

1999 ASSEMBLY BILL 453

September 14, 1999 – Introduced by Representatives M. LEHMAN, SYKORA, OLSEN, MUSSEY and STONE. Referred to Committee on Urban and Local Affairs.

1 **AN ACT to amend** 66.305 and 66.315 of the statutes; **relating to:** liability for the
2 actions of law enforcement officers and other employes of cities, villages, towns
3 or counties who are requested to assist other jurisdictions.

Analysis by the Legislative Reference Bureau

Under current law, upon the request of a law enforcement agency, the law enforcement personnel of any other law enforcement agency may assist the requesting agency within the latter's jurisdiction. Such an officer is considered to be an employe of the requesting agency and the requesting agency is responsible for any claims that are filed against the officer in which he or she is acting in an official capacity in the other jurisdiction. Also under current law, the governor, a sheriff or other superior authority may command any law enforcement officer to maintain the peace or perform police or peace duties outside of the territorial limits of where the officer is normally employed, at the request of the authorities of another jurisdiction. The officer's wages and benefits are paid by the officer's regularly employing law enforcement agency and then reimbursed to that agency by the unit of government that commanded the officer to perform duties in the other jurisdiction.

This bill broadens current law to allow the governing body of a political subdivision (a city, village, town or county) to request any employe of another political subdivision to assist the requesting political subdivision within the latter's jurisdiction. As is the case under current law for law enforcement personnel, the wage and disability payments and other compensation claims of such employes are paid by the political subdivision that regularly employs the employe.

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Under this bill, if a claim is filed against an officer who is requested or commanded to perform law enforcement duties outside of the jurisdiction in which he or she regularly is employed, or if a similar request is made of an employe of a political subdivision to perform duties similar to the duties he or she performs for his regular employer for another political subdivision, for official actions taken while performing those duties, the officer's or employe's regular employer is liable for the officer's or employe's actions, unless the regularly employing jurisdiction and the requesting or commanding jurisdiction enter into a written agreement that apportions the liability between the jurisdictions.

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.** 66.305 of the statutes is amended to read:

2 **66.305 Law enforcement, local governmental employes; mutual**
3 **assistance. (1)** Upon the request of any law enforcement agency, including county
4 law enforcement agencies as provided in s. 59.28 (2), the law enforcement personnel
5 of any other law enforcement agency may assist the requesting agency within the
6 latter's jurisdiction, notwithstanding any other jurisdictional provision. Upon the
7 request of the governing body of a city, village, town or county, an employe of another
8 city, village, town or county may assist the requesting political subdivision within the
9 latter's jurisdiction. For purposes of ss. 895.35 and 895.46, such the law enforcement
10 personnel, or other employes of another political subdivision, while acting in
11 response to such the request, shall still be deemed considered employes of the
12 requesting agency their employing law enforcement agency or political subdivision,
13 unless the requesting law enforcement agency or political subdivision and the
14 officer's employing agency or political subdivision enter into a written agreement
15 that apportions liability between the jurisdictions.

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1 (2) The provisions of s. 66.315, to the extent applicable, shall apply to this
2 section.

3 **SECTION 2.** 66.315 of the statutes is amended to read:

4 **66.315 Police, local governmental employes; pay when acting outside**
5 **county or municipality.** (1) Any chief of police, sheriff, deputy sheriff, county
6 traffic officer or other peace officer of any city, ~~county~~, village ~~or~~, town or county, who
7 shall be required by command of the governor, sheriff or other superior authority to
8 maintain the peace or who responds to the request of the authorities of another
9 municipality, to perform police or peace duties outside territorial limits of the city,
10 ~~county~~, village ~~or~~, town or county where employed as such officer, and any other
11 employe of a city, village, town or county who is requested by another political
12 subdivision to perform duties similar to the duties that he or she performs for his or
13 her regular employer in that other political subdivision, shall be entitled to the same
14 wage, salary, pension, worker's compensation, and all other service rights for such
15 service as for service rendered within the limits of the city, ~~county~~, village ~~or~~, town
16 or county where regularly employed.

17 (2) All wage and disability payments, pension and worker's compensation
18 claims, damage to equipment and clothing, liability claims made under ss. 895.35
19 and 895.46 and medical expense, shall be paid by the city, ~~county~~, village ~~or~~, town or
20 county regularly employing such peace officer or other employe of a political
21 subdivision. Upon making such the payment such the city, ~~county~~, village ~~or~~, town
22 or county shall be reimbursed by the state, county or other political subdivision
23 whose officer or agent commanded the services out of which the payments arose,
24 except that if an officer is commanded under sub. (1) to perform police or peace duties
25 outside the territorial limits where he or she is regularly employed, or if another

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1 employe of a political subdivision is requested to perform duties similar to the duties
2 that he or she performs for his or her regular employer in that other political
3 subdivision, liability for the officer's or employe's actions while performing those
4 duties, for purposes of ss. 895.35 and 895.46, remains with the officer's or employe's
5 regular employing agency or political subdivision unless that agency or political
6 subdivision and the law enforcement agency or political subdivision from the other
7 jurisdiction that commanded the officer's services or requested the other employe's
8 services enter into a written agreement that apportions liability between the
9 jurisdictions.

SECTION 3. Initial applicability.

(1) This act first applies to claims arising on the effective date of this subsection.

(END)