



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Assembly Bill 42

**Assembly Substitute
Amendment 2**

Memo published: February 18, 2003

Contact: Pam Shannon, Senior Staff Attorney (266-2680)

Current law specifies various groups of persons who are eligible for burial in a state veterans cemetery. One such group is persons who were Wisconsin residents at the time of their death or entry or reentry into service in the Wisconsin National Guard or a reserve component of the U.S. Armed Forces and who have 20 or more years of creditable military service for retirement pay in the Wisconsin National Guard or the reserves or who would have been entitled to that retirement pay except that the person was under age 60 when he or she died. Current law also permits burial of an eligible person's spouse, surviving spouse, and dependent children.

Assembly Bill 42 expands the eligibility of national guard veterans to include persons who served in the national guard of *any* state, so long as the person was a resident of Wisconsin either at the time of his or her death or at the time of entry or reentry into the national guard, and had 20 or more years of service in the guard.

Assembly Substitute Amendment 2 provides that a person (or his or her spouse, surviving spouse, or dependent child) is eligible for burial in a state veterans cemetery if the person: (1) was a resident of this state either at the time of entry or reentry into the national guard of any state or the reserves or for 12 consecutive months immediately preceding his or her death; *and* (2) is eligible for burial in a national cemetery under 38 U.S.C. s. 2402.

A person is "eligible for burial in a national cemetery" if he or she is "entitled to retired pay" or would have been entitled had the person not died before age 60. Guard members and reservists are "entitled to retired pay" after 20 years of service. The service may include cumulative periods of guard service and reserve service totaling 20 years. [Note that active duty service also counts toward retired pay and a person only has to serve 180 days on active duty to qualify for burial in a national cemetery. Similarly, Wisconsin law permits a person with 180 or more days of active duty service to be buried in a state veterans cemetery.]

The substitute amendment addresses two concerns raised by committee members about the original bill. First, by linking eligibility to the federal cemetery provision, it covers a person who has

the requisite number of years of service through a combination of service types, including cumulative service in the national guard and the reserves, as well as the person who has only national guard or only reserves service.

Second, by requiring residency for 12 consecutive months immediately preceding death if the person was not a Wisconsin resident prior to entering or reentering the service, it eliminates the possibility that a person could be buried in a Wisconsin veterans cemetery without ever having been a state resident until close to the time of death.

Legislative History

The Assembly Committee on Veterans and Military Affairs held a public hearing on Assembly Bill 42 on February 12, 2003, but took no executive action at that time. On February 14, 2003, Representatives Musser and Pettis introduced Assembly Substitute Amendment 2. In executive session on February 18, 2003, the committee voted to adopt Assembly Substitute Amendment 2 by a vote of Ayes, 14; and Noes, 0; and to recommend passage of the bill, as amended, by the same vote.

PS:jal;wu