



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #417

Funding for Accumulated Sick Leave Conversion Credits for Certain Retired State Employees (ETF)

CURRENT LAW

A GPR-funded sum sufficient appropriation under ETF [s. 20.515(1)(b)] funds post-retirement health insurance costs for certain individuals hired as National Guard technicians prior to 1966 who also retired from state service prior to May 3, 1996.

GOVERNOR

Continue base level funding of \$5,400 GPR annually in the appropriation.

DISCUSSION POINTS

1. National Guard technicians were designated state employees by Chapter 323, Laws of 1965, and were made eligible for participation under the former Wisconsin Retirement Fund on January 1, 1966. Prior to Chapter 323, the state considered these National Guard technicians to be federal employees since their salaries were paid entirely by the federal government.

2. The federal government had not included these individuals under the federal retirement system because it always considered them to be state employees and, furthermore, made funds available to each state for the payment of the employer's share of Social Security and state retirement contributions, if any.

3. The ambiguous status of these employees was finally resolved in 1964 by a U. S. Supreme Court decision that held these National Guard technicians to be state employees. Since it was unclear whether the Supreme Court decision automatically made Wisconsin National Guard technicians participants under the state retirement system, the 1965 Legislature enacted Chapter 323

to remove any doubt.

4. As new state employees, the National Guard technicians became eligible for annual sick leave credits. These credits, if unused, could be accumulated from year to year. Subsequently, provisions of Chapter 91, Laws of 1971, granted National Guard technicians retroactive retirement credits for periods of employment in Wisconsin prior to January 1, 1966, but did not include a grant of any credit for unused sick leave earned before 1966.

5. Later, during the same legislative session, Chapter 214, Laws of 1971, established an accumulated sick leave conversion credit program for state employees, effective July 1, 1972. In general, this program permits the unlimited accumulation of unused sick leave time from year-to-year by state employees and authorizes the conversion of this accumulated time upon retirement, at the employee's final hourly wage rate, into "credits" used to pay for the retiree's state group health insurance premiums.

6. Many years later, the Legislature enacted 1995 Wisconsin Act 240, which finally granted retroactive unused sick leave credits to National Guard technicians for the period of time they had worked in Wisconsin prior to 1966.

7. Since four of the former National Guard technicians eligible for this new benefit had already retired by the time Act 240 was enacted, a separate, GPR-funded sum sufficient appropriation was required to pay the sick leave credits for these retirees. The separate GPR appropriation was necessary because these individuals were subject to the provisions of Article VI, Section 26 of the Wisconsin Constitution, which bars the granting of any extra compensation to any former employee once the individual is no longer in state service. However, a benefit is expressly authorized in such circumstances, provided: (a) the amounts are funded exclusively from general purpose revenues; and (b) the Legislature adopts the provision by a vote of three-fourths of all members elected to both houses.

8. The unused sick leave credits that were granted to the four eligible National Guard technician retirees by Act 240 have now been completely exhausted. The last payment from the ETF sum sufficient appropriation created to fund the benefit was made during the 1999-00 fiscal year. No additional payments will be made from this appropriation. Current state employees who received sick leave credits for their pre-1966 employment as National Guard technicians will have those accumulated sick leave credits paid under current law provisions. Payments from the GPR-funded sum sufficient appropriation are not required for these individuals since they were still active employees at the time Act 240 was enacted.

9. The Committee could repeal the agency's s. 20.515(1)(b) appropriation and delete \$5,400 GPR annually of base level funding.

ALTERNATIVES TO BASE

1. Repeal the Department of Employee Trust Funds s. 20.515(1)(b) appropriation that

funds post-retirement health insurance costs for certain individuals hired as National Guard technicians prior to 1966 who also retired from state service prior to May 3, 1996, and delete \$5,400 GPR annually.

Alternative 1	GPR
2001-03 REVENUE (Change to Base)	- \$10,800
<i>[Change to Bill</i>	<i>- \$10,800]</i>

2. Maintain current law.

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