

## 1999 ASSEMBLY BILL 547

1 AN ACT *to repeal* 102.01 (2) (b); *to amend* 15.227 (4), 15.227 (11), 102.05 (1),  
2 102.07 (7) (a), 102.07 (7) (b), 102.07 (12m), 102.077 (3), 102.16 (2) (d), 102.18 (3),  
3 102.29 (8), 102.475 (title), 102.475 (1), 102.475 (8) (b) and 102.87 (9); and *to*  
4 *create* 102.475 (8) (am) and 102.475 (8) (dm) of the statutes; **relating to:**  
5 various changes to the worker's compensation law.

---

*Analysis by the Legislative Reference Bureau*

---

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

6 SECTION 1. 15.227 (4) of the statutes is amended to read:  
7 15.227 (4) COUNCIL ON WORKER'S COMPENSATION. There is created in the  
8 department of workforce development a council on worker's compensation appointed  
9 by the labor and industry review commission secretary of workforce development to  
10 consist of a member or designated employe of the department of workforce

**ASSEMBLY BILL 547****SECTION 1**

1 development ~~or the labor and industry review commission~~ as chairperson, 5  
2 representatives of employers and 5 representatives of employees. The ~~commission~~  
3 secretary of workforce development shall also appoint 3 representatives of insurers  
4 authorized to do a worker's compensation insurance business in this state as  
5 nonvoting members of the council.

6 **SECTION 2.** 15.227 (11) of the statutes is amended to read:

7 15.227 **(11)** SELF-INSURERS COUNCIL. There is created in the department of  
8 workforce development a self-insurers council consisting of 5 members appointed by  
9 the ~~labor and industry review commission~~ secretary of workforce development for  
10 3-year terms.

11 **SECTION 3.** 102.01 (2) (b) of the statutes is repealed.

12 **SECTION 4.** 102.05 (1) of the statutes is amended to read:

13 102.05 **(1)** An employer who has had no employe at any time within a  
14 continuous period of 2 years shall be deemed to have effected withdrawal, which  
15 shall be effective on the last day of such period. An employer who has not usually  
16 employed 3 employes and who has not paid wages of at least \$500 for employment  
17 in this state in ~~any~~ every calendar quarter in a calendar year may file a withdrawal  
18 notice with the department, which withdrawal shall take effect 30 days after the date  
19 of such filing or at such later date as is specified in the notice. If an employer who  
20 is subject to this chapter only because the employer elected to become subject to this  
21 chapter under sub. (2) cancels or terminates his or her contract for the insurance of  
22 compensation under this chapter, that employer is deemed to have effected  
23 withdrawal, which shall be effective on the day after the contract is canceled or  
24 terminated.

25 **SECTION 5.** 102.07 (7) (a) of the statutes is amended to read:

**ASSEMBLY BILL 547**

1           102.07 (7) (a) Every member of ~~any~~ a volunteer fire company or fire department  
2 organized under ch. 213 ~~or any~~ a legally organized rescue squad ~~shall be deemed or~~  
3 a legally organized diving team is considered to be an employe of ~~such~~ that company,  
4 department ~~or~~ squad or team. Every ~~such~~ member of a company, department, squad  
5 or team described in this paragraph, while serving as an auxiliary police officer at  
6 an emergency, ~~shall also be deemed~~ is also considered to be an employe of said ~~that~~  
7 company, department ~~or~~ squad or team. If ~~such~~ a company, department ~~or~~ squad  
8 or team described in this paragraph has not insured its liability for compensation to  
9 its employes, the municipality or county within which ~~such~~ that company,  
10 department ~~or~~ squad or team was organized shall be liable for ~~such~~ that  
11 compensation.

12           **SECTION 6.** 102.07 (7) (b) of the statutes is amended to read:

13           102.07 (7) (b) The department may issue an order under s. 102.31 (1) (b)  
14 permitting the county within which a volunteer fire company or fire department  
15 organized under ch. 213, a legally organized rescue squad ~~or~~ an ambulance service  
16 provider, as defined in s. 146.50 (1) (c), or a legally organized diving team is organized  
17 to assume full liability for the compensation provided under this chapter of all  
18 volunteer members of that company, department, squad ~~or~~ provider or team.

19           **SECTION 7.** 102.07 (12m) of the statutes is amended to read:

20           102.07 (12m) A student of a public school, as described in s. 115.01 (1), or a  
21 private school, as defined in s. 115.001 (3r), while he or she is engaged in performing  
22 services as part of a school work training, work experience or work study program,  
23 and who is not on the payroll of an employer that is providing the work training or  
24 work experience or who is not otherwise receiving compensation on which a worker's  
25 compensation carrier could assess premiums on that employer, is an employe of a

**ASSEMBLY BILL 547****SECTION 7**

1 school district or private school that elects under s. 102.077 to name the student as  
2 its employe. This subsection does not apply after December 31, ~~1999~~ 2001.

3 **SECTION 8.** 102.077 (3) of the statutes is amended to read:

4 102.077 (3) This section does not apply after December 31, ~~1999~~ 2001.

5 **SECTION 9.** 102.16 (2) (d) of the statutes is amended to read:

6 102.16 (2) (d) For fee disputes that are submitted to the department before  
7 July 1, ~~2000~~ 2002, the department shall analyze the information provided to the  
8 department under par. (c) according to the criteria provided in this paragraph to  
9 determine the reasonableness of the disputed fee. The department shall determine  
10 that a disputed fee is reasonable and order that the disputed fee be paid if that fee  
11 is at or below the mean fee for the health service procedure for which the disputed  
12 fee was charged, plus 1.5 standard deviations from that mean, as shown by data from  
13 a data base that is certified by the department under par. (h). The department shall  
14 determine that a disputed fee is unreasonable and order that a reasonable fee be paid  
15 if the disputed fee is above the mean fee for the health service procedure for which  
16 the disputed fee was charged, plus 1.5 standard deviations from that mean, as shown  
17 by data from a data base that is certified by the department under par. (h), unless  
18 the health service provider proves to the satisfaction of the department that a higher  
19 fee is justified because the service provided in the disputed case was more difficult  
20 or more complicated to provide than in the usual case.

21 **SECTION 10.** 102.18 (3) of the statutes is amended to read:

22 102.18 (3) A party in interest may petition the commission for review of an  
23 examiner's decision awarding or denying compensation if the department or  
24 commission receives the petition within 21 days after the department mailed a copy  
25 of the examiner's findings and order to the party's last-known address. The

**ASSEMBLY BILL 547**

1 commission shall dismiss a petition which is not timely filed unless the petition  
2 petitioner shows probable good cause that the reason for failure to timely file was  
3 beyond the petitioner's control. If no petition is filed within 21 days from the date  
4 that a copy of the findings or order of the examiner is mailed to the last-known  
5 address of the parties in interest, the findings or order shall be considered final  
6 unless set aside, reversed or modified by the examiner within that time. If the  
7 findings or order are set aside by the examiner the status shall be the same as prior  
8 to the findings or order set aside. If the findings or order are reversed or modified  
9 by the examiner the time for filing a petition commences with the date that notice  
10 of reversal or modification is mailed to the last-known address of the parties in  
11 interest. The commission shall either affirm, reverse, set aside or modify the  
12 findings or order in whole or in part, or direct the taking of additional evidence. This  
13 action shall be based on a review of the evidence submitted.

14 **SECTION 11.** 102.29 (8) of the statutes is amended to read:

15 102.29 (8) No student of a public school, as described in s. 115.01 (1), or a private  
16 school, as defined in s. 115.001 (3r), who is named under s. 102.077 as an employe  
17 of the school district or private school for purposes of this chapter and who makes a  
18 claim for compensation under this chapter may make a claim or maintain an action  
19 in tort against the employer that provided the work training or work experience from  
20 which the claim arose. This subsection does not apply to injuries occurring after  
21 December 31, 1999 2001.

22 **SECTION 12.** 102.475 (title) of the statutes is amended to read:

23 **102.475 (title) Death benefit; law enforcement and correctional**  
24 **officers, fire fighters, rescue squad members, diving team members,**  
25 **national or state guard members and emergency management personnel.**

**ASSEMBLY BILL 547****SECTION 13**

1           **SECTION 13.** 102.475 (1) of the statutes is amended to read:

2           102.475 **(1)** SPECIAL BENEFIT. If the deceased employe is a law enforcement  
3 officer, correctional officer, fire fighter, rescue squad member, diving team member,  
4 national guard member or state defense force member on state active duty as  
5 described in s. 102.07 (9) or if a deceased person is an employe or volunteer  
6 performing emergency management activities under ch. 166 during a state of  
7 emergency or a circumstance described in s. 166.04, who sustained an accidental  
8 injury while performing services growing out of and incidental to that employment  
9 or volunteer activity so that benefits are payable under s. 102.46 or 102.47 (1), the  
10 department shall voucher and pay from the appropriation under s. 20.445 (1) (aa) a  
11 sum equal to 75% of the primary death benefit as of the date of death, but not less  
12 than \$50,000 to the persons wholly dependent upon the deceased. For purposes of  
13 this subsection, dependency shall be determined under ss. 102.49 and 102.51.

14           **SECTION 14.** 102.475 (8) (am) of the statutes is created to read:

15           102.475 **(8)** (am) “Diving team member” means a member of a legally organized  
16 diving team.

17           **SECTION 15.** 102.475 (8) (b) of the statutes is amended to read:

18           102.475 **(8)** (b) “Fire fighter” means any person employed by the state or any  
19 political subdivision as a member or officer of a fire department or a member of a  
20 volunteer department, including the state fire marshal and deputies ~~or a member of~~  
21 ~~a legally organized rescue squad.~~

22           **SECTION 16.** 102.475 (8) (dm) of the statutes is created to read:

23           102.475 **(8)** (dm) “Rescue squad member” means a member of a legally  
24 organized rescue squad.

25           **SECTION 17.** 102.87 (9) of the statutes is amended to read:

