



1999 ASSEMBLY BILL 455

September 14, 1999 - Introduced by Representatives SPILLNER, BRANDEMUEHL, FREESE, GOETSCH, GUNDERSON, HAHN, HANDRICK, HASENOHRL, KELSO, LADWIG, LASSA, MILLER, MUSSER, OLSEN, SCHNEIDER, SYKORA and WAUKAU, cosponsored by Senators PLACHE, ROBSON, ROESSLER and SCHULTZ. Referred to Committee on Labor and Employment.

1 **AN ACT** *to renumber and amend* 891.45; *to amend* 891.455 (1) and 891.455 (2);
2 and *to create* 891.45 (1) of the statutes; **relating to:** establishing a
3 presumption for employment-connected disease for state and county fire
4 fighters.

Analysis by the Legislative Reference Bureau

Under current law, in any proceeding involving the application by a municipal fire fighter or his or her beneficiary for disability or death benefits, where at the time of death or filing of application for disability benefits the fire fighter had served a total of ten years as a fire fighter and a qualifying medical examination given before the time of his or her joining the fire department showed no evidence of cancer, and where the disability or death is found to be caused by cancer, this finding shall be presumptive evidence that the cancer was caused by his or her employment as a fire fighter. Current law provides that this presumption only applies to cancers affecting the skin, breasts, central nervous system or lymphatic, digestive, hematological, urinary, skeletal, oral or reproductive systems.

In addition, under current law, in any proceeding involving the application by a municipal fire fighter or his or her beneficiary for disability or death benefits, where at the time of death or filing of application for disability benefits the fire fighter had served a total of five years as a fire fighter and a qualifying medical examination given before the time of his or her joining the fire department showed no evidence of heart or respiratory impairment or disease, and where the disability or death is found to be caused by heart or respiratory impairment or disease, this

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finding shall be presumptive evidence that the impairment or disease was caused by his or her employment as a fire fighter.

This bill extends the coverage of these presumptions to state and county fire fighters.

This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 891.45 of the statutes is renumbered 891.45 (2) and amended to
2 read:

3 891.45 (2) In any proceeding involving the application by a state, county or
4 municipal fire fighter or his or her beneficiary for disability or death benefits under
5 ~~s. 66.191, 1981 stats., or s. 40.65 (2)~~ or any pension or retirement system applicable
6 to fire fighters, where at the time of death or filing of application for disability
7 benefits the deceased or disabled ~~municipal~~ fire fighter had served a total of 5 years
8 as a state, county or municipal fire fighter and a qualifying medical examination
9 given prior to the time of his or her ~~joining the department~~ becoming a state, county
10 or municipal fire fighter showed no evidence of heart or respiratory impairment or
11 disease, and where the disability or death is found to be caused by heart or
12 respiratory impairment or disease, such finding shall be presumptive evidence that
13 such impairment or disease was caused by such employment. ~~In this section,~~
14 ~~“municipal fire fighter” includes any person designated as primarily a fire fighter~~
15 ~~under s. 61.66 (2) and any person under s. 61.66 whose duties as a fire fighter during~~
16 ~~the 5-year qualifying period took up at least two-thirds of his or her working hours.~~

17 **SECTION 2.** 891.45 (1) of the statutes is created to read:

18 891.45 (1) In this section:

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1 (a) "County fire fighter" means any person employed by a county whose duties
2 primarily include active fire suppression or prevention.

3 (b) "Municipal fire fighter" includes any person designated as primarily a fire
4 fighter under s. 61.66 (2) and any person under s. 61.66 whose duties as a fire fighter
5 during the 5-year qualifying period took up at least two-thirds of his or her working
6 hours.

7 (c) "State fire fighter" means any person employed by the state whose duties
8 primarily include active fire suppression or prevention and who is a protective
9 occupation participant, as defined in s. 40.02 (48).

10 **SECTION 3.** 891.455 (1) of the statutes is amended to read:

11 891.455 (1) In this section, "state, county or municipal fire fighter" means a
12 municipal fire fighter who is covered under s. 891.45 and any person under s. 61.66
13 whose duties as a fire fighter during the 10-year qualifying period specified in sub.
14 (2) took up at least two-thirds of his or her working hours.

15 **SECTION 4.** 891.455 (2) of the statutes is amended to read:

16 891.455 (2) ~~Beginning with applications submitted by a municipal fire fighter~~
17 ~~or his or her beneficiary on May 12, 1998, in~~ In any proceeding involving an
18 application by a state, county or municipal fire fighter or his or her beneficiary for
19 disability or death benefits under ~~s. 66.191, 1981 stats., or~~ s. 40.65 (2) or any pension
20 or retirement system applicable to fire fighters, where at the time of death or filing
21 of application for disability benefits the deceased or disabled ~~municipal fire fighter~~
22 had served a total of 10 years as a state, county or municipal fire fighter and a
23 qualifying medical examination given prior to the time of his or her ~~joining the~~
24 ~~department~~ becoming a state, county or municipal fire fighter showed no evidence
25 of cancer, and where the disability or death is found to be caused by cancer, such

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1 finding shall be presumptive evidence that the cancer was caused by such
2 employment.

3 **SECTION 5. Initial applicability.**

4 (1) This act first applies to applications submitted by a state, county or
5 municipal fire fighter or his or her beneficiary in any proceeding involving disability
6 or death benefits on the effective date of this subsection.

7 (END)