



## 2019 SENATE BILL 149

April 4, 2019 - Introduced by Senators JACQUE, WANGGAARD and MARKLEIN, cosponsored by Representatives BRANDTJEN, BALLWEG, HORLACHER, JAMES, KULP, LOUDENBECK, MURPHY, MURSAU, NOVAK, PRONSCHINSKE, RAMTHUN, SKOWRONSKI, TITTL, TUSLER, WICHGERS and ANDERSON. Referred to Committee on Government Operations, Technology and Consumer Protection.

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* 40.26 (6) (intro.), (a), (b) and (c) of the statutes; **relating**  
3             **to:** law enforcement and fire fighter annuitants in the Wisconsin Retirement  
4             System who are rehired by a participating employer and granting rule-making  
5             authority.

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### *Analysis by the Legislative Reference Bureau*

Under current law, if a Wisconsin Retirement System 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 the Department of Employee Trust Funds, the annuity must be suspended and no annuity payment is payable until after the participant again terminates covered employment.

This bill creates an exception to this requirement 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 is a retired law enforcement officer or fire fighter; 2) at the time the person initially retires from covered employment with a participating employer, the person does not have an agreement with any participating employer to return to employment; and 3) the person elects to not become a participating employee at the time the person is rehired by a participating employer or enters into a contract to provide employee services

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after retirement. In other words, the bill allows an annuitant who was a law enforcement officer or fire fighter to return to work with an employer 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.

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.

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*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 provided in sub. (2) and s. 40.26 (6), each employee  
3 currently in the service of, and receiving earnings from, a state agency or other  
4 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  
13 is subsequently employed by the state agency or other participating employer for  
14 either of the following periods:

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

16           40.22 (2r) (intro.) An Except as otherwise provided in s. 40.26 (6), an employee  
17 who was not a participating employee before July 1, 2011, who is not expected to work

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

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

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

10 **SECTION 5.** 40.26 (6) (intro.), (a), (b) and (c) of the statutes are created to read:

11 40.26 (6) (intro.) As used in this subsection, "law enforcement officer" has the  
12 meaning given in s. 165.85 (2) (c). Subsections (1) to (5) do not apply to a participant  
13 who applies for an annuity or lump sum payment during the period in which at least  
14 75 days have elapsed between the participant's termination of employment and  
15 becoming an employee or contractor providing employee services with a  
16 participating employer if all of the following conditions are met:

17 (a) The annuitant is a retired law enforcement officer or fire fighter.

18 (b) At the time the participant terminates his or her employment with a  
19 participating employer, the participant does not have an agreement with any  
20 participating employer to return to employment or enter into a contract to provide  
21 employee services for the employer.

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

24 **SECTION 6. Initial applicability.**

