



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-4837/P2
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to amend* 40.23 (1) (bm) and 40.63 (7) of the statutes; **relating to:**
2 separation from service for retirement benefits under the Wisconsin
3 Retirement System (suggested as remedial legislation by the Department of
4 Employee Trust Funds).

Analysis by the Legislative Reference Bureau

Under current law, if an application for long-term disability benefits or an application for a disability annuity by a participant who is at least minimum retirement age under the Wisconsin Retirement System is denied, and the applicant applies for a regular annuity, the effective date of the annuity is set as the date on which the disability benefits or disability annuity would have been effective. Federal law prohibits a participant in a qualified retirement plan, such as the WRS, from having a benefit effective date that is before the participant has a bona fide separation from service. This bill sets the effective date for a regular retirement annuity for participants whose application for long-term disability benefits or a disability annuity is denied as the later of the date that would have been the effective date of that annuity or those benefits or the day after the participant's separation from service.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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.

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

2 40.23 (1) (bm) If an application by a participant age 55 or over, or by a protective
3 occupation participant age 50 or over, for long-term disability insurance benefits is
4 disapproved under rules promulgated by the department, the date which would have
5 been the effective date for the insurance benefits, or the day after the date of
6 separation from the last participating employer, whichever is later, shall be the
7 retirement annuity effective date if requested by the applicant within 60 days of the
8 disapproval or, if the disapproval is appealed, within 60 days of the final disposition
9 of the appeal.

NOTE: This section establishes that if certain participants in the Wisconsin Retirement System apply for long-term disability insurance benefits and the application is not approved under rules promulgated by the Department of Employee Trust Funds, the effective date for a regular retirement annuity will be the later of the date that would have been the effective date of the insurance benefits had the application been approved, or the day after the date of separation from the last participating employer.

10 **SECTION 2.** 40.63 (7) of the statutes is amended to read:

11 40.63 (7) If an application, by a participant age 55 or over, or by a protective
12 occupation participant age 50 or over, for any disability annuity is disapproved, the
13 date which would have been the disability annuity effective date, or the day after the
14 date of separation from the last participating employer, whichever is later, shall be
15 the retirement annuity effective date if so requested by the applicant within 60 days

1 of the disapproval or, if the disapproval is appealed, within 60 days of final
2 disposition of the appeal.

NOTE: This section establishes that if certain participants in the Wisconsin Retirement System apply for disability insurance benefits and the application is not approved, the effective date for a regular retirement annuity will be the later of the date that would have been the effective date of the insurance benefits had the application been approved, or the day after the date of separation from the last participating employer.

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(END)