

STATE OF WISCONSIN

APPENDIX TO 2013 Assembly Substitute Amendment 1 to Assembly Bill 40

REPORT OF JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS

(Introduced by the 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 2013 Legislature.

PROVISIONS OF THE AMENDMENT 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 any 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 amendment that are the subject of this report are the following:

1. Internal Revenue Code (IRC) Compliance. [SECTIONS 696-698, 701-704, 707-710, 712, 717-718, 720-725, 732, 734-736, 739-745, 750-752 and 754-758 of 2013 Assembly Substitute Amendment 1 to Assembly Bill 40.]

2. Wisconsin Retirement System (WRS) Eligibility Requirements. [SECTIONS 737-738 of 2013 Assembly Substitute Amendment 1 to Assembly Bill 40.]

3. WRS Employee Separation Requirements. [SECTIONS 716b., 716d., 716f., 716h., 716j., 733m., 737m., 738d., 738p., 746m., 747, 748b., 748d., 748f., 748h., 748j., 748l., 749, 745m., 9112 (3L) and 9312 (2L) of 2013 Assembly Substitute Amendment 1 to Assembly Bill 40.]

These provisions are described below.

1. IRC Compliance

a. Description

This provision of 2013 Assembly Substitute Amendment 1 to Assembly Bill 40 modifies the language of current WRS administration and benefits to ensure compliance with the IRC.

Under **current law**, no WRS benefit plan may be administered in a manner that violates a provision of the IRC that authorizes or regulates the benefit plan or that would cause an otherwise tax-exempt benefit to become taxable under the IRC.

2013 Assembly Substitute Amendment 1 to Assembly Bill 40 updates and ensures the conformity of a number of provisions governing WRS benefits and the administration of the WRS to the IRC.

b. Actuarial Effect

No material actuarial effect to the WRS is expected.

c. Probable Costs

The provision is not expected to significantly increase costs to the WRS.

2. WRS Eligibility Requirements

a. Description

This provision of 2013 Assembly Substitute Amendment 1 to Assembly Bill 40 alters which employees are eligible to participate in the WRS prior to July 1, 2011.

Current law requires that an individual must work for a covered employer at least two-thirds of what is considered full-time employment as determined by the Department of Employee Trust Funds (ETF). 2011 Wisconsin Act 32 increased the number of hours that an employee must work in order to become a WRS participating employee from one-third to two-thirds of what is considered full-time employment. Under 2011 Wisconsin Act 32, this change in law did not apply to those employees who were first hired by a WRS employer before July 1, 2011, regardless of whether they were participating employees before that date.

2013 Assembly Substitute Amendment 1 to Assembly Bill 40 provides that in order to be exempt from this change in law, an employee must have been a participating employee before July 1, 2011.

b. Actuarial Effect

No material actuarial effect to the WRS is expected.

c. Probable Costs

This provision is not expected to significantly increase costs to the WRS.

3. WRS Employee Separation Requirements

a. Description

This provision of 2013 Assembly Substitute Amendment 1 to Assembly Bill 40 requires a WRS participant to remain separated from WRS-covered employment for at least 75 days prior to being eligible to return to WRS-covered employment as a rehired annuitant. In addition, rehired annuitants who are expected to work at least two-thirds of full-time employment must cease receiving their annuities until they terminate covered employment.

Under current law, a WRS participant who has applied to receive an annuity must wait at least 30 days between terminating WRS-covered employment and returning to WRS-covered

employment as a participating employee, or the participant is not eligible to receive a WRS retirement annuity.

2013 Assembly Substitute Amendment 1 to Assembly Bill 40 provides that the participant must remain separated from WRS-covered employment for at least 75 days to be eligible for an annuity.

The amendment requires that a participant receiving a retirement annuity, or a disability annuitant who has attained his or her normal retirement date, employed in a position in WRS-covered employment in which he or she is expected to work at least two-thirds of what is considered full-time employment by ETF (one-third time is currently defined by ETF as 600 hours per year for non-teachers and 440 hours per year for teachers), the annuity would be suspended, including any amount provided by additional contributions, and no annuity payment would be payable after the month in which the participant files with ETF a written election to be included within the provisions of the WRS as a participating employee.

In addition, 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 and he or she is expected to work at least two-thirds of what is considered full-time employment by ETF, as determined by rule, the participant's annuity must be similarly suspended.

Following suspension of an annuity under either of these provisions, the retirement account of the participant whose annuity is suspended would be established on the following basis: (1) the amount of the annuity payments that would have been paid under the suspended annuity, from the original annuity suspension date to the subsequent retirement date, would be credited to a memorandum account; and (2) upon becoming a participating employee, a subsequent retirement account would be established and would include the memorandum account amounts specified above (the suspended annuity payments), interest, and any contributions made, and creditable service earned, during the subsequent participating employment.

Upon the subsequent retirement and application for an annuity, the suspended annuity would be reinstated and the subsequent annuity of a former annuitant would be computed as an original annuity, based upon the participant's attained age on the effective date of the subsequent annuity, in an optional form as elected by the participant. The subsequent annuity would be initiated at the same time the suspended annuity is reinstated.

The substitute amendment repeals current statutes relating to the termination of annuity payments, reestablishment of retirement accounts, and recomputed annuities for rehired annuitants that are inconsistent with these alternative provisions.

These provisions would first apply to annuitants who return to employment as participating employees in the WRS on the effective date of the act.

b. Actuarial Effect

This provision has a number of effects which may result in a savings to the WRS. A longer waiting period tends to discourage the rehiring of retired annuitants and often resulting in the reduction of payroll costs by encouraging the hiring of new, lower paid employees. New employees also tend to increase turnover gains to the WRS by terminating employment prior to getting an employer provided benefits. In addition, some members may be expected to delay retirement in response to the provision, thereby delaying annuity payments and increasing employee and employer payments to the WRS. Finally, this provision may reduce costs to the WRS by eliminating the potential for the abuse of the WRS by allowing participants to return at a substantially higher salary for a short period of time and significantly increase annuities without increased contributions over an extended time period to reduce costs.

The consulting actuaries note that there is an additional instance under which this provision may result in an increase in cost to the WRS. The section of the amendment that provides that a returning annuitant's account is suspended, but may accumulate payments to the annuity for distribution at a later date of retirement, may result in increased costs if the waiting period and termination requirements are not carefully administered.

For more information on the potential costs or savings generated by this provision, see the full actuarial report attached to this report.

c. Probable Costs

The effect of this provision may result in a cost or a savings, depending upon its effect on the decision-making processes of participants and annuitants. The expected cost or savings generated by this provision is approximately 0.03% or \$3.6 million per year in today's dollars.

POLICY RECOMMENDATION

The Joint Survey Committee on Retirement Systems finds that the provisions of 2013 Assembly Substitute Amendment 1 to Assembly Bill 40, as they relate to the WRS, are good public policy.