

2009 Wisconsin Act 28 Provisions Affecting Educational Support Personnel (and other non-teachers)

The purpose of this document is to explain two law changes in 2009 Wisconsin Act 28 (herein Act 28) that affect educational support personnel. The first provision applies **only** to school district educational support personnel; it does not apply to support personnel working for the Milwaukee Public School District, technical colleges or other educational institutions. The second provision applies to **all** non-teaching Wisconsin Retirement System (WRS) participants.

Under Act 28:

1. The number of hours per year that school district educational support personnel must work to qualify for WRS coverage is reduced, effective July 1, 2009.

To qualify for coverage under the WRS, participants must work or be expected to work one-third of full time. Until July 1, 2009, this was defined as **440 hours** per year for **teachers** and **600 hours** per year for all **non-teachers**. Employees whose positions are less than one-third of full time are not eligible for WRS coverage.

For school district support personnel only, Act 28 changed the eligibility requirements for WRS coverage to be the same as for teachers. In other words, school district educational support personnel must now work or be expected to work 440 hours per year to become covered under the WRS, rather than the 600 hours per year required under the previous law.

The new eligibility requirements apply only to employment **performed after July 1, 2009**. The new law does not grant WRS creditable service for past employment worked before that date. However, school districts must now determine the number of hours that their support personnel worked from July 1, 2008, through June 30, 2009. Educational support employees who worked at least 440 hours during that period must be enrolled in the WRS effective immediately under this “look-back” provision. Once enrolled in the WRS, all future hours and earnings must be reported to the WRS for employees who met the “look-back” criteria, regardless of whether they continue to work at least 440 hours per year after becoming covered under the WRS.

Note: New school district educational support employees hired after July 1, 2009, must work or be expected to work at least 440 hours per year (and be expected to work at least one year) to become covered under the WRS.

The “600-hours-per-year” requirement for WRS coverage will continue to apply to all other non-teaching participants, including support personnel at educational institutions other than school districts. The new provision does not apply to any participants who terminated WRS employment before July 1.

2. The early retirement actuarial reduction is lowered for all part-time non-teaching participants. Act 28 modified an existing provision related to calculating the actuarial reduction for early retirement for **part-time non-teaching participants**. The new law applies to participants who terminate WRS employment on or after July 1, 2009.

An actuarial reduction for early retirement is applied to formula retirement annuities when participants retire with less than 30 years of service and are under age 65 (age 62 for elected officials and executive retirement plan participants).¹ Participants' years of creditable service are used twice in the formula calculation; once when multiplied times the final average monthly earnings and the formula multiplier(s), and again when calculating the actuarial reduction for early retirement. The more years of creditable service, the less reduction there is for early retirement.

WRS creditable service is calculated differently for teachers and non-teachers. Teachers' service is calculated by dividing the number of hours worked in a year by 1,320, while non-teachers' service is calculated by dividing the number of hours worked by 1,904. This means that a part-time teacher will be credited with more service for a year than a part-time non-teacher who works the same number of hours.

Law before July 1, 2009: If a participant had part-time service in five of the last ten years prior to retirement, each year in which the participant has at least .75 year of non-teaching service is treated as 1.00 year of service, but **only for the purpose of calculating the actuarial reduction for early retirement**. For years in which the participant earned less than .75 year of service, the actual partial years of service credit earned are used to calculate the actuarial reduction.

When participants qualify for this treatment of partial years of service, two different service totals will be used to calculate their formula retirement benefits; the actual years of service are multiplied times the final average earnings and formula multiplier(s), but a different (higher) amount of service will be used to calculate the actuarial reduction.

New law as of July 1, 2009: Act 28 modified how partial years of creditable service are treated for actuarial reduction purposes. If a participant has part-time service in five of the last ten years prior to retirement, the service in each year in which the participant has a partial year of non-teaching service is recalculated to the amount of service the participant would have earned that year if the participant had been a teacher, but **only for the purpose of calculating the actuarial reduction for early retirement**.

Example: Participant worked 1,240 (non-teaching) hours during a year

$$1,240 \text{ hours} \div 1,904 = .65 \text{ year of actual WRS creditable service granted}$$

The participant was granted .65 year of creditable service for that year. Under the new law we would recalculate the .65 year of non-teaching service to the amount of service the participant would have earned as a teacher:

$$\text{Example: } 1,240 \text{ hours} \div 1,320 = .94 \text{ year of service}$$

In this example, when calculating the participant's formula annuity the Department would use the .65 year of service when multiplying the creditable service times the final average earnings and formula multiplier(s), but would use .94 year of service for that year when calculating the actuarial reduction for early retirement.

¹ This provision only affects the actuarial reduction for months of age at age 57 and above. The full .4% per month reduction is applied to months of age below age 57. Since protective category participants already receive an unreduced annuity at age 53/54, this provision is not applicable to formula benefits based on protective category service.

What this law change does NOT do:

Act 28 does NOT change the actual service crediting for educational support personnel (or for any other non-teaching participants) to be equal to service crediting for teachers. The creditable service for teachers will continue to be calculated by dividing the hours worked in a year by 1,320, and will continue to be calculated for all non-teachers (including educational support personnel) by dividing the hours worked in a year by 1,904.

Comparison of Service Used to Calculate Non-Teachers' Actuarial Reduction (old law vs. new law effective July 1, 2009)

A part-time non-teacher participant retires at age 57. Below is a comparison of two formula retirement benefits; the benefit calculation with the actuarial reduction calculated based on the law in effect before July 1, 2009, and with the actuarial reduction based on the new law effective July 1, 2009.

<u>Hours Worked</u>	<u>Annual Earnings</u>	<u>Actual Service Credited Each Year</u>	<u>Service Used for Actuarial Reduction (old law)</u>	<u>Service Used for Actuarial Reduction (new law)</u>
1,165	\$ 21,000	.61	.61	.88
1,260	23,000	.66	.66	.95
1,299	25,400	.68	.68	.98
1,205	24,000	.63	.63	.91
1,426	29,000	.75	1.00	1.00
1,370	27,000	.72	.72	1.00
1,415	30,000	.74	.74	1.00
1,290	28,000	.67	.67	.98
1,487	32,000	.78	1.00	1.00
1,340	31,000	.70	.70	1.00
1,245	32,500	.65	.65	.94
1,220	33,000	.64	.64	.92
1,405	35,000	.73	.73	1.00
1,315	34,500	.69	.69	1.00
1,425	36,500	.75	1.00	1.00
1,320	37,000	.69	.69	1.00
1,280	38,000	.67	.67	.97
1,250	39,000	.66	.66	.95
1,275	40,000	.67	.67	.97
1,260	+41,000	+ .67	.67	.97
Totals:	\$120,000*	13.76	14.48	19.42

(2.00 yrs. total service credited in (shaded) 3 highest years)

* The total only reflects the (shaded) 3 high years.

Final Average Earnings: $\$120,000 \div 2.00 = \$60,000 \div 12 = \$5,000$

Formula Benefit under Old Law:

$\$5,000 \times .016 \times 13.76 \times .802 = \mathbf{\$882.84}$ monthly formula annuity

Formula Benefit under New Law:

$\$5,000 \times .016 \times 13.76 \times .865 = \mathbf{\$952.19}$ monthly formula annuity

In this example, the monthly annuity would be nearly 8% higher under the new law.

Note: To simplify the calculations only the formula multiplier for post-1999 service was used; the two benefit amounts would still be proportional if the pre-2000 and post-1999 factors were used.

Comparison of Teachers' vs. Non-Teachers' Retirement Benefit Calculations

There is a common perception that the lower service accrued by non-teachers (as compared to teachers) results in significantly lower retirement benefits for non-teachers. Following is a sample comparison of a non-teacher's retirement benefit calculation vs. a teacher's benefit calculation that illustrates how the service accrual is not a significant factor.

In this example a non-teacher and a teacher have the same annual earnings each year. The non-teacher earns .75 year of service each year, and the teacher earns full years of creditable service each year. They retire at the same age, and if they retire before normal retirement age the actuarial reduction for early retirement would be exactly the same under the new law.

NON-TEACHER Earning Part-Time Service		TEACHER Earning Full-Time Service	
<u>Fiscal Year Earnings</u>	<u>Service</u>	<u>Fiscal Year Earnings</u>	<u>Service</u>
\$22,000	.75	\$22,000	1.00
23,000	.75	23,000	1.00
24,000	.75	24,000	1.00
25,000	.75	25,000	1.00
26,000	.75	26,000	1.00
27,000	.75	27,000	1.00
28,000	.75	28,000	1.00
29,000	.75	29,000	1.00
30,000	.75	30,000	1.00
<u>+31,000</u>	<u>.75</u>	<u>+31,000</u>	<u>+1.00</u>
Totals: \$90,000*	7.50	\$90,000*	10.00
	(2.25 years earned during 3 High Yrs.)		(3.00 years earned during 3 High Yrs.)

* The earnings totals at the bottom only reflect the earnings during the 3 highest years (shaded) that are used to calculate the final average earnings.

Non-Teacher's Formula Benefit:

$\$90,000 \div \underline{2.25} = \$40,000 \div 12 = \underline{\$3,333}$ final average monthly earnings

$\$3,333 \times .016 \times 7.50 = \underline{\$400 \text{ monthly formula annuity}}$

Teacher's Formula Benefit:

$\$90,000 \div \underline{3.00} = \$30,000 \div 12 = \underline{\$2,500}$ final average monthly earnings

$\$2,500 \times .016 \times 10.00 = \underline{\$400 \text{ monthly formula annuity}}$

This example illustrates why the retirement benefits are the same for both participants. Since the non-teacher's three highest years of earnings are divided by the lower amount of service earned during the three highest years, the non-teacher's higher final average earnings (due to the lower service divisor used to calculate the final average earnings) offsets the lower total creditable service accrued.

WRS creditable service for educational support personnel vs. teachers

There is a common assumption that if educational support personnel were to begin earning WRS creditable service on the same basis as teachers, it would increase their retirement benefits. Logically, more service means higher benefits – right?

Not necessarily! In fact, the opposite may be true; starting to earn more service without a proportional increase in annual earnings can actually **decrease** retirement benefits. Again, the reason has to do with how the final average monthly earnings are calculated.

In the example below, Participant A retires after reaching normal retirement age, and continues to earn partial years of creditable service each year. Participant B retires at the same age, but begins to earn full years of creditable service during the three final years **with no corresponding increase in earnings**. These calculations illustrate how increasing service credit from partial years to full years during the final three years can actually decrease the participant's formula retirement annuity.

Participant A: Service Accrual Remains the Same		Participant B: Service Accrual Increases During the Three Final (highest) Years		
<u>Earnings</u>	<u>Service</u>	<u>Earnings</u>	<u>Service</u>	
\$16,000	.75	\$16,000	.75	
17,000	.75	17,000	.75	
18,000	.75	18,000	.75	
19,000	.75	19,000	.75	
20,000	.75	20,000	.75	
21,000	.75	21,000	.75	
22,000	.75	22,000	.75	
23,000	.75	23,000	1.00	
24,000	.75	24,000	1.00	
+25,000	+.75	+25,000	+1.00	
Totals:	\$72,000*	7.50	\$72,000*	8.25
	(2.25 years earned during 3 High Yrs.)		(3.00 years earned during 3 High Yrs.)	

* The total earnings only reflect the (shaded) 3 high years.

Participant A's Formula Benefit:

$\$72,000 \div 2.25 = \$32,000 \div 12 = \mathbf{\$2,667}$ final average monthly earnings

$\$2,667 \times .016 \times 7.50 = \mathbf{\$320}$ monthly formula annuity

Participant B's Formula Benefit:

$\$72,000 \div 3.00 = \$24,000 \div 12 = \mathbf{\$2,000}$ final average monthly earnings

$\$2,000 \times .016 \times 8.25 = \mathbf{\$264}$ monthly formula annuity

This example illustrates why prospectively increasing the service credited to educational support personnel to be equal to teachers without proportionately increasing the annual earnings can actually result in decreasing the participant's formula retirement annuity. This is particularly true when the service increase occurs late in the participant's WRS career, particularly during the 3 highest years of earnings.