warden, conservation patrol boat captain, conservation patrol boat engineer, conservation pilot, conservation patrolman, forest fire control assistant, member of the state patrol, state motor vehicle inspector (if hired prior to January 1, 1968), policeman, including the chief and all other officers, fireman, including the chief and all other officers, sheriff, undersheriff, deputy sheriff, county traffic policeman, state forest ranger, or fire watchman employed by the Grand Army home for veterans.

(b) "Protective occupation participant" also means any state correctional-psychiatric officer, state investigator whose primary duties consist of investigational work in enforcing compliance with alcoholic beverage, gambling, prostitution or cigarette laws or special agent in the division of criminal investigation of the department of justice whose name is certified to the fund as provided in par. (d). A participating employe holding a position designated as a protective occupation by this paragraph on July 1, 1969 will become a protective occupation participant on such date, provided if he has attained the age of 50 on or before such date he submits his written election to be included under this paragraph to the board not later than June 1, 1969.

(c) Any participant holding a position which previously qualified him as a protective occupation participant but whose position has been deleted from this subsection by chapter _____, laws of 1967, (Senate Bill 415) shall cease to be a protective occupation participant effective June 30, 1969,

but all service prior to such date as a protective occupation participant shall be considered creditable service as a protective occupation participant.

(d) Each participating municipality and each state constitutional office, department, independent agency and commission shall certify to the fund on July 1, 1969, and quarterly thereafter, in such manner as is prescribed by the board, the names of all participating employes classified as protective occupation participants determined in accordance with this subsection. An employe may contest the certification because of its inclusion or omission of his name by filing an appeal to the board. The board may investigate the relevant facts and may, on request of either party, hold a hearing. Upon completion of its investigation and hearing, if any, the board shall make a determination which it shall certify to the participating municipality or the appropriate state agency. The board's determination of an employe's status under this section shall remain in effect until receipt by the board of certifications changing it, which may in turn be subject to appeal hereunder.

(e) Each determination of the status of a participant under this subsection shall include consideration, where applicable, of the following factors:

1. A "policeman" is any officer or employe of a police department, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active law enforcement even though such an employe is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement, but not excepting any person regularly employed and qualifying as a patrolman, or equal or higher rank, irrespective of the duties to which he is assigned.

2. A "fireman" is any officer or employe of a fire department, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active fire suppression or prevention even though such an employe is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active fire suppression or prevention, but not excepting any person regularly employed and qualifying as a fireman, hoseman, or equal or higher rank, irrespective of the duties to which he is assigned.

3. A "deputy sheriff" or a "county traffic policeman" is any officer or employe of a sheriff's office or county traffic department, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active law enforcement even though such an employe is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement, but not excepting any person regularly employed and qualifying as a deputy sheriff or county traffic policeman irrespective of the duties to which he is assigned.

(f) Each participating employe who is a protective occupation participant on July 1, 1969, shall be granted creditable service as a protective occupation participant, determined in accordance with s. 66.9045, for all service prior to July 1, 1969, which was previously considered protective occupation employment or which was performed in a position designated in this subsection as a position in which an individual would be a protective occupation participant.

SECTION 3. 66.901 (11a) (c) of the statutes is created to read:

66.901 (11a) (c) Effective July 1, 1974, formula final rate of earnings shall not include any earnings received by a protective occupation

participant from a participating municipality after the calendar quarter year in which such participant attains age 58 or June 30, 1974, whichever occurs later.

SECTION 4. 66.901 (11c) of the statutes is amended to read:

66.901 (11c) "Normal retirement date" means the day on which a participant attains the age of a) 60 years if he is or was a protective occupation employe; b) or 65 years otherwise; *but after June 30, 1974, normal retirement date for each protective occupation participant means the day on which such participant attains the age of 55 years.* The normal retirement date of any participant shall be determined by the employment classification of the participant at the time it is necessary to make any determination or to take any action relative to such participant for purposes of the fund, notwithstanding the fact that a participant may have been in one or more different employment classifications at any previous time.

SECTION 5. 66.903 (2) (f) 5 of the statutes is amended to read:

66.903 (2) (f) 5. No participating employe shall make normal contributions with respect to such earnings for service in any period subsequent to the end of the calendar quarter year in which he attains the age of 63 years if he is a protective occupation employe, or the age of 70 years otherwise, and there shall be no municipality contribution for the service for which such earnings were paid. *Effective for participating earnings paid on or after July 1, 1974, no protective occupation participant shall make normal contributions with respect to such earnings for service in any period subsequent to the end of the calendar quarter year in which he attains the age of 58 years, and there shall be no municipality contribution for the service for which such earnings were paid.*

SECTION 6. 66.9045 (1) and (5) of the statutes are amended to read:

66.9045 (1) The creditable service of each participant at any time prior to January 1, 1966, shall be the sum of his periods of prior service and current service as a participating employe as determined pursuant to the applicable statutes and rules. The period of creditable service of a participant after 1965 shall be the number of years and completed months of service for which he receives earnings until his employment is terminated, but not including any period subsequent to the end of the calendar quarter year in which he attains the age of 63 years if he is a protective occupation employe, or the age of 70 years otherwise. The board shall fix and determine by proper rules how much service in any year is equivalent to one year of creditable service. *Effective July 1, 1974, no protective occupation participant shall receive creditable service for any period after June 30, 1974, which is subsequent to the end of the calendar quarter year in which such participant attains the age of 58 years.*

(5) The computation of the creditable prior service of a person who was an employe on the effective date shall include all previous service for such municipality, including service as an elective or appointive official or as an employe, if such service or employment conformed to the requirements of s. 66.901 (4); but after December 31, 1965, in no case shall creditable prior service include any service rendered after the end of the calendar quarter year in which a participant attains the age of 63 years if he is a protective occupation participant or the age of 70 years otherwise; *but after June 30, 1974, in no case shall creditable prior service include any service rendered after the end of the calendar quarter year in which a protective occupation participant attains the age of 58 years.*

SECTION 7. 66.906 (2) (c) 3. c and d and (3b) of the statutes are amended to read:

66.906 (2) (c) 3. c. For each participant subject to s. 66.99 for creditable service as a protective occupation participant, $1\frac{1}{3}$ of one per

cent of his formula final rate of earnings, plus one-sixth of one per cent of his final excess ~~OASDI~~ OASDHI earnings, if any, *but for any annuity approved by the board after June 30, 1969, such amount shall be 1-3/5 of one per cent of his formula final rate of earnings, plus one-fifth of one per cent of his final excess OASDHI earnings, if any;*

d. For each participant not subject to s. 66.99 for creditable service as a protective occupation participant, $1\frac{3}{4}$ of one per cent of his formula final rate of earnings, less one-fourth of one per cent of his final excess ~~OASDI~~ OASDHI earnings, if any, *but for any annuity approved by the board after June 30, 1969, such amount shall be 2-1/10 of one per cent of his formula final rate of earnings, less three-tenths of one per cent of his final excess OASDHI earnings, if any.*

(3b) Notwithstanding any other provision of ss. 66.90 to 66.918, any participant who is eligible to receive an ordinary retirement annuity under sub. (2), which annuity is to begin prior to the participant's ~~sixty-fifth~~ 62nd birthday, may elect, in lieu of such annuity, to take the actuarial equivalent thereof as: a) a reduced annuity payable monthly for life, plus b) a temporary annuity payable monthly and terminating with the payment due in the month in which the participant attains age 65 62. It is the intent of this option that so far as is practicable the aforesaid life annuity and temporary annuity will be determined in such relative amounts that the participant's total anticipated retirement benefits from the fund and from primary social security will be the same both before and after attainment of age 65 62, assuming that the participant has no further wages credited to his account under the federal old-age and survivors, disability and health insurance system after ceasing to be a participating employe. Section 66.908 (2) (c) shall apply to an annuity granted under this subsection.

SECTION 8. 66.907 (2) (a) 1, (c) 2 and (3) (b) 1 and (c) 2 of the statutes are amended to read:

66.907 (2) (a) 1. Any protective occupation participant who is a participating employe who has not attained age 60, *but after June 30, 1969 who has not attained age 55*, and any other participating employe who has not attained age 65 and is totally disabled, either mentally or physically, by a disability which is likely to be permanent. A person shall not be deemed to be disqualified solely because he is able to perform the duties of any position for which the compensation does not exceed \$1,200 in any calendar year. "Totally disabled" means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of permanent duration. The participating municipality shall certify to the fund that the participating employe is unable to continue in employment because of a total disability of such a nature as to reasonably prevent performance of the duties of any position and as a consequence is not entitled to any earnings from such municipality. For the purposes of this subsection a participant shall, within the limitations of s. 66.903 (1) (b), be considered to be a participating employe on leave of absence, notwithstanding the fact that no formal leave of absence is in effect, if no other employment has intervened since service for the participating municipality and if the termination of active service for the participating municipality was due to such disability. For the purposes of this subsection a participant who is an official elected by the voters shall be considered as a participating employe for 30 days after the cessation of his earnings as an elected official.

(c) 2. The amount of the annuity that can be provided from the accumulation of additional credits on the date the disability annuity begins, plus the lesser of the following amounts: 50% of the final rate of earnings, or $1\frac{1}{2}$ % of the final rate of earnings, *but after June 30, 1969*

1 3/4% of the final rate of earnings of a protective occupation participant, multiplied by the number of years of creditable service including in the latter assumed service between the date the disability occurred and the date on which the applicant will attain the age applicable to him under par. (a) 1. The number of such total years shall be determined to the nearest full year. Whenever the applicant becomes eligible for disability benefits or for old-age benefits as a retired worker under the federal old-age ~~and~~, survivors, *disability and health* insurance system, the amount of his disability annuity, other than the amount attributable to his additional contributions, shall be reduced by 20% of the amount thereof, but in no event shall such reduction lower the disability annuity below that which could have been provided under subd. 1. Such reduction shall be effective with the annuity payment for the 8th month after the annuity begins except during such period as the disability annuitant furnishes evidence to the fund that he is not eligible for benefits from the federal old-age ~~and~~, survivors, *disability and health* insurance system.

(3) (b) 1. Have attained age 55, but have not attained age 60, *but after June 30, 1969 have attained age 50, but have not attained age 55;* and have been participating employe for not less than 15 years in the municipality by which he is employed; and

(c) 2. A special disability annuity payable monthly during life of an amount which, when added to the monthly retirement annuity paid under subd. 1 (excluding any portion thereof based upon additional contributions), equals the lesser of a) 50% of the final rate of earnings of the employe at the time of application for benefits under this subsection, or b) the retirement annuity which would have been payable to such person if he had continued to be a participating employe in the same position and at the same salary until attaining age 60, *but after June 30, 1969, until attaining age 55,* assuming, for purposes of computing any applicable money-purchase annuity, the accumulation of all his credits at the prescribed rate of interest from the last day for which participating earning were paid.

SECTION 9. 66.908 (2) (g) of the statutes is amended to read:

66.908 (2) (g) Upon the death, after December 31, 1965, of a participating employe who has attained the age of 60 years, *or upon the death after June 30, 1969, of a protective occupation participant who has attained age 55,* if par. (f) is not applicable, and if the beneficiary to whom a death benefit is payable is a spouse, child under age 21 (including legally adopted child), child age 21 or older if handicapped, or other dependent of such participating employe, as determined by the board, the present value at the day following the date of such death of the life annuity to the beneficiary which would have been payable if the participating employe had been eligible to receive a retirement annuity beginning on the date of his death and had elected to receive such annuity in the form of a joint and survivor annuity providing the same amount of annuity to the surviving beneficiary as the reduced amount payable during his lifetime, but if there is more than one such beneficiary the amount of such annuity and its present value will be determined as if the oldest of such beneficiaries were the sole beneficiary. Payment hereunder shall be completely in lieu of any payment to such beneficiary under par. (a), ~~provided that~~ *but* if the death benefit payable to such beneficiary under this paragraph would be less than the amount determined under par. (a) the death benefit shall be payable under par. (a) and this paragraph shall not be applicable to such beneficiary.

SECTION 10. This act shall take effect July 1, 1969, unless otherwise provided.

Approved January 24, 1968.