2025 SENATE BILL 105

March 7, 2025 - Introduced by Senators TOMCZYK, HUTTON, BRADLEY, FEYEN, JAMES, STAFSHOLT, WANGGAARD, L. JOHNSON, PFAFF, SPREITZER and DASSLER-ALFHEIM, cosponsored by Representatives DONOVAN, GOEBEN, CALLAHAN, DITTRICH, GREEN, KNODL, MAXEY, MELOTIK, MOSES, MURSAU, NOVAK, ANDERSON, SUBECK and BEHNKE. Referred to Committee on Judiciary and Public Safety.

1 AN ACT *to amend* 40.22 (1), 40.22 (2m) (intro.), 40.22 (2r) (intro.) and 40.22 (3)

2 (intro.); *to create* 40.26 (7) of the statutes; **relating to:** jailers and protective

3 occupation annuitants in the Wisconsin Retirement System who are rehired

4 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 an annuitant who retired from employment with a participating employer and who is subsequently rehired or provides employee services after retirement if 1) at the time the annuitant initially retires from covered employment with a participating employer, the annuitant does not have an agreement with any participating employer to return to employment; 2)

the annuitant elects to not become a participating employee at the time the annuitant is rehired or enters into a contract after retirement; and 3) either the annuitant retired as a protective occupation participant or the annuitant retired as a county jailer who was not a protective occupation participant under the WRS.

Under current law, a county jailer has the opportunity to opt out of becoming a protective occupation participant under the WRS. The bill treats county jailers who opt out of becoming a protective occupation participant in the same manner as county jailers who are protective occupation participants.

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 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) and (7), 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

5   Wisconsin retirement system as a participating employee of that state agency or

6   participating employer.

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

8   40.22 **(2m)** (intro.) Except as otherwise provided in s. 40.26 (6) and (7), an

9   employee who was a participating employee before July 1, 2011, who is not expected

10   to work at least one-third of what is considered full-time employment by the

11   department, as determined by rule, and who is not otherwise excluded under sub.

12   (2) from becoming a participating employee shall become a participating employee if

13   he or she is subsequently employed by the state agency or other participating

14   employer for either of the following periods:

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

2 40.22 **(2r)** (intro.) Except as otherwise provided in s. 40.26 (6) and (7), an

3 employee who was not a participating employee before July 1, 2011, who is not

4 expected to work at least two-thirds of what is considered full-time employment by

5 the department, as determined by rule, and who is not otherwise excluded under

6 sub. (2) from becoming a participating employee shall become a participating

7 employee if he or she is subsequently employed by the state agency or other

8 participating employer for either of the following periods:

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

10 40.22 **(3)** (intro.) Except as otherwise provided in s. 40.26 (6) and (7), a person

11 who qualifies as a participating employee shall be included within, and shall be

12 subject to, the Wisconsin retirement system effective on one of the following dates:

13 **SECTION 5.** 40.26 (7) of the statutes is created to read:

14 40.26 **(7)** (a) Subsections (1) to (5) do not apply to a participant who applies for

15 an annuity or lump sum payment during the period in which at least 75 days have

16 elapsed between the participant's termination of employment and becoming an

17 employee or contractor providing employee services with a participating employer if

18 all of the following conditions are met:

19 1. The individual is one of the following:

20 a. A participant retired from service as a county jailer who was not a

21 protective occupation participant.

22 b. A protective occupation participant retired from a protective occupation

23 under the WRS.

1 2. 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 3. The participant elects on a form provided by the department to not become

6 a participating employee.

7 **SECTION 6. Initial applicability.**

8 (1) This act first applies to a participant under the Wisconsin Retirement

9 System who terminates employment on the effective date of this subsection.

10 **(END)**