



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4205/1
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2015 SENATE BILL 744

February 17, 2016 - Introduced by Senators C. LARSON and HARRIS DODD, cosponsored by Representatives BARNES, BERCEAU, BROSTOFF, GOYKE and SINICKI. Referred to Committee on Labor and Government Reform.

1 **AN ACT to create** 40.65 (4d), 59.89, 62.625 and 175.475 of the statutes; **relating**
2 **to:** prohibiting payment of duty disability benefits to certain law enforcement
3 officers.

Analysis by the Legislative Reference Bureau

This bill provides that under the Wisconsin Retirement System (WRS), a protective occupation participant whose principal duties involve active law enforcement may not receive a duty disability benefit if all of the following occur: 1) the participant was injured while performing his or her duty in violation of law or any policy or protocol established by his or her employer, 2) the violation of law or any policy or protocol established by his or her employer that resulted in a situation that required the use of force, and 3) at the time the participant was injured, an individual died or suffered serious bodily harm as a result of the actions of the participant. The bill also applies this same provision to any retirement system of a county with a population of 500,000 or more and to any retirement system of a first class city.

Generally, under the WRS and other public employment systems, a duty disability benefit is a retirement benefit provided to an employee who is totally and permanently incapacitated from performing the responsibilities of his or her employment because of a duty-related injury. Most often, these employees have principal job duties that involve active law enforcement or fire suppression.

Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill.

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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.** 40.65 (4d) of the statutes is created to read:

2 40.65 (4d) A protective occupation participant whose principal duties involve
3 active law enforcement is not entitled to a duty disability benefit under this section
4 if all of the following occur:

5 (a) The participant was injured while performing his or her duty in violation
6 of law or any policy or protocol established by his or her employer.

7 (b) The participant's violation of law or any policy or protocol established by his
8 or her employer resulted in a situation that required the use of force, as determined
9 under s. 175.475.

10 (c) At the time the participant was injured, an individual died or suffered
11 serious bodily harm, as defined in s. 969.001 (2), as a result of the actions of the
12 participant.

13 **SECTION 2.** 59.89 of the statutes is created to read:

14 **59.89 Employee retirement system of populous counties; duty**
15 **disability benefits. (1)** In this section:

16 (a) "County" means any county having a population of 500,000 or more.

17 (b) "Duty disability benefit" means a retirement benefit provided to an
18 employee who is totally and permanently incapacitated from performing the
19 responsibilities of his or her employment due to a duty-related injury.

20 (c) "Serious bodily harm" has the meaning given in s. 969.001 (2).

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1 **(2)** If an employment retirement system of a county offers a duty disability
2 benefit, the employment retirement system may not provide the duty disability
3 benefit to any employee whose principal duties involve active law enforcement if all
4 of the following occur:

5 (a) The employee was injured while performing his or her duty in violation of
6 law or any policy or protocol established by his or her employer.

7 (b) The employee's violation of law or any policy or protocol established by his
8 or her employer resulted in a situation that required the use of force, as determined
9 under s. 175.475.

10 (c) At the time the employee was injured, an individual died or suffered serious
11 bodily harm as a result of the actions of the employee.

12 **SECTION 3.** 62.625 of the statutes is created to read:

13 **62.625 Employee retirement system of a 1st class city; duty disability**
14 **benefits. (1)** In this section:

15 (a) "Duty disability benefit" means a retirement benefit provided to an
16 employee who is totally and permanently incapacitated from performing the
17 responsibilities of his or her employment due to a duty-related injury.

18 (b) "Serious bodily harm" has the meaning given in s. 969.001 (2).

19 **(2)** If an employment retirement system of a 1st class city offers a duty
20 disability benefit, the employment retirement system may not provide the duty
21 disability benefit to any employee whose principal duties involve active law
22 enforcement if all of the following occur:

23 (a) The employee was injured while performing his or her duty in violation of
24 law or any policy or protocol established by his or her employer.

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1 (b) The employee's violation of law or any policy or protocol established by his
2 or her employer resulted in a situation that required the use of force, as determined
3 under s. 175.475.

4 (c) At the time the employee was injured, an individual died or suffered serious
5 bodily harm as a result of the actions of the employee.

6 **SECTION 4.** 175.475 of the statutes is created to read:

7 **175.475 Duty disability benefit eligibility determination.** If a person
8 whose principal duties involve active law enforcement applies for a duty disability
9 benefit under s. 40.65 or under a retirement system of a populous county, as defined
10 in s. 59.89 (1) (a), or of a 1st class city, 2 investigators shall determine if the applicant
11 is not entitled to a duty disability benefit because the applicant violated a law or any
12 policy or protocol established by his or her employer and the violation resulted in a
13 situation that required the use of force. This determination shall be done as part of
14 an investigation under s. 175.47 (3) (a) if applicable.

15 **SECTION 5. Initial applicability.**

16 (1) This act first applies to individuals who apply for a duty disability benefit
17 on the effective date of this subsection.

18 (END)