



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4680/1
MIM:kjf&ahe

2019 ASSEMBLY BILL 670

December 13, 2019 - Introduced by Representatives FELZKOWSKI, KATZMA, DITTRICH, EDMING, KRUG, L. MYERS, QUINN, ROHRKASTE, SNYDER and WICHGERS, cosponsored by Senators STROEBEL and PETROWSKI. Referred to Committee on State Affairs.

1 **AN ACT to amend** 40.22 (1), 40.22 (2m) (intro.), 40.22 (2r) (intro.), 40.22 (3)
2 (intro.), 40.23 (1) (a) (intro.), 40.23 (1) (am) 2., 40.23 (1) (bm), 40.24 (1) (f), 40.25
3 (2), 40.26 (1m) (a), 40.26 (1m) (b), 40.26 (5) (intro.) and 40.63 (7); and **to create**
4 40.26 (6), 40.26 (7) and 40.26 (8) of the statutes; **relating to:** increasing the
5 minimum retirement age under the Wisconsin Retirement System; decreasing
6 the minimum break in service for annuitants in the Wisconsin Retirement
7 System who are rehired by a participating employer; and allowing rehired
8 annuitants to elect to not participate in the Wisconsin Retirement System.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the Wisconsin Retirement System (WRS). Currently, under the WRS, participants who are not protective occupation participants may retire as early as age 55 and qualify for an immediate annuity from the WRS. This bill increases the minimum retirement age to the greater of age 59.5 or the age at which the Internal Revenue Service does not penalize a person for taking a distribution from a 401 (k) plan. This change in the minimum retirement age first applies to individuals who are under the age of 40 on the bill's effective date and who terminate WRS-covered employment on or after the bill's effective date.

This bill also allows an annuitant who is hired by a WRS employer as an employee or to provide employee services to elect to not suspend his or her annuity

ASSEMBLY BILL 670

for not more than a total of 36 months. The bill also requires the Department of Employee Trust Funds to submit an annual report to the governor and the legislature that provides information about annuitants who are hired to positions and who elect to not suspend their annuities. Under current law, if a WRS annuitant, or a disability annuitant who has attained his or her normal retirement date, is appointed to a position with a WRS-participating employer, or provides employee services to a WRS-participating employer in which he or she is expected to work at least two-thirds of what is considered full-time employment by DETF, the annuity must be suspended and no annuity payment is payable until after the participant again terminates covered employment.

Finally, under current law, a WRS participant who has applied to receive a retirement annuity must wait at least 75 days between terminating covered employment with a WRS employer and returning to covered employment again as a participating employee. This bill reduces that period to 45 days.

Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

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

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

8 40.22 (2m) (intro.) ~~An~~ Except as otherwise provided in s. 40.26 (6), an employee
9 who was a participating employee before July 1, 2011, who is not expected to work
10 at least one-third of what is considered full-time employment by the department,
11 as determined by rule, and who is not otherwise excluded under sub. (2) from
12 becoming a participating employee shall become a participating employee if he or she

ASSEMBLY BILL 670

1 is subsequently employed by the state agency or other participating employer for
2 either of the following periods:

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

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

11 **SECTION 4.** 40.22 (3) (intro.) of the statutes is amended to read:

12 40.22 (3) (intro.) ~~A-~~ Except as otherwise provided in s. 40.26 (6), a person who
13 qualifies as a participating employee shall be included within, and shall be subject
14 to, the Wisconsin retirement system effective on one of the following dates:

15 **SECTION 5.** 40.23 (1) (a) (intro.) of the statutes is amended to read:

16 40.23 (1) (a) (intro.) Except as provided in par. (am), any participant who has
17 attained age 55 59.5 or the age under 26 USC 401 (k) (2) (B) (III), whichever is
18 greater, and any protective occupation participant who has attained age 50, on or
19 before the annuity effective date shall be entitled to a retirement annuity in
20 accordance with the actuarial tables in effect on the effective date of the annuity if
21 the participant submits an application for a retirement annuity on a form furnished
22 by the department and all of the following apply:

23 **SECTION 6.** 40.23 (1) (am) 2. of the statutes is amended to read:

24 40.23 (1) (am) 2. Any participant who has attained age 55 59.5 or the age under
25 26 USC 401 (k) (2) (B) (III), whichever is greater, and who is a participant because

ASSEMBLY BILL 670**SECTION 6**

1 of employment other than part-time service as an elected official and who is also a
2 participating employee because of part-time service as an elected official and any
3 protective occupation participant who has attained age 50 and who is also a
4 participating employee because of part-time service as an elected official may, after
5 termination of all covered employment other than service as a part-time elected
6 official, waive further participation under the fund for his or her current, and any
7 future, part-time service as an elected official. Any election under this paragraph
8 is irrevocable and is effective beginning the day after the date of election.
9 Notwithstanding par. (a), any participant who elects under this paragraph may
10 receive a retirement annuity for all service under the fund credited to the participant
11 to the date he or she elects. The date a participant elects under this paragraph is
12 deemed to be the date of separation from the last participating employer by which
13 that participant was employed.

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

15 40.23 (1) (bm) If an application by a participant age ~~55~~ 59.5 or the age under
16 26 USC 401 (k) (2) (B) (III), whichever is greater, or over, or by a protective occupation
17 participant age 50 or over, for long-term disability insurance benefits is disapproved
18 under rules promulgated by the department, the date which would have been the
19 effective date for the insurance benefits shall be the retirement annuity effective
20 date if requested by the applicant within 60 days of the disapproval or, if the
21 disapproval is appealed, within 60 days of the final disposition of the appeal.

22 **SECTION 8.** 40.24 (1) (f) of the statutes is amended to read:

23 40.24 (1) (f) From accumulated additional contributions made under s. 40.05
24 (1) (a) 5. only, an annuity certain payable for and terminating after the number of
25 months specified by the applicant, regardless of whether the applicant dies before or

ASSEMBLY BILL 670

1 after the number of months specified, provided that the monthly amount of the
2 annuity certain is at least equal to the minimum amount established under s. 40.25
3 (1) (a). Subject to the period of distribution required under s. 40.23 (4) (b) 2., the
4 number of months specified shall not exceed 180 and shall not be less than 24. If the
5 death of the annuitant occurs prior to the expiration of the certain period, the
6 remaining payments shall be made in accordance with s. 40.73 (2) without regard to
7 any other annuity payments payable to the beneficiary. An annuity under this
8 paragraph may be initiated prior to any other annuity amount provided under this
9 subchapter and prior to age ~~55~~ 59.5 or the age under 26 USC 401 (k) (2) (B) (III),
10 whichever is greater, if all other qualifications for receiving an annuity payment are
11 met.

12 **SECTION 9.** 40.25 (2) of the statutes is amended to read:

13 40.25 (2) Subject to sub. (2t), if all requirements for payment of a retirement
14 annuity are met except attainment of age ~~55~~ 59.5 or the age under 26 USC 401 (k)
15 (2) (B) (III), whichever is greater, or age 50 for protective occupation participants, a
16 separation benefit may be paid, if the participant's written application for a
17 separation benefit is received by the department prior to the ~~participant's 55th~~
18 birthday date the participant would be 59.5 years old, or the age under 26 USC 401
19 (k) (2) (B) (III), whichever is greater, or the participant's 50th birthday for protective
20 occupation participants, in an amount equal to the additional and employee required
21 contribution accumulations of the participant on the date the application for a
22 separation benefit is approved.

23 **SECTION 10.** 40.26 (1m) (a) of the statutes is amended to read:

24 40.26 (1m) (a) If Except as otherwise provided in sub. (6), a participant
25 receiving a retirement annuity, or a disability annuitant who has attained his or her

ASSEMBLY BILL 670

1 normal retirement date, is employed in a position in covered employment in which
2 he or she is expected to work at least two-thirds of what is considered full-time
3 employment by the department, as determined under s. 40.22 (2r), the participant's
4 annuity shall be suspended and no annuity payment shall be payable until after the
5 participant terminates covered employment.

6 **SECTION 11.** 40.26 (1m) (b) of the statutes is amended to read:

7 40.26 **(1m)** (b) If Except as otherwise provided in sub. (6), a participant
8 receiving a retirement annuity, or a disability annuitant who has attained his or her
9 normal retirement date, enters into a contract to provide employee services with a
10 participating employer and he or she is expected to work at least two-thirds of what
11 is considered full-time employment by the department, as determined under s. 40.22
12 (2r), the participant's annuity shall be suspended and no annuity payment shall be
13 payable until after the participant no longer provides employee services under the
14 contract.

15 **SECTION 12.** 40.26 (5) (intro.) of the statutes is amended to read:

16 40.26 **(5)** (intro.) If a participant applies for an annuity or lump sum payment
17 during the period in which less than ~~75~~ 45 days have elapsed between the
18 termination of employment with a participating employer and becoming a
19 participating employee with any participating employer, all of the following shall
20 apply:

21 **SECTION 13.** 40.26 (6) of the statutes is created to read:

22 40.26 **(6)** A participant may elect to not suspend his or her retirement annuity
23 or disability annuity under sub. (1m) for not more than a total of 36 months if all of
24 the following conditions are met:

ASSEMBLY BILL 670

1 (a) At the time the participant terminates his or her employment with a
2 participating employer, the participant does not have an agreement with any
3 participating employer to return to employment or enter into a contract to provide
4 employee services for the employer.

5 (b) The participating employer who employs the participant or enters into a
6 contract to receive employee services from the participant indicates all of the
7 following on a form provided by the department:

8 1. How the vacancy that the participant is filling was created.

9 2. Where notice of the vacancy that the participant is filling was posted.

10 3. Whether the participant will earn a higher salary than he or she did in his
11 or her previous position with a participating employer.

12 4. If the participant will earn a higher salary than he or she did in his or her
13 previous position with a participating employer, the reason for the increase in salary.

14 5. The employment category of the participant in his or her previous position,
15 and the employment category of the position the participant is filling.

16 **SECTION 14.** 40.26 (7) of the statutes is created to read:

17 40.26 (7) The department shall maintain a list of participants who make an
18 election under sub. (6), which shall include all of the following:

19 (a) The information required under sub. (6) (b) 1.

20 (b) If the vacancy the participant is filling was created by a participating
21 employee who terminated employment, whether the employee who terminated
22 employment applied for an annuity.

23 (c) The information required under sub. (6) (b) 5.

24 **SECTION 15.** 40.26 (8) of the statutes is created to read:

