

1999 DRAFTING REQUEST

Bill

Received: 01/25/1999

Received By: shoveme

Wanted: As time permits

Identical to LRB:

For: Michael Lehman (608) 267-2367

By/Representing: Andrew

This file may be shown to any legislator: NO

Drafter: shoveme

May Contact:

Alt. Drafters:

Subject: Counties
Munis - miscellaneous
Courts - miscellaneous

Extra Copies: RPN

Pre Topic:

No specific pre topic given

Topic:

Municipal liability, law enforcement mutual aid

Instructions:

See ss. 66.305, 66.315. Eliminate the liability of a governing body that requests assistance from another gov. body, unless the gov. bodies enter into a written agreement that apportions liability.

Drafting History:

Table with 8 columns: Vers., Drafted, Reviewed, Typed, Proofed, Submitted, Jacketed, Required. It contains two rows of drafting history data.

FE Sent For:

Handwritten note: G 09-13-99 with an arrow pointing to the right.

<END>

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|--------------|-----------------------|-----------------------|-----------------------|----------------|----------------------------|-----------------|-----------------|
| /1 | shoveme 03/02/1999 | ygeller 03/03/1999 | martykr 03/03/1999 | _____ | lrb_docadmin 03/03/1999 | | S&L |
| /2 | shoveme 07/21/1999 | ygeller 08/02/1999 | mclark 08/02/1999 | _____ | lrb_docadmin 08/02/1999 | | S&L |

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|----------------|--------------------|--|--------------------|--------------------------|-------------------------|-----------------|-----------------|
| /1 | shoveme 03/2/99 | ^{12 8/2} jg jgeller 03/3/99 | martykr 03/3/99 | MRC/JF 8/2 | lrb_docadmin 03/3/99 | | S&L |
| 12 MES 7/20/99 | | | MRC 8/2 | | | | |
| FE Sent For: | | | | <END> | | | |

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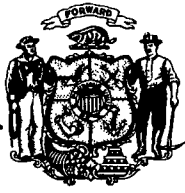
See ss. 66.30⁵, 66.315. Eliminate the liability of a governing body that requests assistance from another gov. body, unless the gov. bodies enter into a written agreement that apportion liability.

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| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|---------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1/1 | shoveme | 1 3/3 JG | 1 3/3 km | 2 3/3 LP | 3/3 | | |
| 11 MES 3/2/99 | | | | | | | |

FE Sent For:

<END>



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2006/1

MES

JLG (RMK)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gln

1 AN ACT relating to: liability for the actions of law enforcement officers who
2 are requested to assist other jurisdictions.

Analysis by the Legislative Reference Bureau

official
relating to the officer's actions

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.

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, for official actions taken while performing those duties, the officer's regular employer is liable for ^{the} officer'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 (1)[✓] of the statutes is amended to read:

2 66.305 (1) Upon the request of any law enforcement agency, including county
3 law enforcement agencies as provided in s. 59.28 (2), the law enforcement personnel
4 of any other law enforcement agency may assist the requesting agency within the
5 latter's jurisdiction, notwithstanding any other jurisdictional provision. For
6 purposes of ss. 895.35 and 895.46, ~~such~~ the law enforcement personnel while acting
7 in response to ~~such~~ the request, shall ~~still be deemed~~ considered employes of the
8 ~~requesting agency~~ their[✓] employing law enforcement agency, unless the requesting
9 law enforcement agency and the officer's employing agency enter into a written
10 agreement that apportions liability between the jurisdictions.

11 History: Sup Ct Order, 67 W (2d) 585, 774 (1975); 1995 a.[✓]
12 SECTION 2. 66.315 (2) of the statutes is amended to read:

13 66.315 (2) All wage and disability payments, pension and worker's
14 compensation claims, damage to equipment and clothing, liability claims made
15 under ss. 895.34⁵ and 895.46[✓] and medical expense, shall be paid by the city, county,
16 village or town regularly employing such peace officer. Upon making ~~such~~ the
17 payment ~~such~~ the city, county, village or town shall be reimbursed by the state,
18 county or other political subdivision whose officer or agent commanded the services
19 out of which the payments arose, except that if an officer is commanded under sub.
20 (1)[✓] to perform police or peace duties outside the territorial limits where he or she is
21 regularly employed, liability for the officer's actions while performing those duties,
 for purposes of ss. 895.35 and 895.46[✓], remains with the officer's regular employing

1 agency unless that agency and the law enforcement agency from the other
2 jurisdiction that commanded the officer's services enter into a written agreement
3 that apportions liability between the jurisdictions.

History: 1975 c. 147 s. 54.

4 **SECTION 3. Initial applicability.**

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

6 (END)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 3/3/99

To: Representative M. Lehman

Relating to LRB drafting number: LRB-2006

Topic

Municipal liability, law enforcement mutual aid

Subject(s)

Counties, Munis - miscellaneous, Courts - miscellaneous

1. **JACKET** the draft for introduction _____

in the **Senate** ____ or the **Assembly** ____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached  _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Marc E. Shovers, Senior Legislative Attorney
Telephone: (608) 266-0129

Handwritten marks and symbols in the top right corner, including a small circle and some illegible characters.



fmr

1999 BILL

regen

towns or counties

1 AN ACT to amend 66.305 (1) and 66.315 (2) of the statutes; relating to: liability
2 for the actions of law enforcement officers who are requested to assist other
3 jurisdictions.

Analysis by the Legislative Reference Bureau

INSET Analysis

~~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 relating to the officer's official actions 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.~~

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, for official actions taken while performing those duties, the officer's regular employer is liable for the officer'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.



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:

SECTION 1. 66.305 (1) of the statutes is amended to read:

66.305 (1) Upon the request of any law enforcement agency, including county law enforcement agencies as provided in s. 59.28 (2), the law enforcement personnel of any other law enforcement agency may assist the requesting agency within the latter's jurisdiction, notwithstanding any other jurisdictional provision. For purposes of ss. 895.35 and 895.46, such the law enforcement personnel while acting in response to such the request, shall still be deemed considered employees of the requesting agency their employing law enforcement agency, unless the requesting law enforcement agency and the officer's employing agency enter into a written agreement that apportions liability between the jurisdictions.

SECTION 2. 66.315 (2) of the statutes is amended to read:

66.315 (2) All wage and disability payments, pension and worker's compensation claims, damage to equipment and clothing, liability claims made under ss. 895.35 and 895.46 and medical expense, shall be paid by the city, county, village or town regularly employing such peace officer. Upon making such the payment such the city, county, village or town shall be reimbursed by the state, county or other political subdivision whose officer or agent commanded the services out of which the payments arose, except that if an officer is commanded under sub. (1) to perform police or peace duties outside the territorial limits where he or she is regularly employed, liability for the officer's actions while performing those duties, for purposes of ss. 895.35 and 895.46, remains with the officer's regular employing

Keep



BILL

1 agency unless that agency and the law enforcement agency from the other
2 jurisdiction that commanded the officer's services enter into a written agreement
3 that apportions liability between the jurisdictions.

4 **SECTION 3. Initial applicability.**

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

6 (END)

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INSERT Analysis

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.

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.

SECTION 1. 66.305[✓] of the statutes is amended to read:

66.305 Law enforcement, local governmental employes; mutual assistance. (1) Upon the request of any law enforcement agency, including county law enforcement agencies as provided in s. 59.28 (2), the law enforcement personnel of any other law enforcement agency may assist the requesting agency within the latter's jurisdiction, notwithstanding any other jurisdictional provision. Upon the request of the governing body of a city, village, town or county, an employe[✓] of another city, village, town or county may assist the requesting political subdivision within the

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INS 3-6
cont

1 latter's jurisdiction. For purposes of ss. 895.35 and 895.46, ~~such the~~ law enforcement
2 personnel, or other employes of another political subdivision, while acting in
3 response to ~~such the~~ request, shall still be ~~deemed~~ considered employes of the
4 requesting agency their employing law enforcement agency or political subdivision,
5 unless the requesting law enforcement agency or political subdivision and the
6 officer's employing agency or political subdivision enter into a written agreement
7 that apportions liability between the jurisdictions.

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

History: Sup. Ct. Order, 67 W (2d) 585, 774 (1975); 1995 a. 201.

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

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



MS 3-6
cont

1 (2) All wage and disability payments, pension and worker's compensation
 2 claims, damage to equipment and clothing, liability claims made under ss. 895.35
 3 and 895.46 and medical expense, shall be paid by the city, ~~county~~, village or town or
 4 county regularly employing such peace officer or other employe of a political
 5 subdivision. Upon making such the payment such the city, ~~county~~, village or town
 6 or county shall be reimbursed by the state, county or other political subdivision
 7 whose officer or agent commanded the services out of which the payments arose,
 8 except that if an officer is commanded under sub. (1) to perform police or peace duties
 9 outside the territorial limits where he or she is regularly employed, or if another
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 13 duties, for purposes of ss. 895.35 and 895.46, remains with the officer's or employe's
 14 regular employing agency or political subdivision unless that agency or political
 15 subdivision and the law enforcement agency or political subdivision from the other
 16 jurisdiction that commanded the officer's services or requested the other employe's
 17 services enter into a written agreement that apportions liability between the
 18 jurisdictions.

History: 1975 c. 147 s. 54.

19 **SECTION 3. Initial applicability.**

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

21

(END) ✓

(end insert)

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