

STATE OF WISCONSIN

APPENDIX TO ASSEMBLY SUBSTITUTE AMENDMENT 1 TO 2011 ASSEMBLY BILL 40/SENATE SUBSTITUTE AMENDMENT LRBs0149 to 2011 SENATE BILL 27, ASSEMBLY AMENDMENT 1 TO ASSEMBLY SUBSTITUTE AMENDMENT 1 TO 2011 ASSEMBLY BILL 40 AND ASSEMBLY AMENDMENT LRBb1221 TO ASSEMBLY AMENDMENT 1 TO ASSEMBLY SUBSTITUTE AMENDMENT 1 TO 2011 ASSEMBLY BILL 40

REPORT OF JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS

(Introduced by Joint Committee on Finance by request of Governor Scott Walker.)

An Act relating to: state finances and appropriations, constituting the executive budget act of the 2011 Legislature and an amendment to incorporate collective bargaining and employee benefit changes in 2011 Wisconsin Act 10, with modifications, into the biennial budget bill (2011 Assembly Bill 40).

**PROVISIONS OF THE BILL THAT ARE THE SUBJECT OF THIS REPORT**

Section 13.50 (6) (a), Stats., requires that the Joint Survey Committee on Retirement Systems prepare a report on those provisions of this bill, and any amendments to the bill, that modify the system for, or make any provision for, the retirement of or payment of pensions to public officers or employees. The provisions of this bill that are the subject of this report are the following:

1. Wisconsin Retirement System (WRS) Vesting Requirements. [SECTIONS 1156f., 1156g., 1156k., 1156p. and 1156t. of Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 and Senate Substitute Amendment LRBs0149 to 2011 Senate Bill 27.]
2. WRS Eligibility Requirements. [SECTIONS 1153d., 1153h., 1156c. and 1156e. of Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 and Senate Substitute Amendment LRBs0149 to 2011 Senate Bill 27.]
3. Replacement of Milwaukee County Income Maintenance System Employees. [SECTIONS 1139, 1156, 1161, 1545p., 1545r. and 1545t. of Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 and Senate Substitute Amendment LRBs0149 to 2011 Senate Bill 27.]
4. Provisions Affecting Local Law Enforcement and Firefighting Employers and Employees. [SECTIONS 1139r., 1145m., 1145p., 1145s., 1156y., 1156yr., 1684p., 1715p., 2408cv., 2408cx., 2409cy., 2409it., 2409iv., 2424hr., 2424jp. and 9155 of Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 and Senate Substitute Amendment LRBs0149 to 2011 Senate Bill 27.]
5. Provisions Affecting Emergency Medical Services Employees in Door and Waushara Counties. [Assembly Amendment LRBb1221 to Assembly Amendment 1 to Assembly Substitute Amendment 1 to 2011 Assembly Bill 40.]

6. Modifications to the Employee and Employer Retirement Contributions to the WRS. [SECTIONS 1139p., 1145d., 1145f., 1145h., 1145j., 1145L., 1145n., 1145rc., 1145re. and 1721p. of Assembly Amendment 1 to Assembly Substitute Amendment 1 to 2011 Assembly Bill 40.]

7. Reduction in the Retirement Formula Multiplier for Elected Officials and Executive Employee Participants. [SECTION 1156gh. of Assembly Amendment 1 to Assembly Substitute Amendment 1 to 2011 Assembly Bill 40.]

These provisions are described below.

### 1. WRS Vesting Requirements

#### *a. Description*

This provision of Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 and Senate Substitute Amendment LRBs0149 to 2011 Senate Bill 27 alters the time period required for an employee to vest in the WRS.

Under **current law**, employees are vested in (entitled to) a WRS annuity, or lump-sum payment in the event that contributions are not sufficient to purchase an annuity, upon taking a position as a participating employee covered under the WRS. The value of the annuity or lump-sum payment will vary based on a participant's salary and length of employment. If a participant leaves WRS service before age 55 (age 50 for protective employees), the individual may apply for a separation benefit. The separation benefit consists of the employee's contributions to their WRS account and the interest on those contributions. The employer contributions are forfeited by the employee and remain in the WRS fund.

**Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 and Senate Substitute Amendment LRBs0149 to 2011 Senate Bill 27** provides that a participating employee, who is hired on or after the effective date of the Substitute Amendment, must have creditable service in at least five calendar years to be fully vested in a WRS annuity or lump-sum payment. The Substitute Amendment also provides that employees who terminate WRS-covered employment without having creditable service in at least five calendar years are vested proportionately for a money purchase benefit as follows:

1. Service in only one year at 20% of the employer matching funds;
2. Service in two years at 40% of the employer matching funds;
3. Service in three years at 60% of the employer matching funds; and
4. Service in four years at 80% of the employer matching funds.

Creditable service performed in five calendar years or more will be vested in 100% of employer matching contributions.

The Substitute Amendment also provides that employees who terminate WRS-covered employment without having creditable service in at least five calendar years will have their annuity benefit reduced as follows:

1. 50% for less than one year of service;
2. 40% for less than two years of service;
3. 30% for less than three years of service;
4. 20% for less than four years of service; and
5. 10% for less than five years of service.

Creditable service performed in five calendar years or more will result in no reduction to the employee annuity benefit.

***b. Actuarial Effect***

This provision may have a material actuarial effect on the WRS. The full extent of the effect is not discernable without an actuarial study of the effect of this provision of the Substitute Amendment.

***c. Probable Costs***

The provision does not directly affect employer or employee contribution costs as they remain the same under the Substitute Amendment. The provision may decrease pension payment costs from the WRS. However, the extent of this savings is not clear without an actuarial study.

**2. WRS Eligibility Requirements**

***a. Description***

This provision of Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 and Senate Substitute Amendment LRBs0149 to 2011 Senate Bill 27 increases the current WRS eligibility requirements to require an employee to two-thirds of full-time employment in order to qualify as a participant in the WRS.

**Current law** provides that, to be covered under the WRS, an individual must work for a covered employer at least one-third of what is considered full-time employment, as determined by the Department of Employee Trust Funds (ETF). ETF currently defines full-time employment to be 1,904 hours per year and part-time employment to be 600 hours per year for all WRS participants other than teachers, librarians, administrators and educational support employees. ETF defines full-time employment to be 1,320 hours per year and part-time employment to be 440 hours for these classifications.

**Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 and Senate Substitute Amendment LRBs0149 to 2011 Senate Bill 27** requires that an individual must work for a

covered employer at least two-thirds of what is considered full-time employment as determined by ETF. Based on current ETF rules this would raise the participant hour threshold to 1,200 hours for employees other than teachers, librarians, administrators and educational support employees and 880 hours for teachers, librarians, administrators and educational support employees. This provision would first apply to individuals hired on or after the effective date of the bill.

***b. Actuarial Effect***

This provision may have a material actuarial effect on the WRS. The full extent of the effect is not discernable without an actuarial study of the effect of this provision of the Substitute Amendment.

***c. Probable Costs***

This provision may increase contribution costs to the WRS. An actuarial study is necessary to determine the full long-term fiscal effect of this provision.

**3. Replacement of Milwaukee County Income Maintenance System Employees**

***a. Description***

This provision of Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 and Senate Substitute Amendment LRBs0149 to 2011 Senate Bill 27 directs the Department of Health Services (DHS) to replace Milwaukee County Enrollment Services Unit (MilES) county employee positions with state positions and transfer these employees to the WRS.

**Under current law**, there are a number of Milwaukee County employees performing services for MilES. These employees are currently covered under the Milwaukee County retirement system, although they may not have vested in the system as of the effective date of the budget. The Milwaukee County retirement system requires an employee to be in his or her position for five years before vesting in the plan.

**Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 and Senate Substitute Amendment LRBs0149 to 2011 Senate Bill 27** directs DHS to replace the Milwaukee County employee positions with state positions. The Substitute Amendment permits employees who were participating in the Milwaukee County retirement system to remain a participating employee in the Milwaukee County retirement system until the employee is fully vested in the plan. Upon vesting, the employee may no longer participate in the Milwaukee County plan and he or she becomes a participant in the WRS.

***b. Actuarial Effect***

No material actuarial effect to the WRS is expected because required contributions for employees will continue to be made under each respective system while they are covered by that system.

*c. Probable Costs*

DHS will be required to pay the contributions to the Milwaukee County retirement system for unvested employees who are appointed to the state system after the effective date of the Substitute Amendment. These contributions will continue until the employee vests in the Milwaukee County retirement system. Upon vesting, the DHS will then pay the contributions for the employee under the WRS. Therefore, costs are limited to those of the Milwaukee County retirement system contributions until the employees are vested, at which time contributions will be made as DHS employees under the WRS.

**4. Provisions Affecting Local Law Enforcement and Fire Fighting Employers and Employees**

*a. Description*

This provision of Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 and Senate Substitute Amendment LRBs0149 to 2011 Senate Bill 27 modifies the current employee required retirement contributions to the WRS to require that a law enforcement or fire fighting employee that first becomes a participant in the WRS, the City of Milwaukee retirement system, or the Milwaukee County retirement system on or after the effective date of the bill, will pay one-half of the actuarially required contributions required for his or her respective pension system.

**Under the provisions of 2011 Wisconsin Act 10**, protective occupation employees are required to contribute the percentage of earnings that are paid by general employee participants in the WRS, the City of Milwaukee retirement system, or the Milwaukee County retirement system under 2011 Wisconsin Act 10. However, represented public safety workers, including local law enforcement and fire fighting employees, retain the ability to collectively bargain to have an employer pay some or all of the employee-required retirement contributions.

**Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 and Senate Substitute Amendment LRBs0149 to 2011 Senate Bill 27** prohibits an employer of law enforcement and fire personnel under the Municipal Employment Relations Act (MERA) from paying, on behalf of any law enforcement or fire fighting employee, the employee-required contributions specified in 2011 Wisconsin Act 10, if that employee first becomes a participating employee in a retirement system on or after the effective date of the bill. This provision applies to newly hired law enforcement and fire personnel who participate in the WRS, the City of Milwaukee retirement system, and the Milwaukee County retirement system.

Under this provision, a municipality would be required to impose the same retirement contribution levels on non-represented law enforcement and fire fighting employees that apply to represented law enforcement and fire fighting employees in that municipality. The treatment of non-represented law enforcement and fire fighting employees would apply to represented law enforcement and fire fighting employees moving to represented positions within the same department. Represented employees moving to nonrepresented positions in different departments would not be covered by this provision.

*b. Actuarial Effect*

No material actuarial effect to the WRS is expected because required employee contributions will continue to be made, either by the employer or the employee, under the respective systems.

*c. Probable Costs*

Presuming an increase in the number of future employees who would be required to pay the employee portion of their pension contribution, employer costs for law enforcement and fire fighting employees would decrease as the employer would no longer be required to pay both contributions for the respective employees.

**5. Provisions Affecting Emergency Medical Services Employees in Door and Waushara Counties**

*a. Description*

Assembly Amendment LRBb1221 to Assembly Amendment 1 to Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 applies the provisions regarding the local law enforcement and fire fighting employers and employees above to emergency medical services employees in Door and Waushara Counties.

*b. Actuarial Effect*

No material actuarial effect to the WRS is expected because required employee contributions will continue to be made, either by the employer or the employee, under the respective systems.

*c. Probable Costs*

Presuming an increase in the number of future employees who would be required to pay the employee portion of their pension contribution, employer costs for law enforcement and fire fighting employees would decrease as the employer would no longer be required to pay both contributions for the respective employees.

**6. Modifications to the Employee and Employer Retirement Contributions to the WRS**

*a. Description*

This provision of Assembly Amendment 1 to Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 modifies the current employee required retirement contributions to the WRS to require that an employee pay one-half of the actuarially required contributions.

**Under current law**, the ETF Board, in consultation with actuaries, annually determines the total actuarial contribution required to fund the WRS. This total contribution is the sum of three components: the employee rate; the employer rate; and the benefit adjustment contribution (BAC). Employer contributions to the WRS vary depending upon the type of position held by the employee. Employee contributions are currently required as follows:

1. For general employees, 5 % of earnings;
2. For elected officials and executive employees, 5.5% of earnings;
3. For protective occupations covered by Social Security, 6% of earnings; and
4. For protective occupations not covered by Social Security, 8% of earnings.

Employer contributions (currently 5.1%) are generally paid by the employer, except that any contribution increase after 1989 is required to be distributed between the employer and the employee, with one-half of the increase paid by the employer and the other half of the increase added to the BAC portion of the total contribution. The BAC was created to fund WRS retirement improvements established under 1983 Wisconsin Act 141. The employee is responsible for paying BAC contributions unless the employer agrees to cover the cost (generally through collective bargaining). Currently, state employers are responsible for 1.3% of the BAC and general employees, .2%. A BAC is not necessary for the protective or elected official and executive categories.

While current law requires an employer to pay the full employer contribution, it also provides that an employer may pay all or part of the employee required contributions. This is generally derived through bargaining or the compensation plan. At this time, most state employers have agreed to pay the employee contribution (up to 5%) and 1.3% of the BAC for general employees. Protective occupations pay the portion of the employee contribution that exceeds 5%.

**Assembly Amendment 1 to Assembly Substitute Amendment 1 to 2011 Assembly Bill 40** eliminates the BAC as a separate contribution, instead incorporating the BAC costs into the total actuarially defined contribution. The bill requires that the contribution rate for general employees and elected officials and executive employees must equal one-half of all actuarially required contributions, as approved by the ETF Board. Protective occupation employees are required to pay a contribution that is equal to the percentage of earnings paid by the general employees.

The bill prohibits an employer from paying, on behalf of any employee, any of the employee's share of the actuarially required contributions under the WRS or under an employee retirement system of a 1<sup>st</sup> class city or county having a population of 500,000 or more (Milwaukee County and City Employees Retirement Systems). The bill also prohibits any local governmental unit from establishing a defined benefit pension plan for its employees unless the plan requires the employees to pay half of all actuarially required contributions for funding plan benefits. It also prohibits the local government unit from paying, on behalf of an employee, any of the employee's share of the actuarially required contributions.

These provisions are prospective and would take effect on a date determined by the Secretary of the Department of Administration (DOA) following the effective date of the bill, for non-represented employees, elected officials and judges and justices, and on the expiration, termination, extension, modification or renewal of the collective bargaining agreement, whichever occurs first, for represented employees.

*b. Actuarial Effect*

Because this provision could create an increased actuarial cost due to the payment of increases in money purchase, separation and death benefits (from 5.0% to 5.8%), an independent actuarial study may be requested in order to determine the extent of the cost. Because the overall effect of the bill is to split the total cost of the actuarially required contribution, the actuarial effect of these provisions is not clear without an independent actuarial study.

*c. Probable Costs*

This provision would decrease employer costs for employee retirement contributions. DOA estimates that the total cost savings to the state would be \$42.8 million in fiscal year 2011 and \$164.0 million in fiscal year 2012, for a total of \$206.8 million for the biennium. These figures do not include savings to segregated funds or federal appropriations administered by the state.

**7. Reduction in the Retirement Formula Multiplier for Elected Officials and Executive Employee Participants**

*a. Description*

This provision of Assembly Amendment 1 to Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 reduces the annuity multiplier for elected officials and executive employees.

**Under current law**, when a WRS participant becomes eligible to receive a retirement annuity, assuming the participant is not planning to receive a money purchase annuity, the amount of the annuity is determined by multiplying the participant's final average earnings by the participant's years of creditable service by a percentage multiplier. The multiplier is currently 1.6% for general employees, 2% for elected officials and executive employees, 2% for protectives covered by Social Security, and 2.5% for protectives not covered by Social Security.

**Assembly Amendment 1 to Assembly Substitute Amendment 1 to 2011 Assembly Bill 40** decreases the multiplier for elected officials and executive employees from 2% to 1.6%, the equivalent of the current general employee formula.

This provision is also prospective and would take effect on a date determined by the Secretary of DOA following the effective date of the bill for non-represented employees, upon the expiration, termination, extension, modification or renewal of the collective bargaining agreement, whichever occurs first, for represented employees, for elected officials on the first day of the term of office beginning after the effective date of the bill, and for judges and justices on the first day a judge or justice assumes office following the effective date of the bill.

*b. Actuarial Effect*

Because this provision decreases benefits for certain classes of covered employees, it could create an actuarial surplus for the WRS, therefore, an independent actuarial opinion may be requested to determine the extent of the surplus.



*c. Probable Costs*

This provision would decrease employer contribution costs to the WRS. The estimated amount of savings is indeterminate pending an actuarial study of the provision.

**POLICY RECOMMENDATION**

The Joint Survey Committee on Retirement Systems finds that the provisions of Assembly Substitute Amendment 1 to 2011 Assembly Bill 40/Senate Substitute Amendment LRBs0149 to 2011 Senate Bill 27, Assembly Amendment 1 to Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 and Assembly Amendment LRBb1221 to Assembly Amendment 1 to Assembly Substitute Amendment 1 to 2011 Assembly Bill 40 as they relate to the WRS, should be considered by the Senate and Assembly. The committee recommends that an actuarial study be conducted to discern the potential costs of the proposals referenced in this report.