

# Wisconsin Retirement System (WRS) Annuitants Hired by Employers Participating in the WRS

December 2012

## Report Highlights ■

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***Most WRS annuitants employed by state agencies worked part-time for less than one year.***

***Local governments and school districts reported that they hired annuitants for their skills and experience.***

***Statutes provide few restrictions on annuitants who return to work.***

***The Legislature could consider modifying how annuitants are able to return to work.***

More than 1,500 state and local government employers participate in the Wisconsin Retirement System (WRS), which provides post-retirement annuities funded by tax-deferred contributions from employers and employees. Federal law requires annuitants to have had good-faith terminations from employment. To meet this requirement, state law stipulates that on the day individuals terminate employment, they must have no rights to any future employment in any positions eligible to receive WRS benefits, and they must be separated from all WRS-eligible employment for at least 30 calendar days. If these conditions are met, individuals can receive an annuity and work in any position eligible to receive WRS benefits.

The Department of Employee Trust Funds (ETF) administers the WRS. It is statutorily responsible for ensuring that the WRS complies with federal law, and it may choose to investigate allegations that good-faith terminations from employment did not occur.

In response to questions about the extent to which WRS-participating employers have hired WRS annuitants, we:

- determined the number of individuals who terminated employment from January 2007 through December 2011, began receiving WRS annuities, and subsequently returned to work for state agencies through March 2012;
- surveyed local governments and school districts on the extent to which they hired WRS annuitants from January 2011 through March 2012; and
- analyzed ETF's efforts to ensure that good-faith terminations occurred.

### Annuitants Hired by State Agencies

Individuals receiving WRS annuities and working in positions eligible to

## Key Facts and Findings

*From January 2007 through March 2012, UW System and state agencies on Central Payroll hired 2,783 WRS annuitants who had terminated employment from 2007 through 2011.*

*Most annuitants hired by state agencies worked part-time for less than one year and were paid either the same hourly wage or a lower hourly wage than they had been paid at retirement.*

*A small number of annuitants hired by state agencies worked for several years after retirement or were paid an hourly wage more than they had been paid at retirement.*

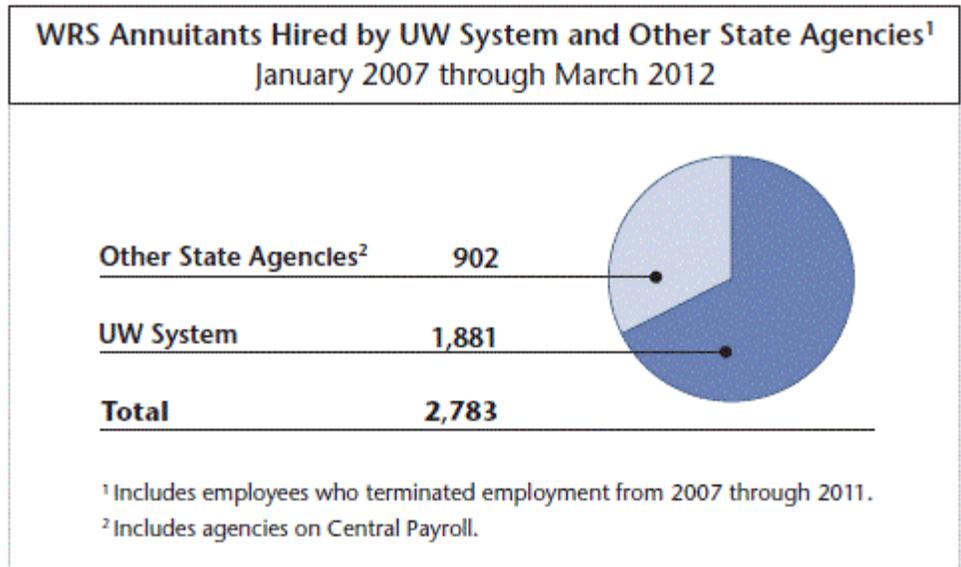
*School districts and local governments that responded to our survey reported hiring 2,599 annuitants from January 2011 through March 2012.*

*Statutes allow individuals with good-faith terminations from employment to receive WRS annuities and return to work for employers participating in the WRS.*

*It can be challenging for ETF to determine that a good-faith termination from employment had not occurred.*

participate in the WRS are commonly referred to as “rehired annuitants.” Because payroll data we obtained do not indicate whether annuitants worked in WRS-eligible positions, not all of the individuals we identified are rehired annuitants. However, to provide the most comprehensive information, we included in our analysis all annuitants we identified as working for state agencies.

From January 2007 through March 2012, the University of Wisconsin (UW) System and state agencies on Central Payroll hired 2,783 WRS annuitants who had terminated employment from 2007 through 2011. UW System and other agencies indicated that they hired annuitants who had particular skills and experience and could fill short-term staffing needs.



Annuitants working in WRS-eligible positions may choose to suspend their annuities and participate in the WRS as if they had never retired. Only 8 annuitants hired by UW System and 18 hired by state agencies on Central Payroll chose to do so.

Of the 2,783 annuitants, 33.2 percent worked for less than six months after being hired, and 27.9 percent worked from 6 to 12 months. In contrast, 1.5 percent worked for more than four years after being hired.

We found that 78.8 percent of annuitants who worked continuously during their first six months of employment worked fewer hours per week, on average, than they had worked before retirement. In contrast, 5.2 percent worked more hours per week. Annuitants worked an average of 22 hours per week during the first six months after being hired.

We also found that 91.7 percent of annuitants who worked continuously during their first six months of employment and for whom information was available had hourly wages that were the same as or lower than their hourly wages at retirement. In contrast, 8.3 percent had higher wages.

## Annuitants Hired by Local Agencies

The 1,169 respondents to our survey of all school districts and local governments indicated that they hired 2,599 WRS annuitants from January 2011 through March 2012. Almost 80.0 percent indicated that annuitants were hired for their skills and experience.

School districts reported that the expected duration of employment for 39.3 percent of the 1,681 annuitants they hired was 12 months or less. They reported that 40.7 percent of annuitants were expected to work less than 20 hours per week, and that 80.6 percent were paid hourly wages lower than their hourly wages before retirement.

Local governments reported that the expected duration of employment for 46.8 percent of the 918 annuitants they hired was 12 months or less. They reported that 72.5 percent of annuitants were expected to work less than 20 hours per week, and that 68.7 percent were paid hourly wages lower than their hourly wages before retirement.

## **Contracting with Annuitants**

We could not determine the extent to which state agencies contracted with firms that employed annuitants or the extent to which UW System contracted directly with annuitants. However, 28 state agencies directly paid \$1.7 million to 266 individuals who terminated employment from January 2007 through December 2011, began receiving a WRS annuity, and then contracted to provide goods and services at some point through June 2012. The annuitants were paid an average of \$6,200 each, although 12 were each paid \$25,000 or more. We found that three annuitants were employed by the same agencies with which they contracted directly.

## **ETF Oversight**

ETF does not have access to payroll systems that would allow it to systematically monitor all employers and employees. Therefore, it initiates investigations only when it believes that pension laws may have been violated. If an investigation determines that a good-faith termination of employment did not occur, ETF can require an individual to repay all annuity amounts that were received.

ETF does not have written policies or procedures for conducting investigations. Instead, it handles each investigation in the manner it deems appropriate. From August 2009 through June 2012, ETF conducted 19 investigations, including 14 in which ETF determined there was insufficient information to conclude that good-faith terminations had not occurred and 4 in which ETF determined there was sufficient information to conclude that good-faith terminations had not occurred. One investigation was only partially completed when the individual withdrew the application to receive an annuity.

It can be challenging for ETF to determine that a good-faith termination did not occur. State law prohibits individuals who have not yet terminated employment from agreeing to work in a WRS-eligible position at a future date, but such agreements must be enforceable in order for ETF to determine that good-faith terminations did not occur. For example, individuals may indicate in their resignation letters that they desire to return to work, and their employers may subsequently hire them after the 30-day separation period. In these situations involving unenforceable agreements, ETF determines there is insufficient information to conclude that good-faith terminations did not occur.

State law does not prohibit an individual who has not yet terminated employment from agreeing to work for a different WRS-participating employer in a position ineligible for WRS benefits. This employment can

begin during the separation period. At any point after the day an individual terminates employment, he or she can agree to return to work in a WRS-eligible position with any WRS-participating employer, as long as such employment does not begin during the separation period.

## Future Considerations

Most of the annuitants we identified who returned to work for state agencies worked part-time and for less than one year. Most were paid either the same or a lower hourly wage than they had been paid at retirement. Employers indicated that annuitants possess expertise that may be difficult to obtain from other employees. For these reasons, the Legislature could choose to make no modifications to statutes that govern how annuitants are able to return to work for WRS participating employers.

However, we also identified a small number of annuitants who worked for several years after retirement, worked more hours per week than they had worked before retirement, or were paid a higher hourly wage than they had been paid at retirement. This raises questions about the intent of these annuitants to truly retire. We provide several options the Legislature could consider if it chooses to modify statutes governing how annuitants are able to return to work.

If the Legislature is concerned that employers sometimes deliberately do not fill positions when employees terminate employment because they know they will hire annuitants shortly after the separation period ends, it could lengthen the separation period to 60, 90, or 120 days or more.

If the Legislature is concerned about maintaining the integrity of the separation period, it could prohibit individuals who have not completed their separation periods from working in positions that are ineligible for WRS participation, contracting with WRS-participating employers, and signing employment agreements that involve returning to work in WRS-eligible positions after the separation periods end.

If the Legislature is concerned about the potential for annuitants to work for several years, it could limit the length of time annuitants are allowed to work for WRS-participating employers.

If the Legislature is concerned about determining the fiscal effects on the WRS of hiring annuitants or modifying statutes governing how annuitants may return to work, it could consider obtaining an actuarial opinion.

## Recommendations

We include a recommendation for ETF to:

- develop written procedures for conducting consistent and complete investigations to determine if good-faith terminations from employment had not occurred ([p. 54](#)).

