



## 2005 ASSEMBLY BILL 430

May 17, 2005 - Introduced by Representatives SUDER, ALBERS, BOYLE, HINES and MUSSER. Referred to Joint Survey Committee on Retirement Systems.

1     **AN ACT** *to amend* 40.02 (48) (c); and *to create* 40.02 (17) (n), 40.02 (48) (bd) and  
2           40.65 (4w) of the statutes; **relating to:** classifying certain food service workers  
3           employed by the state as protective occupation participants under the  
4           Wisconsin Retirement System.

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### *Analysis by the Legislative Reference Bureau*

Under current law, participants under the Wisconsin Retirement System (WRS) whose principal duties involve law enforcement or fire suppression or prevention and require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning are classified as protective occupation participants. Current law specifically classifies police officers, fire fighters, and various other individuals as protective occupation participants. Under the WRS, the normal retirement age of a protective occupation participant is lower than that of other participants and the percentage multiplier used to calculate retirement annuities is higher for protective occupation participants than for other participants.

This bill specifically classifies food service workers employed at state correctional institutions, secured correctional facilities, the mental health institutes at Mendota and Winnebago, the Wisconsin Resource Center, or any secure mental health unit or facility for sexually violent persons as protective occupation participants for the purposes of the WRS.

This bill will be referred to the Joint Survey Committee on Retirement Systems for a detailed analysis, which will be printed as an appendix to the bill.

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For further information see the *state* 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.** 40.02 (17) (n) of the statutes is created to read:

2           40.02 (17) (n) Notwithstanding par. (d), each state employee participant who  
3 is a food service worker employed at a state correctional institution, a secured  
4 correctional facility, as defined in s. 938.02 (15m), a mental health institute specified  
5 in s. 51.05 (1), the Wisconsin Resource Center, established under s. 46.056, or a  
6 secure mental health unit or facility, established under s. 980.065 (2), on or after the  
7 effective date of this paragraph .... [revisor inserts date], shall be granted creditable  
8 service as a protective occupation participant for all covered service as a food service  
9 worker employed at a state correctional institution, a secured correctional facility,  
10 as defined in s. 938.02 (15m), a mental health institute specified in s. 51.05 (1), the  
11 Wisconsin Resource Center, established under s. 46.056, or a secure mental health  
12 unit or facility, established under s. 980.065 (2), that was earned on or after the  
13 effective date of this paragraph .... [revisor inserts date], but may not be granted  
14 creditable service as a protective occupation participant for any covered service as  
15 a food service worker employed at a state correctional institution, a secured  
16 correctional facility, as defined in s. 938.02 (15m), a mental health institute specified  
17 in s. 51.05 (1), the Wisconsin Resource Center, established under s. 46.056, or a  
18 secure mental health unit or facility, established under s. 980.065 (2), that was  
19 earned before the effective date of this paragraph .... [revisor inserts date], unless  
20 that service was earned while the participant was classified under sub. (48) (a) and  
21 s. 40.06 (1) (d) as a protective occupation participant.

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1           **SECTION 2.** 40.02 (48) (bd) of the statutes is created to read:

2           40.02 (48) (bd) “Protective occupation participant” includes any state employee  
3 participant who is a food service worker employed at a state correctional institution,  
4 a secured correctional facility, as defined in s. 938.02 (15m), a mental health institute  
5 specified in s. 51.05 (1), the Wisconsin Resource Center, established under s. 46.056,  
6 or a secure mental health unit or facility, established under s. 980.065 (2), if the  
7 participant’s employer classifies the participant as a protective occupation  
8 participant and the department receives notification of the participant’s name as  
9 provided in s. 40.06 (1) (d) and (dm). Notwithstanding par. (a), an employer may  
10 classify a state employee participant who is a food service worker employed at a state  
11 correctional institution, a secured correctional facility, as defined in s. 938.02 (15m),  
12 a mental health institute specified in s. 51.05 (1), the Wisconsin Resource Center,  
13 established under s. 46.056, or a secure mental health unit or facility, established  
14 under s. 980.065 (2), as a protective occupation participant without making a  
15 determination that the principal duties of the participant involve active law  
16 enforcement or active fire suppression or prevention.

17           **SECTION 3.** 40.02 (48) (c) of the statutes is amended to read:

18           40.02 (48) (c) In s. 40.65, “protective occupation participant” means a  
19 participating employee who is a police officer, fire fighter, an individual determined  
20 by a participating employer under par. (a), (bd), or (bm) to be a protective occupation  
21 participant, county undersheriff, deputy sheriff, state probation and parole officer,  
22 county traffic police officer, conservation warden, state forest ranger, field  
23 conservation employee of the department of natural resources who is subject to call  
24 for forest fire control or warden duty, member of the state traffic patrol, state motor  
25 vehicle inspector, University of Wisconsin System full-time police officer, guard or

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1 any other employee whose principal duties are supervision and discipline of inmates  
2 at a state penal institution, excise tax investigator employed by the department of  
3 revenue, person employed under s. 61.66 (1), or special criminal investigation agent  
4 employed by the department of justice.

5 **SECTION 4.** 40.65 (4w) of the statutes is created to read:

6 40.65 (4w) A state employee participant who is a food service worker employed  
7 at a state correctional institution, a secured correctional facility, as defined in s.  
8 938.02 (15m), a mental health institute specified in s. 51.05 (1), the Wisconsin  
9 Resource Center, established under s. 46.056, or a secure mental health unit or  
10 facility, established under s. 980.065 (2), who becomes a protective occupation  
11 participant on or after the effective date of this subsection .... [revisor inserts date],  
12 is not entitled to a duty disability benefit under this section for an injury or disease  
13 occurring before the effective date of this subsection .... [revisor inserts date].

14 **SECTION 5. Effective date.**

15 (1) This act takes effect on the January 1 after publication.

16 (END)