



State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-2369/1

MIM:wlj

2025 SENATE BILL 170

April 3, 2025 - Introduced by Senators MARKLEIN, CABRAL-GUEVARA, FEYEN, HABUSH SINYKIN, PFAFF and QUINN, cosponsored by Representatives WITTKE, KITCHENS, RODRIGUEZ, NOVAK, BROOKS, KNODL, KREIBICH, KURTZ, MELOTIK, MURPHY, O'CONNOR, ORTIZ-VELEZ, PENTERMAN, STEFFEN and MOSES. Referred to Committee on Transportation and Local Government.

1 **AN ACT** *to repeal* 40.26 (5m), 40.26 (6) and 323.19 (3); *to amend* 40.22 (1),
2 40.22 (2m) (intro.), 40.22 (2r) (intro.), 40.22 (3) (intro.), 40.26 (1m) and 40.26
3 (5) (intro.); *to create* 40.04 (5) (am) and 40.26 (7) and (8) of the statutes;
4 **relating to:** rehired annuitants in the Wisconsin Retirement System.

Analysis by the Legislative Reference Bureau

Under current law, certain people who receive a retirement or disability annuity from the Wisconsin Retirement System (WRS) 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 they are no longer in a WRS-covered position. This suspension applies to an annuitant who 1) has reached his or her normal retirement date; 2) is appointed to a position with 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 allows such an annuitant who is hired by a WRS-participating employer as an employee or to provide employee services to not suspend his or her annuity for up to 60 months. The bill also requires WRS-participating employers that hire such annuitants to make payments to ETF equal to what they would have paid as required contributions for each rehired annuitant if the rehired annuitant

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had suspended his or her annuity. Under the bill, these payments are deposited into the employer reserve account.

If the annuitant does not suspend the annuity and does not become an active WRS-participating employee, in the case of state employment, the annuitant 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 annuitant opts to again become an active WRS-participating employee, the annuitant 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 bill also repeals two obsolete provisions related to WRS annuitants returning to WRS-covered employment during the public health emergency declared on March 12, 2020, by executive order 72, which ended on May 13, 2020.

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.** 40.04 (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)~~ (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
7 Wisconsin retirement system as a participating employee of that state agency or
8 participating employer.

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

10 40.22 (2m) (intro.) Except as otherwise provided in s. 40.26 ~~(6)~~ (7), an
11 employee who was a participating employee before July 1, 2011, who is not expected

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1 to work at least one-third of what is considered full-time employment by the
2 department, as determined by rule, and who is not otherwise excluded under sub.
3 (2) from becoming a participating employee shall become a participating employee if
4 he or she is subsequently employed by the state agency or other participating
5 employer for either of the following periods:

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

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

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

15 40.22 (**3**) (intro.) Except as otherwise provided in s. 40.26 (~~6~~) (7), a person who
16 qualifies as a participating employee shall be included within, and shall be subject
17 to, the Wisconsin retirement system effective on one of the following dates:

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

19 40.26 (**1m**) (a) Except as otherwise provided in sub. (~~6~~) (7), if a participant
20 receiving a retirement annuity, or a disability annuitant who has attained his or
21 her normal retirement date, is employed in a position in covered employment in
22 which he or she is expected to work at least two-thirds of what is considered full-
23 time employment by the department, as determined under s. 40.22 (2r), the

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1 participant's annuity shall be suspended and no annuity payment shall be payable
2 until after the participant terminates covered employment.

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

11 **SECTION 7.** 40.26 (5) (intro.) of the statutes is amended to read:

12 40.26 (5) (intro.) ~~Except as otherwise provided in sub. (5m), if~~ If a participant
13 applies for an annuity or lump sum payment during the period in which less than
14 75 days have elapsed between the termination of employment with a participating
15 employer and becoming a participating employee with any participating employer,
16 all of the following shall apply:

17 **SECTION 8.** 40.26 (5m) of the statutes is repealed.

18 **SECTION 9.** 40.26 (6) of the statutes is repealed.

19 **SECTION 10.** 40.26 (7) and (8) of the statutes are created to read:

20 40.26 (7) Beginning on the effective date of this subsection [LRB inserts
21 date], a participant may elect to not suspend his or her retirement annuity or
22 disability annuity under sub. (1m) for up to 60 months, which need not be
23 consecutive, if the participant applies for an annuity or lump sum payment after at

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1 least 75 days have elapsed since the participant's termination of employment with
2 a participating employer and prior to becoming an employee with a participating
3 employer if all of the following conditions are met:

4 (a) The participant terminates his or her employment with a participating
5 employer after July 2, 2013.

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

12 (c) The participant elects on a form provided by the department to not become
13 a participating employee.

14 40.26 (8) Each participating employer that hires a participant who has
15 elected to not suspend his or her annuity under sub. (7) shall make payments to the
16 department that are equal to the amount of contributions that would have been
17 required to be paid for that employee under s. 40.05 (2) (a). All payments under this
18 subsection shall be credited to the account under s. 40.04 (5) (am).

19 **SECTION 11.** 323.19 (3) of the statutes is repealed.

20 (END)