



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Senate Bill 132

Senate Substitute Amendment 2

Memo published: September 16, 2005

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Current law authorizes, but does not require, a city, town, village, school district, technical college district, or county to pay reasonable expenses incurred by an officer of the governmental unit when an action is brought or charge filed against the officer in his or her official capacity or for conduct growing out of official duties and the charge or action is discontinued or dismissed, the matter is determined favorably to the officer, or the officer is reinstated. [s. 895.35, Stats.] (In connection with civil actions, it appears this provision applies to actions not involving the recovery of money damages; s. 895.46 covers those actions.)

Senate Bill 132 requires the governmental unit to pay reasonable expenses incurred in connection with a charge filed or action brought against an officer in the officer's official capacity or for conduct growing out of official duties when those expenses are incurred by emergency medical services personnel, a fire fighter, or a law enforcement or correctional officer. The mandatory payment does not apply if: (1) the person is convicted of a crime; (2) the person's employment is terminated for cause; (3) the person resigns for reasons other than retirement before the expenses are incurred; (4) the person is demoted or reduced in rank; or (5) the person is suspended without pay for 10 or more working days.

Senate Substitute Amendment 2 narrows the application of the expense payment requirement in the following respects: (1) it applies only to reasonable attorneys fees; and (2) it applies only to reasonable attorneys fees incurred in connection with a criminal proceeding (including inquests).

In addition, the substitute amendment: (1) requires only "reimbursement" of reasonable attorney fees; and (2) specifies that if a collective bargaining agreement defines reasonable attorney fees for purposes of the reimbursement requirement, that definition applies.

Legislative History

The Senate Committee on Judiciary, Corrections and Privacy recommended adoption of the amendment by a vote of Ayes, 5; Noes, 0. The committee recommended passage of the proposal, as amended, by a vote of Ayes, 5; Noes, 0.

RS:ksm