



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

---

April 21, 2009

Joint Committee on Finance

Paper #322

### **Retirement Eligibility for Educational Support Personnel (ETF)**

[LFB 2009-11 Budget Summary: Page 237, #7]

---

#### **CURRENT LAW**

An educational support personnel employee is defined in statute as any school district employee other than a teacher, librarian, or administrator. Under current law, to become covered under the Wisconsin Retirement System (WRS), an individual must work for a covered employer at least one-third of what is considered full-time employment, as determined by ETF by rule. For all WRS participants, other than teachers, librarians, and administrators, ETF defines full-time employment to be 1,904 hours per year and one-third employment to be 600 hours per year. This provision currently applies to educational support personnel employees.

In contrast, for teachers, librarians, and administrators, ETF defines full-time employment to be 1,320 hours per year and one-third employment to be 440 hours per year.

#### **GOVERNOR**

Provide that, to qualify as a participant in the Wisconsin Retirement System (WRS), the one-third, full-time equivalent minimum requirement for educational support personnel employees would be lowered from 600 hours to 440 hours, the same as for teachers, librarians, and administrators. The provision would first apply to those who are participating employees in the WRS on the effective date of the bill.

#### **DISCUSSION POINTS**

1. By lowering the one-third full-time equivalent minimum requirement for educational support personnel employees from 600 hours to 440 hours, the provision would increase the number

of participating employees in the WRS. DOA budget officials indicate that the intent of the provision is to equalize the qualifying service requirement for educational support personnel employees with that of teachers because educational support staff work similar schedules and should also be recognized for their value as paraprofessionals in education.

2. In a fiscal note to 2007 Senate Bill 222, which is identical to the provisions under AB 75, ETF officials indicated that there are no data currently available on the number of educational support personnel employees that would become eligible as a result of the provision. For the purpose of the fiscal note's discussion of potential administrative costs, ETF estimated that 2,500 educational support personnel employees would become eligible for WRS benefits. In addition, in future years, more individuals could qualify for WRS benefits than would be the case under current law.

3. Limited data on educational support personnel employees is available that may provide some perspective on the issue. According to Department of Public Instruction (DPI) data for the 2008-09 school year, there are approximately 51,149 educational support personnel employees in the state. The count includes both program aides (primarily special education aides and teacher's aides) and other support staff (primarily, clerical and support staff, plant maintenance and operation personnel, and cafeteria workers). These individuals are employed by 426 school districts, 16 non-district sponsored charter schools, 12 Cooperative Educational Service Agencies (CESAs), two county children and disabilities education boards, two state schools, and two state agencies: the Departments of Corrections and Health Services.

According to ETF officials, there are currently 42,725 individuals participating in the WRS who are employed in educational support functions. Again, these participants are employed by school districts, as well as by the other educational employers listed above. The difference between the DPI count of educational support personnel employees (51,149) and the ETF count of WRS participants (42,725) would indicate that approximately 8,424 educational support personnel employees do not currently work at least 600 hours annually and are not eligible for the WRS.

It is likely that most, perhaps nearly all, of these 8,424 educational support personnel employees work for school districts, given that the vast majority (93%) of these employers are school districts. In addition, school districts are probably more likely to hire part-time workers than some of the other employers identified above. However, what remains unknown is how many of the 8,424 educational support personnel employees work more than 400 hours in a year and would, therefore, become eligible for WRS coverage under the bill's provision.

4. If additional educational support personnel employees qualify for the WRS, school districts would be required to pay WRS contributions for these employees. Typically, public employers in Wisconsin pay the required employee contribution for retirement benefits in addition to the required employer contribution. In 2009, the total WRS contribution rate for general participants is 10.4% of earnings. If the provision is enacted, each school district would incur a contribution requirement of 10.4% of earnings for each newly eligible educational support personnel employee in the district. [Contribution rates are expected to increase in 2010, due to the

investment losses experienced by the WRS in 2008. The 2010 rate is not known at this time. Any modification to WRS contribution rates would be based on an actuarial recommendation and approved by the ETF Board.]

5. This fiscal effect reflects the provision as it would apply prospectively, for future educational support personnel employees' service. However, as drafted, the provision would also apply retroactively, potentially creating additional benefits for these employees based on prior-years of service. Under the bill, the provision would first apply to those who are participating employees in the WRS on the effective date of the bill. This applicability language means that, for active educational support personnel employees affected by the provision, prior-year work would count as creditable WRS service if the employee worked at least 440 hours in a given past year.

6. A retroactive provision would produce a greater fiscal effect for school districts because a benefit would be created for past service that has not been funded through the WRS contributions made to date. Therefore, an unfunded liability for the employer would be created. The unfunded liability would vary between school districts depending on how many educational support personnel employees would become eligible in each district and prior service history of each of the newly eligible employees. Under the WRS, unfunded liabilities are treated as an employer cost and are to be amortized through additional contributions paid by the employer over a 30-year amortization period. Any unfunded liability for each school district would need to be determined by ETF.

7. Officials at DOA indicate, in budget errata documents, that the Governor's intent was that the provision be prospective, not retroactive in its effect. As a result, the Governor's recommendation is modified to reflect the intent that the provision be prospective in effect.

8. The Committee could also consider maintaining the provision as retroactive in its effect, making prior-year service for certain educational support personnel employees eligible for WRS benefits. Arguably, if the part-time service of certain educational support personnel employees is to be recognized in the future, the equivalent level of service in past years could be recognized as well.

9. The counterargument for maintaining the provision's retroactive effect is that it would impose additional financial obligations on school districts. School district representatives have voiced opposition to the provision (based on its prospective effect), because of fiscal concerns. As noted above, the provision's retroactive effect would create additional unfunded liabilities for district employers, placing further demands on school finances.

10. It should also be noted that the provision could have unintended consequences. If the provision is enacted, it is possible, in order to control or limit fringe benefit costs, that school districts would limit future work hours for some part-time employees to below 440 hours annually. By doing so, the district would avoid paying the WRS contributions (currently 10.4% of earnings) for these employees. If this practice occurs, it could have a negative impact on the earnings of some educational support personnel employees.

11. Under current law, no bill or bill amendment creating or modifying any system for, or making any provision for, the retirement of or payment of pensions to public officers or employees, may be acted upon by the Legislature until it has been referred to the Joint Survey Committee on Retirement Systems and that Committee has submitted a written report on the bill or amendment. The report must address the probable costs involved, the effect on the actuarial soundness of the retirement system and the desirability of such proposal as a matter of public policy. On February 17, 2009, AB 75 was referred to the Joint Survey Committee on Retirement Systems.

Further, the Cochairpersons of the Joint Survey Committee on Retirement Systems or the Cochairpersons of the Joint Committee on Finance, may make a determination that the bill or amendment may have a significant fiscal impact on the costs, actuarial balance or goals of the WRS and order the attachment of an independent actuarial opinion on the impact. The Cochairpersons or presiding officer ordering the opinion must direct the Legislative Counsel Staff to obtain, and make payment for, the opinion.

12. The provision relating to educational support personnel employees under the bill, according to ETF officials, would not require an actuarial study because the provision would not modify the retirement system itself or affect required contribution rates. This is the case whether the provision is prospective or retroactive in its effect.

If the provision is enacted with a prospective effect, school districts would be required to begin paying the WRS contribution rate (currently 10.4% of earnings, including both the employer and employee share) for newly eligible educational support personnel employees. These contributions would cover the present actuarial value of future benefits for that year's service and would not affect the general contribution rates of WRS employers in any way.

If the provision is enacted with a retroactive effect, the WRS contribution rate would apply, as above, for the future earnings of new participants. In addition, the cost of prior service would be calculated and billed to the respective school districts. This is analogous to the calculation ETF performs when an employer joins the WRS and elects to recognize some or all of its employees' prior service. Since most employers are unable to fully fund these costs from current operating revenues, these obligations are amortized over an extended period (currently 30 years) and become a component of the employer's unfunded liability payments. These prior-year billings would also not affect the general contribution rates of other WRS employers.

## **ALTERNATIVES**

1. Approve, with modification, the Governor's recommendation to provide that, to qualify as a participant in the Wisconsin Retirement System, the one-third full-time equivalent minimum requirement for educational support personnel employees would be lowered from 600 hours to 440 hours, the same as for teachers, librarians, and administrators. Clarify the initial applicability language to reflect the Governor's intent that the provision would apply to creditable service performed on or after the effective date of the bill only, and would not have any retroactive

effect.

2. Adopt the Governor's recommendation without modification. Under this alternative, the provision would have a retroactive effect that would count prior-year work as creditable WRS service, if the educational support personnel employee worked at least 440 hours in a given past year.

3. Delete the provision.

Prepared by: Art Zimmerman