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JOHN H. ASHLEY, EXECUTIVE DIRECTOR

TO: Members, Assembly Committee on Insurance
FROM: Dan Rossmiller, Government Relations Director
DATE: November 17, 2011
RE: Assembly Bill 352, relating to eligibility for participating employee status and the Wisconsin Retirement System and post-retirement employment of annuitants under the Wisconsin Retirement System

The Wisconsin Association of School Boards (WASB) acknowledges that legitimate concerns have been raised about the rehiring of certain individuals who have retired from covered service under the Wisconsin Retirement System (WRS). Taxpayers and lawmakers are right to be concerned about real and perceived abuses that may have occurred.

To address and limit such abuses, the WASB supports modifications to the current law, such as lengthening the statutorily specified period of time that must elapse between retirement and rehiring to a WRS-covered position; however, not for a period as long as Assembly Bill 352 would provide. We also strongly recommend increasing the normal retirement age for WRS participants to minimize the number of "early retirements" that may lead to the rehiring of retirees.

We oppose Assembly Bill 352 in its present form but are eager to work with the author on changes. We have concerns about the impact of the bill as currently written but would remove our objections to the bill if changes in line with our suggestions were made.

The Legislature has recently given school boards and other local governing bodies a number of "tools" they can use to curtail employee compensation and benefit costs. School boards have just begun to use their new authority and discretion to use these tools to benefit students and taxpayers alike. We find it problematic that this bill would limit a school board's ability to bring back into employment a retired individual that a school board may wish to bring back.

There are several reasons why a school board may wish to bring an individual who has retired back into employment:

- In some cases a retired individual may simply be the best qualified for the position.
- A school board may wish to choose to hire a retired individual to a position for which a shortage of properly certified applicants exists. A board may find, for example, it is preferable to hire and experienced, certified teacher or administrator rather than a relatively inexperienced applicant who has received an emergency certification.

- In other cases, a retired individual may be willing to serve in a particular position at a lower cost to a school district because he or she has post-employment insurance coverage from their previous employment, for example. Arguably, this saves taxpayer dollars because a school district may not have to provide this coverage for a rehired retiree.

There is a marketplace for teachers and administrators. In that marketplace, a retired individual may have qualifications and experience that a school district wishes to purchase. School board should have that option, particularly if the retired applicant is the most qualified or if hiring a retired applicant would actually reduce a district's costs. The bill does not directly interfere with either a school district employer's or a retired employee's decision to offer or accept employment. However, we are concerned that the bill in its current form, by requiring a 180-day break from covered service or waiting period, may have the effect of reducing the pool of potential quality applicants for certain hard-to fill positions and thus would unnecessarily interfere with that marketplace.

We recommend the following suggested changes to Assembly Bill 352:

- Amend the bill to allow a retiree receiving a WRS annuity to return to covered employment--whether on a full- or part-time basis--provided they must decline (or agree to suspend payments of) their annuity during the period of their employment. This variation on current law would address the basic concern about a retiree receiving both an annuity and a salary at the same time.

The distinction between more than half-time and less than half-time creates a "cliff effect" and could, for example, be easily evaded by an employer simply by hiring two retirees each at 49 percent time. In such a case, the public would see two people rather than one receiving both an annuity and a salary at the same time.

- Amend the bill to provide that in order to receive an annuity or be rehired to a WRS covered position with the *same* employer from which the employee retired an employee must be separated from covered employment for at least 90 days rather than at least 180 days. We support keeping current law if the retiree is rehired to a covered position with a *different* employer. However, if this latter separation requirement must be lengthened we support extending it to at least 60 days.

In the absence of definitive guidance from the IRS or Congress, we remain skeptical that a 180-day period is required. The IRS uses a "totality of circumstances" approach. (We note that, according to our own research, in our neighboring state of Minnesota, the minimum period of separation is 30 days; in Michigan, the minimum waiting period is 60 days (as of July 15, 2010, prior to which it was 30 days. While the trend is to increase the required break from service, not all states are moving so far as to require a 180-day break.)

We further encourage lawmakers to raise the normal retirement age for WRS-covered employees. This is a long-standing WASB position.

Wisconsin law currently allows WRS-covered general employees (such as school employees) to retire as early as 55 and generally at 57, which the so-called normal retirement age. Current law ignores: a) that

people are living longer and thus drawing pensions longer and b) that the age at which individuals become eligible for Social Security has been increasing.

Raising the retirement age would reduce the likelihood that WRS-covered employees would retire and then choose to come out of retirement at a later date. It would also reduce the pressure on school districts and other units of government to provide post-employment (OPEB) benefits, such as health insurance.

Thank you for your consideration of these suggestions.