

March 2, 2000

ASA 1 to Assembly Bill 187 (Powers/Zien)

Establishing a Length of Service Award Program for Volunteer Fire Fighters and Emergency Medical Technicians

Summary of proposal

This bill would establish a length of service award program for volunteer fire fighters and volunteer EMTs under the direction & supervision of a 7 member board attached to DOA. All members of the board, with the exception of the Secretary of DOA, would be appointed by the Governor to staggered 3 year terms.

The board would be required to establish the program by rule & it will be required to be designed as a tax-deferred benefit. This board would also be given the authority to contract with a 3rd party administrator for this program and would not have to go through DOA for contract approval.

Municipalities that choose to participate in the program contribute an amount they determine to be reasonable for each volunteer fire fighter & EMT. There is also a mechanism for them to purchase additional years of service if they choose.

The state would be required to use GPR to match municipal contributions (with the exception of the buy back provision). A sum sufficient appropriation would be required. There would be a cap on the state-match tied to the CPI. There would be a 10 year vesting requirement.

A lump sum payment would be made after 20 years of service and the individuals reached age 60. If they meet the vesting requirement, but have either less than 20 years of service or 60 years of age, the payment would be adjusted.

There are also provisions for payments due to death or disability, forfeiture of accrued years of service & closing and redistribution of forfeited accounts and an appeals process.

Estimated cost for approximately 25,200 volunteer fire fighters and EMT's depends greatly on the level of participation. The State Fire Chiefs' Association estimate 50% would choose to participate at a cost of \$3,150,000 GPR annually. This figure would, of course, increase if the percentage of participation increases and it will increase each year regardless due to the CPI indicator.

Standing Committee Action

Assembly Substitute Amendment 1 was adopted by the Assembly Committee on Urban and Local Affairs on a vote of 6-2 (Colon & Williams) and the bill passed out of Committee on a 4-4 vote (Stone, Colon, Berceau, and Williams)

Staff Comments

WI State Fire Chiefs Association, City of Eau Claire Fire Department, and the WI Fire & EMS Legislative Leadership Coalition wrote requesting your support of this bill.

There's an improper statutory cross-reference in the Sub. If it's adopted, a technical correction needs to be made.

Rurals, of course, think this will be a good incentive for retaining their volunteers. It doesn't help the municipal fire departments at all.

Another reason not to approve this: the service is already offered by two private firms -- 16 municipalities have that service, and there are 80 requests pending.

The non-support mirrored in the committee vote is enough to tube this proposal.

Recommended JFC Action-

Adoption of the technical amendment (I don't even know if someone will offer this)

Oppose final passage.

Prepared by: Cindy



Legislative Fiscal Bureau

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March 2, 2000

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Substitute Amendment 1 to Assembly Bill 187: Establishing a Length of Service Award Program for Volunteer Fire Fighters and Emergency Medical Technicians

Assembly Bill 187 was introduced on March 8, 1999, and referred to the Assembly Committee on Urban and Local Affairs. A public hearing on the bill was held on April 20, 1999. Assembly Substitute Amendment 1 to Assembly Bill 187 (ASA 1 to AB 187) was adopted by that Committee, on a vote of 6-2, on February 22, 2000. The substitute amendment was then reported from the Committee without recommendation, on a vote of 4-4.

SUMMARY OF SUBSTITUTE AMENDMENT

Volunteer Fire Fighter and Emergency Medical Technician Service Award Program

The substitute amendment would establish a length of service award program for volunteer fire fighters and volunteer emergency medical technicians (EMTs) that would be under the direction and supervision of a seven member Volunteer Fire Fighter and Emergency Medical Technician Service Award Board. The Board, which is described in the next section, would be attached to the Department of Administration.

Service Award Program Established. The Board would be required to establish by rule a program that would provide length of service awards to volunteer fire fighters in municipalities that operate volunteer fire companies or contract with such companies and to volunteer EMTs in those municipalities that authorize volunteer EMTs to provide such services. The Board would be required to design the length of service award program as a tax-deferred benefit under section 457 of the Internal Revenue Code.

Third-Party Administrators Authorized to Operate the Service Award Program. The Board would be required to establish by rule the requirements for and the qualifications of individuals or organizations in the private sector who would be eligible to provide administrative services (other than administrative support services provided by DOA directly to the Board) and investment plans for the service award program. The Board's rules governing such third party administrators would be required to establish the financial stability criteria that such parties must meet in order to offer services and plans under the program.

The Board would be authorized to contract with any individuals or organizations in the private sector that meet the Board's eligibility requirements. The substitute amendment would grant the Board expedited procurement authority by exempting these contracts with third party administrators from current law requirements that DOA prepare and review the contract specifications. DOA would be directed to delegate to the Board the procurement authority for executing such third party administrator contracts. Further, the Board would be exempted from DOA contractual services procurement oversight of such undertakings.

Volunteer Fire Fighter and Emergency Medical Technician Service Award Board

The substitute amendment would create a seven member Volunteer Fire Fighter and Emergency Medical Technician Service Award Board, attached for limited administrative purposes to DOA. The Board would be comprised of the following members: (1) the Secretary of DOA (or his or her designee); (2) one person who is a volunteer fire fighter and is also a member of a statewide organization that represents fire chiefs; (3) one person who is a volunteer fire fighter and is also a member of a statewide organization that represents volunteer fire fighters; (4) one person who is a voluntary emergency medical technician; and (5) three persons who represent municipalities which operate volunteer fire departments under Chapter 213 [Police and Fire Fighting Service] of the statutes or contract for the operation of volunteer fire companies organized under Chapter 181 [Nonstock Corporations] of the statutes.

All members of the Board, other than the Secretary of DOA, would be appointed by the Governor to staggered, three-year terms. Senate confirmation would not be required. The substitute amendment would require that the Governor, in appointing members to the Board, seek to appoint members from different regions of the state and from municipalities of different sizes. ASA 1 to AB 187 would prescribe transitional terms for the initial Board appointed by the Governor, as follows: two members would be appointed to terms expiring on May 1, 2002; two members would be appointed to terms expiring on May 1, 2003; and two members would be appointed to terms expiring on May 1, 2004.

Features of the Service Award Program

The substitute amendment would direct the Board to promulgate rules establishing the following design features of the length of service award program.

Municipal Employer Eligibility. All municipalities that operate volunteer fire departments or contract with a volunteer fire company and all municipalities that authorize volunteer emergency medical technicians to provide such services would be eligible to participate under the program. The volunteer fire company would have to be organized as a regular, nonstock corporation under Chapter 181 of the statutes or as a fire fighting service under Chapter 213 of the statutes, in order for the municipality to be eligible to participate in the program. Municipalities with public employees would not be eligible to participate under this new program. An eligible municipality would be authorized to select from among the plans offered by the third party administrators that contract with the Board.

Municipal Contributions under the Program. Annual contributions in an amount determined by the eligible municipality would have to be paid by the municipality for each volunteer fire fighter and EMT that provides services for the municipality. These annual contributions would be paid directly to the third party administrator offering the plan that is selected by the municipality.

Purchase of Additional Years of Service by a Municipality. An eligible municipality would also be authorized to contribute toward additional years of previously unbenefitted prior service for volunteer fire fighters and EMTs that have at least five years of prior service in that capacity with the municipality. The number of years of prior service that could be purchased for any individual could not exceed the total number of years of volunteer fire fighting or EMT service performed by the individual for the municipality.

Matching State Contributions. The Board would be required to match from state general purpose revenues all municipal contributions under the program for current service, up to a maximum of \$250 per year per volunteer fire fighter or EMT. The state would not provide a matching contribution for any purchases of additional years of prior service by the municipality. A GPR-funded sum sufficient appropriation would be created to fund these matching state contributions. The Board would be required to pay the state matching contributions directly to the plan administrator selected by the municipality.

The maximum state matching amount would be subject to an annual adjustment to reflect any changes in the federal Consumer Price Index (U. S. city average for all urban consumers). The substitute amendment does not specify when this type of adjustment would first be made.

Vesting Period Required for Benefit Eligibility. A vesting period of 10 years of service would be required before a volunteer fire fighter or EMT would be eligible to receive a length of service award benefit under the program. However, this 10-year vesting requirement would not apply in the case of death or disability benefit payments, as described below.

Payment of Regular Length of Service Award Benefits. After a volunteer fire fighter or EMT attains 20 years of service for a municipality and reaches the age of 60, a lump sum length of service award payment would be made to the individual. This lump sum payment would consist of all municipal and state contributions made on behalf of the individual and all investment earnings on those contributions that have accrued, less any expenses incurred in the investment of the

contributions and earnings. Where the volunteer fire fighter or EMT has satisfied all vesting requirements under the length of service award program, but has less than 20 years of service with the municipality or has not reached age 60, the substitute amendment would provide for the payment of a lesser lump sum amount, as determined by the Board. Under current law, any of these types of lump sum payments would be subject to federal and state taxation upon their receipt by the individual.

Payment of Death or Disability Length of Service Award Benefits. In the event a volunteer fire fighter covered by this program was killed in the line of duty, the individual's beneficiary would receive a lump sum payment consisting of all municipal and state contributions made on behalf of the individual and all investment earnings on those contributions that have accrued, less any expenses incurred in the investment of the contributions and earnings. Where a volunteer fire fighter covered by the program became disabled during his or her service, the individual would be paid a lump sum in an amount determined by the Board. Under either of these types of lump sum distributions, the 10-year vesting requirement in order to be eligible for benefits would not apply. Under current law, these types of lump sum payments would also be subject to federal and state taxation upon their receipt by the individual.

Forfeiture of Accrued Years of Service. A volunteer fire fighter or EMT who has not met the program's 10-year vesting requirement would forfeit his or her accrued years of volunteer fire fighting or EMT service where the individual ceased providing such services for a municipality for a period of 6 months or more, unless the individual had been granted a leave of absence by his or her supervisor.

Closing and Redistribution of Forfeited Accounts. The account of any fire fighter or EMT who: (1) has not met the program's vesting requirements; (2) had not provided volunteer fire fighting or EMT services for a municipality for a period of 6 months or more; and (3) had not been granted a leave of absence would be required to be closed. Once an account is closed, the Board would be required to equitably allocate all moneys from a closed or otherwise forfeited account to the accounts of volunteer fire fighters and EMTs whose accounts have not been closed.

Appeals Process

ASA 1 to AB 187 would require the Board to establish by rule a process by which a volunteer fire fighter or EMT could appeal to the Board any decision made by DOA or by the third party administrator that affects a substantial interest of the volunteer fire fighter or EMT under the length of service award program.

Reports and Audit

The substitute amendment would direct the Board to submit an annual report to the Legislature describing the activities of the Board. The report would have to be submitted on or before December 31 of each year. Also, no later than February 1, 2006, the Legislative Audit Bureau would be required to prepare a performance evaluation audit of the Volunteer Fire Fighter and Emergency Medical Technician Service Award Program.

Initial Rules

ASA 1 to AB 187 would authorize the Board to utilize emergency rules to govern the operation of the service award program during the period before permanent rules become effective, up to a period of 150 days, unless further extended for up to a maximum of 120 days by the Joint Committee for Review of Administrative Rules. In promulgating the emergency rules, the Board would not be required to provide evidence that the rules are necessary for the preservation of the public peace, health, safety or welfare or include a finding of an emergency.

Appropriations and Position Authorization

The substitute amendment would create a GPR-funded, sum sufficient appropriation under DOA for the purpose of funding the required state matching payments of up to \$250 annually per volunteer fire fighter or EMT for whom an eligible municipality also makes a current service contribution under the length of service award program.

The substitute amendment would also create a GPR-funded, sum certain appropriation under DOA to support the general program operations of the Board. The substitute amendment would provide \$75,000 GPR in 2000-01 for this purpose and authorize 1.0 GPR project position through June 30, 2001. The project position would provide staff support in the establishment and implementation of the volunteer fire fighter and EMT length of service award program.

Effective Date

All provisions of the substitute amendment would become effective on the day following publication.

TECHNICAL AMENDMENT

As drafted, the statutory language in ASA 1 to AB 187 describing the purpose of the new GPR-funded sum sufficient appropriation that supports the state's annual matching contributions contains an incorrect cross reference to the provision establishing the state match. The substitute amendment should be amended to insert the proper statutory cross reference.

ASA 1 to AB 187 does not specify when the periodic adjustments to the amount of the state's matching contribution would first be made to reflect the impact of changes in the Consumer Price Index (CPI). The Committee could consider amending the substitute amendment to clarify that the adjustment would be based on the amount of the annual percentage increase in the CPI (U. S. city average for all urban consumers) as determined for the prior 12-month period ending on December 31 and would apply to those state matching payments made in the state fiscal year commencing on the following July 1 and to specify that the initial adjustment would be based on the amount of increase in the CPI, as first determined for the 12-month period ending December 31, 2001.

FISCAL EFFECT

State Matching Contributions

The principal fiscal impact of ASA 1 to AB 187 would be the cost to the municipalities and to the state of contributions to programs. For the state, the main fiscal impact would be the annual cost of the state's matching contributions of up to \$250 per volunteer fire fighter or EMT payable from a new GPR-funded sum sufficient appropriation. The annual amount of these state payments will depend on the combined impact of: (1) the number of volunteer fire fighters and EMT personnel who might be eligible to participate in the program; (2) the number of eligible municipalities that would elect to participate in the program; and (3) the level of municipal contributions.

Estimated Number of Eligible Volunteer Fire Fighters and EMTs. Based on information compiled by the Department of Commerce, fire protection is currently furnished in Wisconsin by 861 different fire departments. These include:

- 39 "fully paid" fire departments, defined as departments in which all personnel are paid full-time for a minimum of 36 hours per week;
- 62 "partially paid" fire departments, defined as a department in which at least one member is paid full-time, but the remaining personnel consist of volunteers who receive either a stipend, pay on a per-call basis, or no pay at all;
- 742 "volunteer" fire departments whose personnel receive either a stipend, pay on a per-call basis, or no pay at all;
- 13 "federal" fire departments, defined as a department at a federal military facility in the state or on tribal lands; and
- 5 corporate or "private" fire departments, organized primarily by large industrial concerns.

Most of the "fully paid" and the "partially paid" fire departments are municipal departments created by act of a city council (pursuant to s. 62.13(8) of the statutes), a town board (pursuant to s. 60.55(1)(a)1. of the statutes, or a village board (pursuant to s. 61.65(2)(a)1. of the statutes). By contrast, the "volunteer" fire departments are private sector entities established either as nonstock, nonprofit corporations under provisions of Chapter 181 of the statutes or as town fire companies under s. 213.05 of the statutes. The "federal" fire departments operate under federal charters. Only the personnel under a "volunteer" fire department would be eligible to participate in the length of service award program established under ASA 1 to AB 187.

Although the Department of Commerce does not maintain formal, up-to-date enrollment figures on the actual number of volunteer firefighters, the agency estimates that there are approximately 22,600 such individuals in the state. The Department of Health and Family Services licenses EMT personnel under provisions of s. 146.50 of the statutes. As of mid-January, 2000, the Department had licensed 2,565 EMTs to work with volunteer fire departments. Therefore, it could be estimated that there are about 25,200 individuals that would be potentially eligible to participate under the program.

Estimated Number of Participating Municipal Volunteer Fire Departments. Provisions of the federal Small Business Job Protection Act of 1996 authorized volunteer fire companies to establish and maintain tax-deferred length of service award programs for volunteer fire fighters and EMTs. Since the passage of the federal enabling legislation, length of service award programs have been made available by private sector providers. These programs are now being actively marketed to volunteer fire departments in the state, according to testimony presented to the Assembly Committee on Urban and Local Affairs on the current proposal from a spokesman for groups representing the major underwriters of this type of product. That testimony indicated that at least 14 volunteer fire departments in this state were currently offering a length of service award program and that an additional 35 were actively exploring this option. Presumably, the state matching provision of the substitute amendment could encourage additional departments to offer such a program.

Testimony presented to the Assembly Committee on Urban and Local Affairs by the Wisconsin State Fire Chiefs' Association indicated that based on a survey of its membership, the Association estimated approximately 50% of all volunteer fire departments in the state might choose to participate in the proposed program.

Estimated Cost. The following cost estimate presents a range of likely costs of providing a length of service award program to volunteer fire fighters and EMTs at different levels of participation by the state's 742 volunteer fire companies. For the purposes of this estimate, it is assumed that the estimated 25,200 volunteer fire fighters and EMTs are apportioned equally among all the fire departments and that the state's initial cost would be at the maximum of \$250 per individual.

**Estimated Annual Service Award Program State Matching Costs
At Different Levels of Fire Department Participation
(GPR Costs)**

<u>Rate of Fire Department Participation</u>	<u>Number of Individuals Covered</u>	<u>Estimated Annual Costs</u>
10%	2,520	\$ 630,000
20%	5,040	1,260,000
30%	7,560	1,890,000
40%	10,080	2,520,000
50%	12,600	3,150,000
60%	15,120	3,780,000
70%	17,640	4,410,000
80%	20,160	5,040,000
90%	22,680	5,670,000
100%	25,200	6,300,000

Thus, if the estimate of the Wisconsin State Fire Chiefs' Association proves accurate and approximately 50% of all volunteer fire departments in the state elect to offer the length of service award program that would be created under the substitute amendment, the state's estimated contribution matching commitment would amount to \$3,150,000 GPR annually, under the assumptions described above. Similarly, the maximum state matching commitment would be estimated at \$6,300,000 GPR annually, if all volunteer fire departments chose to offer the program to their participants and each municipality contributed at least \$250 per covered participant. The costs would be less than the amounts indicated above to the extent that the local contribution averaged less than the matched maximum of \$250 per year. For example, if the average municipal contribution to be matched were only \$125 per year, the above estimated costs for the various participation levels would be halved.

Inflation Adjustment. It should be also be noted that the state's \$250 maximum contribution rate used in the development of the costs identified in the above table would be subject to future annual adjustments, based on changes in the CPI.

DOA Support Costs for the Board

ASA 1 to AB 187 would also create a GPR-funded, sum certain appropriation under DOA to support the general program operations of the Board. This appropriation would be funded at \$75,000 GPR in 2000-01. The substitute amendment would authorize 1.0 GPR project position through June 30, 2001, to provide start-up assistance to the new Board. According to DOA, the funding would be used shown in the following table.

**Administrative Support Costs for the
Volunteer Fire Fighter and EMT Service Award Board
(2000-01 Fiscal Year)**

<u>Cost Element</u>	<u>Total Cost</u>
Project Position Salary	\$40,000
Fringe Benefits	14,000
LTE Support	5,000
Office Space and Supplies	5,000
Board Meeting Expense	5,000
Legal and Accounting Expert Services	6,000
Total	\$75,000

The project position would not continue beyond June 30, 2001. The appropriation amount would be part of the agency's base, but continuation and funding of any future staff for the Board would have to be addressed as part of DOA's 2001-03 biennial budget request. The remaining administrative costs provided under the substitute amendment for the Board (\$21,000 GPR) would be on-going unless otherwise modified in the 2001-03 budget.

Prepared by: Tony Mason