



2011 SENATE BILL 239

October 18, 2011 – Introduced by Senators VUKMIR, DARLING, GROTHMAN and LAZICH, cosponsored by Representatives STROEBEL, WYNN, AUGUST, BERNIER, CRAIG, ENDSLEY, JACQUE, KAPENGA, KESTELL, KLEEFISCH, KLENKE, KNILANS, KNUDSON, KUGLITSCH, LEMAHIEU, LITJENS, NASS, PETERSEN, PRIDEMORE, RIVARD, SEVERSON, STEINEKE, STRACHOTA, TAUCHEN, THIESFELDT and WEININGER. Referred to Committee on Insurance and Housing.

1 **AN ACT to amend** 40.22 (2) (L), 40.26 (1) and 40.26 (2) (intro.); and **to create**
2 40.02 (25) (a) 7., 40.02 (25) (b) 5m. and 40.26 (1m) of the statutes; **relating to:**
3 post-retirement employment of annuitants under the Wisconsin Retirement
4 System and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, when a participant in the Wisconsin Retirement System (WRS) terminates covered employment and begins to receive an annuity he or she may return to covered employment and either terminate the annuity and again become a participating employee in the WRS or, instead, continue to receive the annuity, as well as wages from covered employment. If a participant continues to receive the annuity, the participant may not be a participating employee in the WRS and, in the case of state employment, is not eligible for group insurance benefits provided to participating employees, and may not use any of his or her employment service as a rehired annuitant for any WRS purposes. If the participant terminates the annuity, the participant returns to participating employee status and is eligible for all group insurance benefits provided other participating employees, as well as is able to accumulate additional years of creditable service under the WRS for the additional period of covered employment.

This bill provides that, beginning on the bill's effective date, if a participant in the WRS, who is receiving an annuity, or a disability annuitant who has attained his or her normal retirement date, is appointed to a position in covered employment in which he or she is expected to work at least one-half of what is considered full-time

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employment by the Department of Employee Trust Funds (DETF), as determined by rule, the participant's annuity must be terminated and no annuity payment is payable until after the participant terminates covered employment. In addition, such a participant cannot again become a participating employee in the WRS, with the result that no additional years of creditable service may be acquired as a result of the post-retirement employment. The bill, however, does provide that for annuitants who again become state employees, they are eligible to receive group insurance benefits provided to other state employees who are participating employees in the WRS.

The bill also provides that if a participant receiving a retirement annuity, or a disability annuitant who has attained his or her normal retirement date, enters into a contract to provide employee services with a participating employer after the bill's effective date, and he or she is expected to work at least one-half of what is considered full-time employment by DETF, as determined by rule, the participant's retirement annuity must be terminated and no annuity payment is payable until after the participant no longer provides employee services under the contract.

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.** 40.02 (25) (a) 7. of the statutes is created to read:

2 40.02 (25) (a) 7. A participant who is employed by a state agency after becoming
3 an annuitant and who terminates his or her retirement annuity during the period
4 of covered employment pursuant to s. 40.26 (1m) (a). This subdivision shall not apply
5 to a participant who is employed by a state agency as a limited term employee under
6 s. 230.26.

7 **SECTION 2.** 40.02 (25) (b) 5m. of the statutes is created to read:

8 40.02 (25) (b) 5m. A participant who is employed by a state agency after
9 becoming an annuitant and who terminates his or her retirement annuity during the
10 period of covered employment pursuant to s. 40.26 (1m) (a). This subdivision shall

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1 not apply to a participant who is employed by a state agency as a limited term
2 employee under s. 230.26.

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

4 40.22 (2) (L) The employee is employed by a participating employer after the
5 person becomes an annuitant, unless the service is after the annuity is terminated
6 under s. 40.26 (1).

7 **SECTION 4.** 40.26 (1) of the statutes is amended to read:

8 40.26 (1) Except as provided in sub. (1m) and ss. 40.05 (2) (g) 2. and 40.23 (1)
9 (am), if a participant receiving a retirement annuity, or a disability annuitant who
10 has attained his or her normal retirement date, receives earnings that are subject
11 to s. 40.05 (1) or that would be subject to s. 40.05 (1) except for the exclusion specified
12 in s. 40.22 (2) (L), the annuity shall be terminated and no annuity payment shall be
13 payable after the month in which the participant files with the department a written
14 election to be included within the provisions of the Wisconsin retirement system as
15 a participating employee.

16 **SECTION 5.** 40.26 (1m) of the statutes is created to read:

17 40.26 (1m) (a) If a participant receiving a retirement annuity, or a disability
18 annuitant who has attained his or her normal retirement date, is appointed to a
19 position in covered employment after the effective date of this paragraph [LRB
20 inserts date], in which he or she is expected to work at least one-half of what is
21 considered full-time employment by the department, as determined by rule, the
22 participant's retirement annuity shall be terminated and no annuity payment shall
23 be payable until after the participant terminates covered employment.

24 (b) If a participant receiving a retirement annuity, or a disability annuitant
25 who has attained his or her normal retirement date, enters into a contract to provide

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1 employee services with a participating employer after the effective date of this
2 paragraph ... [LRB inserts date], and he or she is expected to work at least one-half
3 of what is considered full-time employment by the department, as determined by
4 rule, the participant's retirement annuity shall be terminated and no annuity
5 payment shall be payable until after the participant no longer provides employee
6 services under the contract.

7 **SECTION 6.** 40.26 (2) (intro.) of the statutes is amended to read:

8 40.26 (2) (intro.) Upon termination of an annuity under sub. (1) or (1m), the
9 retirement account of the participant whose annuity is so terminated shall be
10 reestablished on the following basis:

11 **SECTION 7. Nonstatutory provisions.**

12 (1) PROMULGATION OF EMERGENCY RULES FOR REENTRY INTO SERVICE. The
13 department of employee trust funds may use the procedure under section 227.24 of
14 the statutes to promulgate rules under section 40.26 (1m) of the statutes, as created
15 by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency
16 rules promulgated under this subsection remain in effect until January 1, 2013, or
17 the date on which permanent rules take effect, whichever is sooner.
18 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not
19 required to provide evidence that promulgating a rule under this subsection as an
20 emergency rule is necessary for the preservation of the public peace, health, safety,
21 or welfare and is not required to provide a finding of emergency for a rule
22 promulgated under this subsection.

23 (END)