2013 DRAFTING REQUEST

Assembly Amendment (AA-AB(LRBx3118/1))

Received:	**10/3/2013**	Received By:	**rchampag**
Wanted:	**Today**	Same as LRB:	
For:	**Warren Petryk (608) 266-0660**	By/Representing:	**Marcie**
May Contact:		Drafter:	**rchampag**
Subject:	**Employ Pub - retirement**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Rep.Petryk@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Purchase of National Guard Service under WRS

Instructions:

See attached.

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	rchampag 10/3/2013	jdyer 10/3/2013	rschluet 10/3/2013	_____ _____			
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FE Sent For:

<END>

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/?	rchampag	1 10/3 jld	10/3				

FE Sent For:

<END>

Champagne, Rick

From: Rainbolt, Marcie
Sent: Thursday, October 03, 2013 8:55 AM
To: Champagne, Rick
Subject: RE: RE: Possible changes to the military WRS bill (UNCLASSIFIED)

I think we have to do an amendment. Our bill already was sent to the Chief Clerk and Speaker's office.

Thank you!

Marcie Rainbolt
Office of Representative Petryk
103 West, State Capitol
(608) 266-0660

From: Champagne, Rick
Sent: Thursday, October 03, 2013 8:50 AM
To: Rainbolt, Marcie
Subject: RE: RE: Possible changes to the military WRS bill (UNCLASSIFIED)

Marcie, would like for me to prepare a new bill draft that includes these changes or just draft an amendment to the bill we've already drafted for you?

Rick

From: Malszycki, Marcie
Sent: Monday, September 30, 2013 11:04 AM
To: Sen.Gudex; Champagne, Rick
Cc: Muller, Libby; Lundquist, Lisa; Lakin, Tim; Hurley, Steve - ETF
Subject: RE: RE: Possible changes to the military WRS bill (UNCLASSIFIED)

Representative Petryk is supportive of this change as well for the Assembly bill.

Marcie Rainbolt
Office of Representative Petryk
103 West, State Capitol
(608) 266-0660

From: Sen.Gudex
Sent: Monday, September 30, 2013 10:30 AM
To: Champagne, Rick
Cc: Muller, Libby; Malszycki, Marcie; Lundquist, Lisa; Lakin, Tim; Hurley, Steve - ETF
Subject: FW: RE: Possible changes to the military WRS bill (UNCLASSIFIED)

Rick, I believe we've decided to go with "under honorable or general conditions" instead of "under conditions other than dishonorable" on page 2.

Also, please see Steve Hurley's email below. He suggests including the national guard in Section 2 (the underlined paragraph). The language we'd discussed earlier was included reference to a couple of federal statutes: "Eligibility of

creditable service includes military service under Title 10 U.S.C. and Title 32 U.S.C. whether the duty is in a full time or part time capacity in the reserves or National Guard."

Do you think that's necessary? Or is it enough simply to say it includes service in the National Guard?

Lance Burri
Office of Sen. Rick Gudex
608-266-5300

From: Hurley, Steve [mailto:Steve.Hurley@etf.wi.gov]
Sent: Thursday, September 19, 2013 4:39 PM
To: Burri, Lance
Cc: Hunter, Tarna
Subject: RE: Possible changes to the military WRS bill (UNCLASSIFIED)

Lance,
We agree that 40.02(57m) does not capture National Guard service.

However, the bill draft will allow purchase of service by persons who served in the National Guard. In Section 1 of the bill draft, which is functionally the "service purchase enabling statute" 40.285(2)(b)1, the bill draft simply removes the current exclusion for "military service." This leaves the enabling statute quite broad in scope -- requiring only that one be a WRS participating employee who has performed service as an employee of a federal government or a state or local government entity in the U.S.. We do not see that as precluding those with National Guard service from purchasing service and we do not recommend any changes to the Chapter 40 definition of U.S. Armed Forces.

Further, the explicit exclusion in Section 3 for National Guard should help in allaying any concern that the proposed law could be interpreted to prohibit National Guard from purchasing service.

<u>However, we would suggest that because 40.02(57m) does not capture National Guard service, that Section 2 be modified to add the phrase, "including service in the National Guard," after the references to U.S. armed forces. This would ensure that the discharge standard will apply to all.</u>

Regarding the discharge standard itself, remember that these folks are paying the full actuarial equivalent for the service purchase. I am not sure there is a need to raise the standard higher than it was for the pre-1974 credit, which was given free of charge to the former military member. A person with a general or administrative discharge in the pre-1974 situation can get four years credit free, but if a person is paying for the service, they must have at least an honorable discharge. And civilians have no such standard imposed at all.

From an administrative standpoint, it will make things more complex for ETF as we end up being the entity trying to explain to the member who is being denied, but in the end we understand this is a policy choice.

If you have questions, you can contact Tarna until noon tomorrow. I will be out of the office but will try to check e-mail sometime during the day. Thanks.

Steve

-----Original Message-----
From: Burri, Lance [mailto:Lance.Burri@legis.wisconsin.gov]
Sent: Thursday, September 19, 2013 2:43 PM
To: Hurley, Steve
Subject: FW: Possible changes to the military WRS bill (UNCLASSIFIED)

What do you think, Steve?

Lance Burri
Office of Sen. Rick Gudex
608-266-5300

-----Original Message-----
From: Barron, Julio R COL USAF NG WIARNG (US)
[mailto:julio.r.barron2.mil@mail.mil]
Sent: Monday, September 16, 2013 8:01 AM
To: Champagne, Rick; Burri, Lance; Hurley, Steve - ETF; Schmidt, Dan; Malszycki, Marcie
Cc: Lakin, Tim; Lundquist, Lisa; julio.barron2@us.army.mil
Subject: RE: Possible changes to the military WRS bill (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: FOUO

Good morning Rick. Wis. Stat. sec. 40.02(57m) does NOT capture service in the National Guard. It does, however, capture service in the Reserves.

National Guard service is distinct in that the Governor is the commander in chief and duty is performed under Title 32 U.S.C. 502, although the National Guard is federally funded.

The Active Duty Services and the Reserves perform service under Title 10 U.S.C. The distinction here is that these services have the President as the commander in chief. This very point was the U.S. Supreme Court's 1990 holding in Perpich v. Department of Defense, 469 U.S. 334 (1990); please see the attachment.

Lance, if you need verification on this point, I suggest you raise the issue with an ETF or DOJ attorney and not an ETA staffer.

Thank you.

Julio

-----Original Message-----
From: Champagne, Rick [mailto:Rick.Champagne@legis.wisconsin.gov]
Sent: Monday, September 16, 2013 7:49 AM

To: Burri, Lance; Hurley, Steve - ETF; Schmidt, Dan; Malszycki, Marcie
Cc: Lakin, Tim; Lundquist, Lisa; julio.barron2@us.army.mil
Subject: RE: Possible changes to the military WRS bill

Lance,

Here are a couple of observations:

1. U. S. armed forces is a defined term in ch. 40 and can be found at s. 40.02 (57m). You may wish to speak with ETF to determine if this definition captures services in Reserves and National Guard. This is the same term we use for receiving creditable military service under s. 40.02 (15). If ETF believes it does, then there is probably no reason to add additional language.

2. Also, please note that we grant creditable military service for a person who was discharged from the U.S. armed forces "under conditions other than dishonorable." See s. 40.02 (15) (a) 5. So, we can certainly use the other standard that Col. Barron suggested, but it will be inconsistent with the current law standard for receiving creditable military service.

Let me know how you wish to proceed and I will get the redraft to you right away.

Rick

Rick Champagne
Senior Staff Counsel
Legal Section
Wisconsin Legislative Reference Bureau
1 East Main St.
Suite 200
Madison, WI 53703
(608) 266-9930
FAX (608) 264-6948
rick.champagne@legis.state.wi.us

From: Burri, Lance
Sent: Friday, September 13, 2013 1:49 PM
To: Hurley, Steve - ETF; Schmidt, Dan; Champagne, Rick; Malszycki, Marcie
Cc: Lakin, Tim; Lundquist, Lisa; julio.barron2@us.army.mil
Subject: Possible changes to the military WRS bill

Lisa Lundquist and I met with Col. Julio Barron earlier today regarding the military WRS bill, and discussed a couple possible changes.

First, the bill states that a service member is eligible if he/she was discharged "under conditions other than dishonorable." Under that language, service members who were discharged following disciplinary and even criminal activity could be eligible for the benefit. Col. Barron recommended the language "under honorable or 'general under honorable conditions'" instead.

Second, simply using the phrase "U.S. armed forces" could be interpreted to exclude reserve and National Guard. Col. Barron suggested we include something like "Eligibility of creditable service includes military service under Title 10 U.S.C. and Title 32 U.S.C. whether the duty is in a full time or part time capacity in the reserves or National Guard" at the end of page 2, line 15.

Both of these changes seem in line with what we're trying to do. Please let me know what you think. If there aren't any objections, I will ask to have them rolled into a new draft next week.

Lance Burri

Office of Sen. Rick Gudex

608-266-5300

Classification: UNCLASSIFIED
Caveats: FOUO

Steve Hurley, Director
Office of Policy, Privacy & Compliance
Wisconsin Department of Employee Trust Funds
(☎) (608) 267-2847

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State of Wisconsin
2013 – 2014 LEGISLATURE

LRBa0889/1
RAC:jld:rs

LRBa0894/1
RAC:jld

Today

SENATE AMENDMENT ,

TO SENATE BILL (LRB-2687/3)

ASSEMBLY

3118/1

At the locations indicated, amend the bill as follows:

1. Page 2, line 13: after "forces" insert "or national guard".

2. Page 2, line 14: delete the material beginning with "under" and ending with "dishonorable" on line 15 and substitute "or national guard under honorable or general conditions".

(END)