

# State of Wisconsin



2015 Assembly Bill 678

Date of enactment: **February 29, 2016**

Date of publication\*: **March 1, 2016**

## 2015 WISCONSIN ACT 187

AN ACT *to repeal* 40.04 (3) (ab) and 40.21 (1m); *to amend* 40.02 (48m) (e), 40.04 (3) (intro.), 40.21 (1), 40.23 (1) (a) 1., 40.23 (1) (d), 40.26 (2) (b), 40.26 (2) (c) and 40.26 (3); and *to create* 40.03 (2) (cm) of the statutes; **relating to:** remedial legislation affecting the Wisconsin Retirement System and the Department of Employee Trust Funds (suggested as remedial legislation by the Department of Employee Trust Funds).

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Employee Trust Funds and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

**SECTION 1.** 40.02 (48m) (e) of the statutes is amended to read:

40.02 (48m) (e) The determination of the alternate payee share does not require that benefits be paid to the alternate payee if those benefits are also required to be paid to another alternate payee under another judgment, decree, or order previously determined to be a qualified domestic relations order or to the internal revenue service under a lien placed on the participant's account under section 64 of the Internal Revenue Code.

NOTE: A qualified domestic relations order (QDRO) is a judgment, decree, or order issued by a court pursuant to a domestic relations law of any U.S. state or territory that meets certain criteria. Under current law, one requirement of a QDRO is that the determination of an alternate payee share may not require benefits to be paid to the alternate payee if those benefits are also required to be paid to another alternate

payee. This SECTION clarifies that a determination of the alternate payee share in a QDRO may not require benefits to be paid to the alternate payee if a court has also required those benefits to be paid to another alternate payee under another QDRO.

**SECTION 2.** 40.03 (2) (cm) of the statutes is created to read:

40.03 (2) (cm) May implement any payment processing system to pay moneys owing to any person under benefit plans administered by the department, including payment by direct deposit, electronic benefit transfer cards or other prepaid cards, electronic funds transfer, and automated clearinghouse procedures.

NOTE: Authorizes the secretary of employee trust funds to implement any payment processing system to pay moneys owing to any person under benefit plans administered by the Department of Employee Trust Funds.

**SECTION 3.** 40.04 (3) (intro.) of the statutes is amended to read:

40.04 (3) (intro.) A core retirement investment trust and a variable retirement investment trust shall be maintained within the fund under the jurisdiction and management of the investment board for the purpose of managing the investments of the retirement reserve accounts and of any other accounts of the fund as determined by the board, including the accounts of separate retirement systems. Within the core retirement investment trust

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

there shall be maintained ~~a transaction amortization account and~~ a market recognition account, and any other accounts as are established by the board or the investment board. A current income account shall be maintained in the variable retirement investment trust. All costs of owning, operating, protecting, and acquiring property in which either trust has an interest shall be charged to the current income or market recognition account of the trust having the interest in the property.

NOTE: Eliminates a reference to the transaction amortization account within the core retirement investment trust. The transaction amortization account has been closed.

**SECTION 4.** 40.04 (3) (ab) of the statutes is repealed.

NOTE: Deletes the procedure required to be used to distribute the balance of the transaction amortization account and deletes the requirement that the Department of Employee Trust Funds close the transaction amortization account after the entire balance has been distributed. The transaction amortization account has been closed under this procedure.

**SECTION 5.** 40.21 (1) of the statutes is amended to read:

40.21 (1) Any employer shall be included within and thereafter subject to the provisions of the Wisconsin retirement system by so electing, through adoption of a resolution by the governing body of the employer. ~~If the official notice of election to be included has been received by the department on or before November 15 the effective date of participation of the employer shall be the ensuing January 1. If the department receives the notice of election after November 15 the effective date shall be the January 1 after the ensuing January 1.~~

NOTE: Eliminates a provision that delays the effective date of an employer's inclusion in the Wisconsin Retirement System (WRS). Current law provides that if an employer elects to join the WRS and the Department of Employee Trust Funds receives the application on or before November 15, the effective date of inclusion is the ensuing January 1. If the application is received after November 15, the effective date of inclusion is the January 1 after the ensuing January 1.

**SECTION 6.** 40.21 (1m) of the statutes is repealed.

NOTE: Deletes a procedure that allows the governing body of a federated public library system whose territory lies within a single county with a population of 500,000 to become a Wisconsin Retirement System participating employer if the governing body adopts a resolution. Current law provides that if this procedure is followed, the resolution's effective date must be June 1, 1994.

**SECTION 7.** 40.23 (1) (a) 1. of the statutes is amended to read:

40.23 (1) (a) 1. The participant is separated, regardless of cause, and continues to be separated until the annuity effective date, ~~the date 30 days after the application is received by the department or the date 30 days after separation, whichever is later,~~ from all employment meeting the qualifications for inclusion specified in s. 40.22 for any participating employer.

NOTE: Eliminates a requirement that a participant in the Wisconsin Retirement System (WRS) must be separated from WRS-covered employment for at least 30 days to qualify for an annuity under the WRS.

**SECTION 8.** 40.23 (1) (d) of the statutes is amended to read:

40.23 (1) (d) Notwithstanding par. (c), an application for an annuity to be effective on the day following termination of employment may be filed ~~up to 90 days~~ prior to the employee's anticipated termination date. The anticipated termination date shall be stated in the application and the department shall not make an annuity payment until the employee has terminated. ~~The department shall reject any application that is filed more than 90 days prior to the employee's termination date.~~

NOTE: Eliminates a requirement under the Wisconsin Retirement System that the Department of Employee Trust Funds must reject any application for an annuity that is filed more than 90 days before the employee's termination date.

**SECTION 9.** 40.26 (2) (b) of the statutes is amended to read:

40.26 (2) (b) *Crediting of amounts under suspended annuity.* The amount of the annuity payments which would have been paid under the suspended annuity, from the original annuity suspension date to the subsequent retirement date, shall be credited to a memorandum account ~~which is subject to ss. 40.04 (4) (a) 2., 2g. and 2m. and 40.08 (1m).~~

NOTE: Removes cross-references to provisions concerning employee reserve accounts that are inapplicable to memorandum accounts and removes a cross-reference to the division of employee benefits that is unnecessary.

**SECTION 10.** 40.26 (2) (c) of the statutes is amended to read:

40.26 (2) (c) *Establishment of subsequent retirement account.* Upon becoming a participating employee, a subsequent retirement account shall be established, ~~including any amounts in a memorandum account under par. (b), which includes~~ crediting of interest, and any contributions made and creditable service earned during the subsequent participating employment.

**SECTION 11.** 40.26 (3) of the statutes is amended to read:

40.26 (3) Upon subsequent retirement ~~and application for an annuity,~~ the suspended annuity shall be reinstated ~~and the, including any amounts in a memorandum account under sub. (2) (b).~~ Upon application, the subsequent annuity ~~of a former annuitant~~ shall be computed as an original annuity, based upon the participant's attained age on the effective date of the subsequent annuity, in an optional form as elected by the participant under s. 40.24. ~~The subsequent annuity shall be initiated at the same time the suspended annuity is reinstated.~~

NOTE: Under current law, when a Wisconsin Retirement System (WRS) annuitant reenters employment as a WRS participating employee, the original annuity is suspended and a new account is created for any subsequent period of employment as a WRS participating employee. The amount of the annuity payments which would have been paid under the suspended annuity are credited to a memorandum account. The subsequent retirement account includes any amounts in the

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memorandum account, interest, and any contributions made and creditable service earned during the subsequent period of employment. Upon subsequent retirement, the suspended annuity is reinstated and the subsequent annuity is computed as an original annuity

SECTION 10 provides that amounts in a memorandum account are not included in a subsequent retirement account.

SECTION 11 provides that, upon subsequent retirement, any amounts in a memorandum account are included in the suspended annuity. In addition, SECTION 11 provides that the subsequent annuity is computed as an original annuity upon application from the annuitant, as opposed to automatically upon subsequent retirement.

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