



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5413/2
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2021 SENATE BILL 793

December 17, 2021 - Introduced by Senators JACQUE, MARKLEIN, BALLWEG, FELZKOWSKI, KOOYENGA and WIRCH, cosponsored by Representatives TITTL, PENTERMAN, MURPHY, MURSAU, L. MYERS, OLDENBURG, SHANKLAND, VANDERMEER and WICHGERS. Referred to Committee on Government Operations, Legal Review 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 (7) of the statutes; **relating to:** rehired annuitant
3 teachers.

Analysis by the Legislative Reference Bureau

Under current law, certain individuals who receive a retirement or disability annuity from the Wisconsin Retirement System (WRS) and who are hired by an employer that participates in the WRS must suspend that annuity and may not receive a WRS annuity payment until the person is no longer in a WRS-covered position. This suspension applies to a person who 1) has reached his or her normal retirement date; 2) is appointed to a position with a WRS-participating employer or provides employee services as a contractor to a WRS-participating employer; and 3) is expected to work at least two-thirds of what is considered full-time employment by the Department of Employee Trust Funds.

This bill creates an exception to this suspension if 1) the person retired from WRS-covered employment as a teacher for grades kindergarten to 12 after July 2, 2013; 2) at least 30 days have elapsed from the date the person left WRS-covered employment with a school district; 3) the person is rehired as a substitute teacher; 4) at the time the person initially retires from a school district, the person does not have an agreement with any school district to return to employment; 5) the person elects to not become a participating employee at the time the person is rehired or enters into a contract after retirement; and 6) the person is hired between the effective date of the bill and August 1, 2024. In other words, the bill allows a WRS

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teacher annuitant to return to work as a substitute teacher with a participating employer and elect to not become a participating employee for purposes of the WRS and instead continue to receive his or her annuity between the effective date of the bill and August 1, 2024.

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.** 40.22 (1) of the statutes is amended to read:

2 40.22 (1) Except as otherwise provided in sub. (2) and s. 40.26 (6) and (7), each
3 employee currently in the service of, and receiving earnings from, a state agency or
4 other 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.) Except as otherwise provided in s. 40.26 (6) and (7), an
9 employee who was a participating employee before July 1, 2011, who is not expected
10 to work at least one-third of what is considered full-time employment by the
11 department, as determined by rule, and who is not otherwise excluded under sub. (2)
12 from becoming a participating employee shall become a participating employee if he
13 or she is subsequently employed by the state agency or other participating employer
14 for either of the following periods:

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

16 40.22 (2r) (intro.) Except as otherwise provided in s. 40.26 (6) and (7), an
17 employee who was not a participating employee before July 1, 2011, who is not
18 expected to work at least two-thirds of what is considered full-time employment by
19 the department, as determined by rule, and who is not otherwise excluded under sub.

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1 (2) from becoming a participating employee shall become a participating employee
2 if he or she is subsequently employed by the state agency or other participating
3 employer for either of the following periods:

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

5 40.22 (3) (intro.) Except as otherwise provided in s. 40.26 (6) and (7), a person
6 who qualifies as a participating employee shall be included within, and shall be
7 subject to, the Wisconsin retirement system effective on one of the following dates:

8 **SECTION 5.** 40.26 (7) of the statutes is created to read:

9 40.26 (7) During the period beginning on the effective date of this subsection
10 [LRB inserts date] and ending on August 1, 2024, subs. (1) to (5) do not apply to
11 a participant who applies for an annuity or lump sum payment during the period in
12 which at least 30 days have elapsed between the participant's termination of
13 employment as a teacher with a school district that is a participating employer and
14 the date on which the participant becomes a substitute teacher as an employee or
15 contractor providing employee services with any school district that is a
16 participating employer if all of the following conditions are met:

17 (a) The participant terminates his or her employment after July 2, 2013.

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

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

25

(END)