



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3465/3
RAC:jld:jf

2011 ASSEMBLY BILL 550

February 8, 2012 - Introduced by Representatives LITJENS, SPANBAUER, BIES, BROOKS, T. LARSON, THIESFELDT and ENDSLEY, cosponsored by Senator GALLOWAY. Referred to Committee on Veterans and Military Affairs. Referred to Joint Survey Committee on Retirement Systems.

1 **AN ACT** *to amend* 40.05 (1) (b) 1.; and *to create* 40.05 (1) (b) 3. of the statutes;
2 **relating to:** payment of employee required contributions under the Wisconsin
3 Retirement System for participating employees activated to serve on military
4 duty in the U.S. armed forces.

Analysis by the Legislative Reference Bureau

Under current law, with exceptions, participating employees in the Wisconsin Retirement System (WRS) must pay all employee required contributions that are used to fund their retirement benefits. This bill requires employers to pay WRS employee required contributions for participating employees who are activated to serve on military duty in the U.S. armed forces and the commitment is for a period of more than 30 days. Under the bill, the contributions must be based on the earnings that the participating employee would have received from the employer had the participating employee not been activated to serve on military duty.

The bill also provides that an employer may recover from the employee's earnings paid after the employee is reemployed by the employer the contributions paid for the employee. In recovering the contributions, the employer may not deduct from the employee's earnings more than 5 percent of each payment of earnings, unless otherwise provided in a voluntary written agreement between the employer and employee.

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.

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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.** 40.05 (1) (b) 1. of the statutes, as affected by 2011 Wisconsin Act 32,
2 is amended to read:

3 40.05 (1) (b) 1. Except as otherwise provided in a collective bargaining
4 agreement entered into under subch. IV or V of ch. 111 and except as provided in
5 ~~subd.~~ subds. 2. and 3., an employer may not pay, on behalf of a participating
6 employee, any of the contributions required by par. (a). The contributions required
7 by par. (a) shall be made by a reduction in salary and, for tax purposes, shall be
8 considered employer contributions under section 414 (h) (2) of the Internal Revenue
9 Code. A participating employee may not elect to have contributions required by par.
10 (a) paid directly to the employee or make a cash or deferred election with respect to
11 the contributions.

12 **SECTION 2.** 40.05 (1) (b) 3. of the statutes is created to read:

13 40.05 (1) (b) 3. If a participating employee is activated to perform services in
14 the uniformed services, as defined in 38 USC 4303 (13), for a period of more than 30
15 days, and the employee's service has not been terminated upon occurrence of any of
16 the events described in 38 USC 4304, the employer shall pay the contributions
17 required by par. (a) for that participating employee for the period in which he or she
18 is on a military leave of absence, but only if the employee is reemployed by that
19 employer consistent with 38 USC 4312 (e) (1) (C) or (D) or (2) (A) or (B). The
20 contributions shall be based on the employee's earnings as determined under s. 40.02
21 (22) (e). An employer may recover from the employee's earnings paid after the

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1 employee is reemployed by the employer the contributions paid for the employee
2 under this subdivision. In recovering the contributions, the employer may not
3 deduct from the employee's earnings more than 5 percent of each payment of
4 earnings, unless otherwise provided in a voluntary written agreement between the
5 employer and employee.

6 **SECTION 3. Effective date.**

7 (1) This act takes effect retroactively to July 1, 2011.

8 (END)