



State of Wisconsin
2023 - 2024 LEGISLATURE

LRBs0261/1
MIM:cdc

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 671**

January 31, 2024 - Offered by Representatives RETTINGER, WITTKER and TITTL.

1 **AN ACT** *to amend* 40.22 (1), 40.22 (2m) (intro.), 40.22 (2r) (intro.) and 40.22 (3)
2 (intro.); and *to create* 40.04 (5) (am), 40.26 (7) and 40.26 (8) of the statutes;
3 **relating to:** retired law enforcement officers in the Wisconsin Retirement
4 System who are rehired by a participating employer.

Analysis by the Legislative Reference Bureau

Under current law, certain persons who receive a retirement or disability annuity from the Wisconsin Retirement System and who are hired by an employer that participates in the WRS must suspend that annuity and may not receive a WRS annuity payment until the employee is no longer in a WRS-covered position. This suspension applies to a person who 1) has reached his or her normal retirement date; 2) is appointed to a position with a WRS-participating employer or provides employee services to a WRS-participating employer; and 3) is expected to work at least two-thirds of what is considered full-time employment by the Department of Employee Trust Funds.

This bill creates an exception to this suspension for up to 60 months for an annuitant who retired from employment with a participating employer and who is subsequently rehired or provides employee services after retirement if 1) the annuitant retired as a law enforcement officer at least one year before being rehired or providing employee services; 2) at the time the annuitant initially retires from

covered employment with a participating employer law enforcement agency, the annuitant does not have an agreement with any participating employer to return to employment; 3) the annuitant is at least 55 years old; 4) the annuitant is rehired by a law enforcement agency that is not the one from which the annuitant retired; and 5) the annuitant elects to not become a participating employee at the time the annuitant is rehired or enters into a contract after retirement. Also under the bill, employers that hire such annuitants are required to make payments to ETF equal to what they would have paid as required contributions for each rehired annuitant if the rehired annuitant had suspended his or her annuity, for deposit in the employer reserve account. In other words, the bill allows an annuitant who retired as a police officer or sheriff's deputy to return to work with an employer other than the employer from which the annuitant retired who participates in the WRS and elect to not become a participating employee for purposes of the WRS, and instead continue to receive his or her annuity.

If the person does not terminate the annuity and does not become an active WRS-participating employee, in the case of state employment, the person is not eligible for group insurance benefits provided to active WRS-participating employees and may not use any of his or her service in the new position for any WRS purposes. If the person opts to again become an active WRS-participating employee, the person is eligible for all group insurance benefits provided to other participating employees and may accumulate additional years of creditable service under the WRS for the new period of WRS-covered employment.

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

1 **SECTION 1.** 40.04 (5) (am) of the statutes is created to read:

2 40.04 (5) (am) Credited all employer payments made under s. 40.26 (8).

3 **SECTION 2.** 40.22 (1) of the statutes is amended to read:

4 40.22 (1) Except as otherwise provided in sub. (2) and s. 40.26 (6) and (7), each
5 employee currently in the service of, and receiving earnings from, a state agency or
6 other participating employer shall be included within the provisions of the Wisconsin
7 retirement system as a participating employee of that state agency or participating
8 employer.

9 **SECTION 3.** 40.22 (2m) (intro.) of the statutes is amended to read:

1 40.22 **(2m)** (intro.) Except as otherwise provided in s. 40.26 (6) and (7), an
2 employee who was a participating employee before July 1, 2011, who is not expected
3 to work at least one-third of what is considered full-time employment by the
4 department, as determined by rule, and who is not otherwise excluded under sub. (2)
5 from becoming a participating employee shall become a participating employee if he
6 or she is subsequently employed by the state agency or other participating employer
7 for either of the following periods:

8 **SECTION 4.** 40.22 (2r) (intro.) of the statutes is amended to read:

9 40.22 **(2r)** (intro.) Except as otherwise provided in s. 40.26 (6) and (7), an
10 employee who was not a participating employee before July 1, 2011, who is not
11 expected to work at least two-thirds of what is considered full-time employment by
12 the department, as determined by rule, and who is not otherwise excluded under sub.
13 (2) from becoming a participating employee shall become a participating employee
14 if he or she is subsequently employed by the state agency or other participating
15 employer for either of the following periods:

16 **SECTION 5.** 40.22 (3) (intro.) of the statutes is amended to read:

17 40.22 **(3)** (intro.) Except as otherwise provided in s. 40.26 (6) and (7), a person
18 who qualifies as a participating employee shall be included within, and shall be
19 subject to, the Wisconsin retirement system effective on one of the following dates:

20 **SECTION 6.** 40.26 (7) of the statutes is created to read:

21 40.26 **(7)** (a) Under this subsection, “law enforcement officer” has the meaning
22 given in s. 165.85 (2) (c).

23 (b) Beginning on the effective date of this subsection ... [LRB inserts date], a
24 participant may elect to not suspend his or her retirement annuity or disability
25 annuity under sub. (1m) for up to a total of 60 months, if the participant applies for

1 an annuity or lump sum payment after at least one year has elapsed since the
2 participant's termination of employment with a participating employer and prior to
3 becoming an employee with a participating employer if all of the following conditions
4 are met:

5 1. The participant is a retired law enforcement officer.

6 2. The participant terminates his or her employment with the law enforcement
7 agency that is a participating employer after July 2, 2013.

8 3. At the time the participant terminates his or her employment as a law
9 enforcement officer, the participant does not have an agreement with any
10 participating employer to return to employment or enter into a contract to provide
11 employee services for a participating employer and complies with 26 CFR 1.401-1
12 (a) (2) (i) and requirements set by the federal department of the treasury for bona fide
13 separation from service.

14 4. The participant is hired to work at a law enforcement agency other than the
15 one from which the participant retired.

16 5. The participant is at least 55 years old when he or she is rehired.

17 6. The participant elects on a form provided by the department to not become
18 a participating employee.

19 **SECTION 7.** 40.26 (8) of the statutes is created to read:

20 40.26 (8) Each participating employer who hires an annuitant who has elected
21 to not suspend his or her annuity under sub. (7) shall make payments to the
22 department that are equal to the amount of contributions that would have been
23 required to be paid for that employee under s. 40.05 (2) (a). All payments under this
24 subsection shall be credited to the account under s. 40.04 (5) (am).

25 **SECTION 8. Initial applicability.**

