

1989 Assembly Bill 526

Date of enactment: April 26, 1990  
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## 1989 WISCONSIN ACT 323

AN ACT to amend 40.02 (15) (c) 4, 40.03 (2) (i), 40.03 (7) (d), 40.03 (8) (d) and 111.91 (1) (cm); and to create 40.02 (17) (j), 40.02 (33) (c), 40.30 and 111.91 (2) (h) of the statutes, relating to: retirement reciprocity and granting rule-making authority.

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

**SECTION 1.** 40.02 (15) (c) 4. of the statutes is amended to read:

40.02 (15) (c) 4. This paragraph does not apply to any active service used for the purpose of establishing entitlement to, or the amount of, any benefit, other than a disability benefit, to be paid by any federal retirement program except OASDHI and the retired pay for nonregular military service program under 10 USC 1331 to 1337 or, if the participant makes an election under s. 40.30 (2), by any retirement system specified in s. 40.30 (2) other than the Wisconsin retirement system.

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

40.02 (17) (j) Notwithstanding sub. (17) (intro.), only for purposes of determining whether a participant who makes an election under s. 40.30 (2) meets the minimum requirement for creditable service to be eligible for a retirement annuity under s. 40.23 (1) (a) 3. or (am) 2, "creditable service" includes all service credited to the participant under any retirement system specified under s. 40.30 (2).

**SECTION 3.** 40.02 (33) (c) of the statutes is created to read:

40.02 (33) (c) For a participant who makes an election under s. 40.30 (2), the monthly rate of earnings applicable under par. (a) or (b), increased as provided under s. 40.30 (4) (b).

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

40.03 (2) (i) Shall promulgate, with the approval of the board, all rules required for the efficient administration of the fund or of any of the benefit plans established by this chapter. In addition to being approved by the board, rules relating to teachers must be approved by the teachers retirement board and rules relating to participants other than teachers must be approved by the Wisconsin retirement board, except rules promulgated under s. 40.30.

**SECTION 5.** 40.03 (7) (d) of the statutes is amended to read:

40.03 (7) (d) Shall approve or reject all administrative rules proposed by the secretary under sub. (2) (i) that relate to teachers, except rules promulgated under s. 40.30.

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

40.03 (8) (d) Shall approve or reject all administrative rules proposed by the secretary under sub. (2) (i) that relate to participants other than teachers, except rules promulgated under s. 40.30.

**SECTION 7.** 40.30 of the statutes is created to read:

**40.30 Intrastate retirement reciprocity.** (1) This section shall be construed as an enactment of statewide concern to encourage career public service by employes of the state, 1st class cities and counties having a population of 500,000 or more but shall not be construed to affect the authority of any 1st class city to exercise its

power granted under article XI, section 3, of the constitution and chapter 441, laws of 1947, section 31 over any other provisions of any of the retirement systems established by chapter 589, laws of 1921, chapter 423, laws of 1923 or chapter 396, laws of 1937, or to affect the authority of any county having a population of 500,000 or more to exercise its power granted under chapter 405, laws of 1965, over any other provisions of the retirement system established by chapter 201, laws of 1937.

(2) Except as provided in sub. (7), any individual who has vested annuity benefit rights under the Wisconsin retirement system or under one of the retirement systems established by chapter 589, laws of 1921, chapter 423, laws of 1923, chapter 201, laws of 1937 or chapter 396, laws of 1937, who subsequently becomes covered by one or more of those other retirement systems, who, on or after the effective date of this subsection .... [revisor inserts date], terminates all employment covered by any of those retirement systems and who applies to have benefits begin within a 60-day period under all of those retirement systems from which the individual is entitled to receive benefits may, on a form provided by and filed with the department, elect to have retirement benefit computations and eligibility under each of those retirement systems determined as provided in this section.

(3) The sum of all service credited to the individual under each retirement system specified in sub. (2) shall be used in determining whether the individual has met any vesting period required for retirement benefit eligibility during any subsequent employment covered by any retirement system specified in sub. (2), but shall not be used in determining the amount of the benefit nor in determining credit for military service.

(4) The individual's retirement benefits under each retirement system specified in sub. (2) shall be determined as follows:

(a) The benefit formula used for each type of service credited to the individual shall be the benefit formula in effect for that type of service under the respective retirement system on the date on which the individual terminated all employment covered by any retirement system specified in sub. (2).

(b) The final average salary or final average earnings used in the benefit formula computation for each retirement system under par. (a) shall be the individual's final average salary or final average earnings under the respective retirement system, determined in accordance with the provisions of that retirement system based on the earnings covered by that retirement system and on all service permitted under that retirement system to be used in determining the final average salary or final average earnings, increased by the percentage increase in the average of the total wages, as determined under 42 USC 415 (b) (3) (A), between the date on which the individual

terminated all employment covered by that retirement system and the date on which the individual terminated all employment covered by any of those retirement systems.

(5) The benefits computed under this section for each retirement system shall be in lieu of any other benefit payable by that retirement system and may not begin before the individual terminates all employment covered by any retirement system specified in sub. (2).

(6) The secretary may promulgate rules affecting any retirement system specified in sub. (2) to carry out the purposes of this section.

(7) (a) Retirement benefit computations or eligibility may not be determined as provided in this section with respect to service performed by an individual under any retirement system established by chapter 589, laws of 1921, chapter 423, laws of 1923, or chapter 396, laws of 1937, or to service performed by that individual under the Wisconsin retirement system, before the date on which the governing body of the city that established the retirement system under chapter 589, laws of 1921, chapter 423, laws of 1923, or chapter 396, laws of 1937, adopts a resolution approving the application of this section to the retirement benefit computations and eligibility determinations under all of those retirement systems that it has established.

(b) Retirement benefit computations or eligibility may not be determined as provided in this section with respect to service performed by an individual under a retirement system established by chapter 201, laws of 1937, or to service performed by that individual under the Wisconsin retirement system, before the date on which the governing body of the county that established the retirement system under chapter 201, laws of 1937, adopts a resolution approving the application of this section to the retirement benefit computations and eligibility determinations under that retirement system.

(c) A resolution adopted under par. (a) or (b) is irrevocable. Any governing body that adopts a resolution under par. (a) or (b) shall provide the department with a copy of the resolution.

**SECTION 8.** 111.91 (1) (cm) of the statutes, as affected by 1989 Wisconsin Acts 13 and 31, is amended to read:

111.91 (1) (cm) Except as provided in sub. (2) (g) and (h) and ss. 40.02 (2) (e) and 40.23 (1) (f) 4., all laws governing the Wisconsin retirement system under ch. 40 and all actions of the employer that are authorized under any such law which apply to nonrepresented individuals employed by the state shall apply to similarly situated employees, unless otherwise specifically provided in a collective bargaining agreement that applies to those employees.

**SECTION 9.** 111.91 (2) (h) of the statutes is created to read:

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111.91 (2) (h) The rights of employes to have retirement benefits computed under s. 40.30.

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