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1981 Assembly Bill 298

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CHAPTER 187 , Laws of 1981

AN ACT to renumber subchapter VII (title) of chapter 40; to amend 20.921 (1) (b) and (c) and (3), 66.04 (2) (b), 111.70 (1) (d) and 111.93 (3); and to create 20.921 (1) (bm), 40.02 (18g) and (18s) and subchapter VII of chapter 40 of the statutes, relating to deferred compensation plans for public employees.

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

SECTION 1. 20.921 (1) (b) and (c) of the statutes are amended to read:

20.921 (1) (b) The request under par. (a) shall be made to the state agency in ~~such~~ the form and manner and contain ~~such the~~ the directions and information ~~as is~~ as prescribed by each state agency. The request may be withdrawn or the amount paid to the payee may be changed by notifying the state agency to that effect, but no such withdrawal or change shall affect a payroll certification already prepared. However, time limits for withdrawal of payment of dues to employee organizations shall be as provided under s. 111.84 (1) (f).

(c) ~~The written~~ Written requests under this subsection shall be filed in the state agency and shall constitute authority to the state agency to make certification for each such officer or employe and for payment of the amounts so deducted or deferred.

SECTION 2. 20.921 (1) (bm) of the statutes is created to read:

20.921 (1) (bm) Any state officer or employe may request in writing that a specified part of his or her salary be deferred under a deferred compensation plan of a deferred compensation plan provider selected under s. 40.80. The request shall be made to the state agency in the form and manner prescribed in the deferred compensation plan and may be withdrawn as prescribed in that plan.

SECTION 3. 20.921 (3) of the statutes is amended to read:

20.921 (3) PROCEDURE. (a) Each state agency shall indicate on its payrolls the amount ~~or amounts~~ to be deducted or deferred from the salary of each officer and employe, the reason for each ~~such deduction or deferral~~, the net amount due each officer or employe, the total amount due for each purpose for which deductions or deferrals have been made, and the person, governmental unit or private organization in each case entitled to receive ~~such the~~ the deductions or the amount deferred. The department of administration shall then issue warrants for the respective amounts due the persons listed on each payroll and the checks for ~~such the~~ the payments when received by the state agency shall be transmitted to the persons entitled to receive them.

(b) All amounts deducted or retained from salaries of state officers and employes shall be paid by the department of administration from the respective funds to the person, governmental unit or private organization entitled to receive them, or for necessary ad-

justments to correct errors. Amounts due in payment of federal income taxes required to be deducted and withheld by any state agency shall be paid on dates required by the internal revenue code and shall be paid to qualified depositories for federal taxes designated by the secretary of administration.

SECTION 4. 40.02 (18g) and (18s) of the statutes are created to read:

40.02 (18g) "Deferred compensation plan" means a plan which is in accordance with section 457 of the federal internal revenue code, under which an employer executes an agreement by which an employee voluntarily agrees to defer a part of gross compensation for payment at a later date. Deferred compensation plan does not include annuity plans specified under section 403 (b) of the federal internal revenue code.

(18s) "Deferred compensation plan provider" means a person who provides administrative or investment services related to deferred compensation plans.

SECTION 5. Subchapter VII (title) of chapter 40 of the statutes, as affected by chapter (Assembly Bill 272), laws of 1981, is renumbered Subchapter VIII (title) of chapter 40.

SECTION 6. Subchapter VII of chapter 40 of the statutes is created to read:

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SUBCHAPTER VII

DEFERRED COMPENSATION PLANS

40.80 State deferred compensation plan. (1) The board shall select and contract with deferred compensation plan providers to be used by state agencies.

(2) The board shall:

(a) Determine the requirements for and the qualifications of the deferred compensation plan providers.

(b) Approve the terms and conditions of the proposed contracts for administrative and investment services.

(c) Determine the procedure for the selection of the deferred compensation plan providers.

(d) Approve the terms and conditions of model salary reduction agreements which shall be used by each state agency.

(e) Require as a condition of the contractual agreements entered into under this section that approved deferred compensation plan providers shall provide service to state agencies only as approved by the board.

(f) Require as a condition of the contractual agreements entered into under this section that the deferred compensation plan providers shall reimburse the department, to be credited to the administrative account of the public employee trust fund in s. 40.04 (2), for any costs incurred directly or indirectly by the department in soliciting, evaluating, monitoring and servicing deferred compensation plans.

(3) Any action taken under this section shall apply to employees covered by a collective bargaining agreement under subch. V of ch. 111.

40.81 Deferred compensation plan authorization. (1) An employer other than the state may provide a deferred compensation plan for its employees and may use the procedures and deferred compensation providers approved by the board under s. 40.80. An employer, or 2 or more employers acting jointly, may also elect under procedures established by that employer or employers to contract directly with a deferred compensation plan provider to administer a deferred compensation plan or to manage any compensation deferred under the plan.

(2) This section does not restrict a local government employer from entering into deferred compensation plans if the local government employer otherwise has authority to do so.

(3) Any action taken under this section shall apply to employees covered by a collective bargaining agreement under subch. IV of ch. 111.

40.82 General provisions. (1) Any part of gross compensation deferred under a deferred compensation plan established under this subchapter which would have been treated as current earnings or wages if paid immediately to the employee shall be treated as current earnings or wages for purposes of the federal social security act or any retirement, pension, or group insurance benefit plan provided by the department.

(2) Compensation which is withheld under a deferred compensation plan contract between an employer and an employee may be invested by the employer or a person other than the employer who is authorized by contract to administer the funds. The employer may determine the types of investments in which the deferred compensation funds may be invested. The deferred compensation funds may be invested and reinvested in the same manner provided for investments under s. 881.01 (1).

SECTION 7. 66.04 (2) (b) of the statutes is amended to read:

66.04 (2) (b) Any town, city or village may invest surplus funds in any bonds or securities issued under the authority of the municipality, whether the bonds or securities create a general municipality liability or a liability of the property owners of the municipality for special improvements, and may sell or hypothecate the bonds or securities. Funds of any ~~city or village employer, as defined by s. 40.02 (28), in a deferred compensation plan approved by the internal revenue service~~ may also be invested and reinvested in the same manner authorized for investments under s. 881.01 (1).

SECTION 8. 111.70 (1) (d) of the statutes is amended to read:

111.70 (1) (d) "Collective bargaining" means the performance of the mutual obligation of a municipal employer, through its officers and agents, and the representatives of its employees, to meet and confer at reasonable times, in good faith, with respect to wages, hours and conditions of employment, except as provided in s. 40.81 (3), with the intention of reaching an agreement, or to resolve questions arising under such an agreement. The duty to bargain, however, does not compel either party to agree to a proposal or require the making of a concession. Collective bargaining includes the reduction of any agreement reached to a written and signed document. The employer shall not be required to bargain on subjects reserved to management and direction of the governmental unit except insofar as the manner of exercise of such functions affects the wages, hours and conditions of employment of the employees. In creating this subchapter the legislature recognizes that the public employer must exercise its powers and responsibilities to act for the government and good order of the municipality, its commercial benefit and the health, safety and welfare of the public to assure orderly operations and functions within its jurisdiction, subject to those rights secured to public employees by the constitutions of this state and of the United States and by this subchapter.

SECTION 9. 111.93 (3) of the statutes is amended to read:

111.93 (3) ~~If~~ Except as provided in s. 40.80 (3), if a labor agreement exists between the state and a union representing a certified or recognized bargaining unit, the provisions of such agreement shall supersede such provisions of civil service and other applicable statutes related to wages, hours and conditions of employment whether or not the matters contained in such statutes are set forth in such labor agreement.

SECTION 10. **Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
20.515 (1)(b), as affected by ch. (AB-272), laws of 1981	subch. VII of ch. 40	subch. VIII of ch. 40

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753.075 (3), as affected by ch. (AB-272), laws of 1981	subch. VII of ch. 40	subch. VIII of ch. 40
806.04 (11), as affected by ch. (AB-272), laws of 1981	subch. VII of ch. 40	subch. VIII of ch. 40

SECTION 11. **Effective date.** This act takes effect on January 1, 1982, or on the day following publication, whichever is later.
