

Excuse us for all registering on the same sheet - Not enough forms
for all the bills

SB 142 SB 97 AB 326
AB 48 AB 245 SB 326

CONSIDERATION OF _____
(BILL NUMBER)

DATE 1/24/2000

JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS

NAME Jane Ellen Howard Dilsmann Hal Reibholz
Eunice Berg Blair Testin
ADDRESS 2564 Branch Street
CITY Middletown STATE VT ZIP 53562
ORGANIZATION, IF ANY WREA

WOULD LIKE TO TESTIFY (APPEAR BEFORE THE COMMITTEE)

IN FAVOR OPPOSED INFORMATION

WOULD LIKE TO REGISTER

IN FAVOR OPPOSED INFORMATION

From - Sun Jan 23 13:04:52 2000 Received: from a.mx.execpc.com (a.mx.execpc.com [169.207.1.102]) by core0.mx.execpc.com (8.9.3) with ESMTP id NAA15720 for ; Sun, 23 Jan 2000 13:02:37 -0600 (CST) Return-Path: Received: from mailgw01.execpc.com (sendmail@mailgw01.execpc.com [169.207.2.78]) by a.mx.execpc.com (8.8.8) with ESMTP id NAA04978 for ; Sun, 23 Jan 2000 13:03:04 -0600 (CST) Received: from execpc.com (kubindi-1-177.mdm.mkt.execpc.com [169.207.117.115]) by mailgw01.execpc.com (8.9.1) id NAA25401 for ; Sun, 23 Jan 2000 13:02:32 -0600 Message-ID: <388B545A.D0592621@execpc.com> Date: Sun, 23 Jan 2000 13:19:54 -0600 From: Gerald Kreuser Organization: ExecPC X-Mailer: Mozilla 4.7 [en]C-EXECPC-404 (Win95; I) X-Accept-Language: en MIME-Version: 1.0 To: Chip Crowe Subject: Letter re: AB245 Content-Type: text/plain; charset=us-ascii Content-Transfer-Encoding: 7bit X-UIDL: 9b0ac88fabd5d1ca61ef09a68b0dcf47 Status: U X-Mozilla-Status: 0001 Content-Length: 2450

Dear Mr. Lehman I would first like to thank you again for taking the time on 1-21 to return my call concerning AB245. As I indicated during our conversation, I have concerns over several provisions of the bill. My first, and largest concern is the lack of a safety net for the protective employee's family should he or she become able to return to work. Without strict requirements on the employer to provide a position I do not believe a good faith effort would be made. A family could find themselves caught between a system unwilling to continue providing disability and employers unwilling to hire a person who is coming off disability because of all the potential health problems that implies. The financial impact on the State, County or Municipality of having to provide employment for a protective employee deemed fit to return to service will have little impact on a budget. The loss of employment and benefits on a family could be devastating. My next concern is over the cost of the proposed legislation. As you know, I was injured in a duty accident on 4-6-93 resulting in the loss of sight in my right eye. Prior to receiving disability I was examined by a doctor of the state's choosing and was required to provide him with all of my medical records. A determination was made at that time that the loss of sight was permanent. To require annual examinations or examinations every three years for conditions such as the loss of a limb or eye seems a waste of resources. I would also like any discussion on this issue to focus on the expenses of bringing protective employees who have moved out of the state back for these exams. I am familiar with one former Sheriff's Deputy from Washington County who is receiving a duty disability and has moved to Arizona. Will the state be providing transportation to return for exams or will a physician in the Phoenix area be selected? I am sure that the concerns of the author of this legislation have a base in some examples of abuse of the system. I would be the last to try to convince you that no such abuses ever have or would occur. What I am trying to make you aware of is the fact that I always knew, when I went in harms way, was that no matter what, I didn't have to worry about the welfare of my family. Please do not make the kind of changes to the current system that would erase that confidence. Thank You Gerald Kreuser

Testimony on AB 245 Duty Disability
Joan Wade Spillner
January 24, 2000

Thank you, Chairman Wirch and Chairman Vrakas for scheduling this bill today. It certainly has been an interesting journey to get to this point on this particular bill. Many people in the protective services' line of work have grossly misunderstood what seems to be a common sense approach to fixing a glitch in the duty disability statute.

First, let me tell you what this bill does not do:

- It does not take away duty disability benefits from anyone that is permanently disabled
- It is not a first step in eliminating the duty disability benefit program; and it
- Has nothing to do with cost controls on the duty disability program

Now let me tell you what this legislation actually does:

- It simply puts a checks and balances system into the program
- It allows the Wisconsin Retirement Board to request a physical examination in the event that they suspect that a person receiving benefits is no longer disabled.

I have no desire to take away benefits from those people in the protective occupation category that are truly disabled. But current law will not allow the Department of Employee Trust Funds (ETF) to do any type of investigation if they suspect that someone is collecting benefits even if they are no longer disabled.

This program was originally developed to provide lifetime benefits to police officers, firefighters, and other protective service personnel who become permanently disabled through on-the-job injuries. I am very supportive of the need for this program for those individuals that put their lives on the line on a daily basis. No one can argue the importance of this benefit for those individuals that provide that type of protection to the citizens of Wisconsin.

The problem with the current law is that once a person receives duty disability benefits, there is no oversight on whether that person is actually disabled for life.

There is currently no statutory requirement that a former employee demonstrate, on an ongoing basis, that the injury still exists and prevents him or her from performing the duties of a protective employee. And worse yet, there are no statutory provisions that relate to an individual who no longer meets the eligibility requirements and their removal from the program.

An audit that was done in 1996, showed that periodic medical reviews are needed. Once a physician concludes that an injury is likely to be permanent and an employee is certified for duty disability payments, no reassessment is ever made to determine if the injury has healed. However, for some injuries, a definitive assessment of permanency cannot be made. In their review, the auditors noted several examples in which an individual's injury appeared to have healed.

In one case, a duty disability recipient submitted a worker's compensation claim several years after being certified for duty disability with a back injury, and the physician found no evidence of a disability.

In another case, 13 months after being approved for duty disability benefits because of a 12 percent disability to the back, a former protective employee spent over five months on active military duty in Operation Desert Storm. Air Force officials reported that to be eligible for service in the wartime environment of Desert Storm as an air operations specialist, this individual had to be physically fit and ready to assume any role needed.

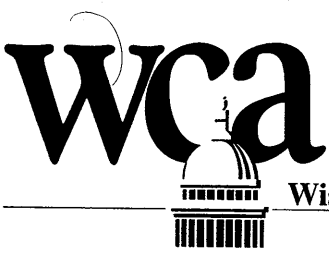
Without express statutory authority, the Department of Employee Trust Funds, which is responsible for administering the DD program, is unable to review an individual's duty disability status, much less take them out of the program.

This bill will simply allow the Wisconsin Retirement Board to request that someone who receives a duty disability benefit get a physical examination by a licensed physician (approved by the Employee Trust Funds Board) no more than once a year during the first five years and no more than once every three years thereafter. The benefits will be terminated if the physician determines that the person is no longer permanently disabled or the person refuses to submit to the physical examination.

This bill also addresses the issue of job placement for those few individuals that are no longer disabled and can re-enter the workforce. The employer, that the individual was last employed by, must make every reasonable effort to reinstate that person in the same position that they vacated when their employment was terminated.

People from the Department will hopefully testify today to tell you that they expect that they would rarely require this procedure, however on occasion this is vital to stop what fraud exists in the program.

Once again, thank you for your time. I will be happy to answer any questions in regards to this bill.



MEMORANDUM

TO: Honorable Members of the Joint Committee on Retirement Systems
FROM: Allison Kujawa, WCA Legislative Associate
DATE: January 24, 2000
RE: Support for Assembly Bill 245

The Wisconsin Counties Association (WCA) strongly supports Assembly Bill 245 (AB245) which provides that the Wisconsin retirement board may require that every person who receives a duty disability be examined by a licensed and practicing physician, designated or approved by the employee trust funds board, every year during the first five years that the person receives the benefit and then once every three years there after. The monthly benefits must be terminated if the examination by the physician determines that the person is no longer permanently disabled, the employer with whom the person was last employed before receiving the duty disability benefit must make every reasonable effort to reinstate the person on the position that the person occupied before terminating employment.

In 1996, the Legislative Audit Bureau conducted an audit on the Duty Disability program. The evaluation showed that there had been a significant increase in the number of participants in the Duty Disability program and the audit also identified numerous case stories that there had been abuses of the program. The audit recounted case stories where Duty Disability recipients were fully recovered from all job-related injuries, however taxpayers were still paying full Duty Disability benefits to them.

WCA believes there should be some mechanism in place that would terminate monthly benefits if an examination by a physician determines that the person is no longer permanently disabled.

WCA respectfully requests your positive action on AB 245.

If you have any questions please do not hesitate to contact me at 1-800-922-1993.

STATE OF WISCONSIN
MINUTES OF MEETING
JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS
MONDAY, JANUARY 24, 2000
1:30 P.M.
ROOM 411 SOUTH, STATE CAPITOL BUILDING
MADISON, WISCONSIN
CALL TO ORDER AND ROLL CALL
 (Agenda Item 1)

The meeting of the Joint Survey Committee on Retirement Systems was called to order by Co-Chair Wirch at 1:37 P.M. in Room 411 South of the State Capitol Building in Madison, Wisconsin.

Roll call was taken as follows:

Present: (8) Sen. Wirch, Rep. Vrakas, Sen. Erpenbach, Speaker Jensen, Rep. Schneider, Mr. Stella, Mr. Heineck, Ms. Lattis*.
 (*Ms. Lattis is replacing Ms. Hamblen for today's meeting.)

Absent: (2) Sen. Panzer, Mr. Scott.

Others Present: Paul Yakowenko, Walworth County Sheriffs; Alice Nocek, Walworth County Sheriffs; Emma Hoffman, Marathon County Sheriffs; Gerald Hoffman, Marathon County Sheriffs; Carol Gonzales, Kenosha Sheriffs; Thomas Corrao, Kenosha Sheriffs; Jeff Zemke, Kenosha Sheriffs; Sharon Martin,

Kenosha

Sheriffs; Darron Newton, Kenosha Sheriffs; Lyle Clayton, Winnebago Sheriffs; Dennis Boyer, AFSCME; Steven Werner, WPPA; Ed Konetcky, LaCrosse County Sheriffs; George Frye, Brown County Sheriffs; Brian J. Langan, Brown County Sheriffs; Dennis McGowan, Teamsters Local 75; Mel Willgett, Teamsters Local 75; Jessica Eally, Teamsters Jt. Council 39; Mark Strand, Fond du Lac County Sheriffs; Mary Steberg, Fond du Lac County Sheriffs; Jody Marroe, Fond du Lac County Sheriffs; Shirley Waddington, Winnebago County Sheriffs; Eugene Robinson, Jefferson County Sheriffs; David Moran, Calumet County Sheriffs; Michael Owens, Dunn County Jailers; Jacob Goeldner, Buffalo County Jailers; Bridget Griepentrog, Outagamie County Corrections; Dave VanderNoven, RCSD

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Others Present:

Jailers; Todd Konen, Calumet County Jailers; Keith Bonde, Manitowac County Sheriffs; Tom Abrams, Sheboygan County Sheriffs; Tom Jolke, Sheboygan County Sheriffs; Roy Kluss, Sheboygan County Sheriffs; Roy Fadroski, Outagamie County ; B. Wurtz, Outagamie County; Fay Geenen, Outagamie County; Shirley Miller, Washington County; Bob Lyons, AFSCME Council 40; Barry Granrath, Washington County; Peter Ritger, Washington County; Roger Mueller, Washington County; Tom Corcoran, AFSCME Local 2748; Kurt Heuer, Wood County Sheriff's Dept.; David Krahn, Waukesha County; Michael Serpl, Kenosha County; Dave Geertsen, Kenosha County; Rebecca Hable, Oneida County; Brian Jones, Oneida County; Paul Pertz, Oneida County; Becky Stesniak, Barron County; Dick Dukemp, Douglas County; Ralph Weisenberger, Trempealeau County; Daniel W. Schreineg, Trempealeau County Sheriffs; Thomas Grawley, Marathon County; Dale Zander, Marathon County; Amy Pellarski, Marathon County; Deb Jahns, Dodge County; Linda Thieme, Dodge County; Hannelove Hartl, Dodge County; Mark J. Schwartz, Dodge County; Blair Testin, WREA/Retired JSCRS-RRC Director; Hal Rebholz, WREA; Ronald Bentz, RPPFW; Dick Lipke, RPPFW; Allison Kujawa, Wis. Counties Assoc.; Kevin Kluck, Dodge County; Chris Myers, Dodge County; Beth Smith, Staff for Senator Wirch; Brian Pleva, Staff for Rep. Vrakas; Gordon Anderson, Legislative Council; Deb Breggeman, Staff for JSCRS.

CONSIDERATION OF THE MINUTES OF OCTOBER 4, 1999 MEETING

(Agenda Item 2)

Representative Vrakas moved, seconded by Senator Erpenbach, to approve the minutes of the October 4, 1999, meeting of the Joint Survey Committee on Retirement Systems.

Motion carried by voice vote.

ASSEMBLY BILL 326

(Agenda Item 7)

Assembly Bill 326, relating to granting creditable service under the Wisconsin Retirement System for service in the national guard or a reserve component of the U.S. armed forces.

Co-Chair Wirch opened the meeting to public testimony on A.B. 326. Appearing before the Committee were:

	<u>NAME</u>	<u>POSITION</u>
1.	<u>Rep. Kitty Rhoades</u> , Author of the Bill	IN FAVOR
2.	<u>Lt. Col. Terry McCardle</u> , Dept. of Military Affairs	IN FAVOR
3.	<u>Sgt. Barry J. Foy</u>	IN FAVOR
4.	<u>Mr. Ken Bukowski</u>	IN FAVOR
5.	<u>Mr. John Dobyms</u>	IN FAVOR

Hearing no further requests for testimony, Co-Chair Wirch closed the public hearing on A.B.326.

Registering on A.B. 326 were:

	<u>NAME</u>	<u>POSITION</u>
1.	<u>Rep. Scott Walker</u>	IN FAVOR
2.	<u>Ms. Bonnie Moser</u>	IN FAVOR
3.	<u>Ms. Jane Elmer</u> , WREA	INFORMATION
4.	<u>Ms. Eunice Berg</u> , WREA	INFORMATION
5.	<u>Mr. Blair Testin</u> , WREA	INFORMATION
6.	<u>Mr. Hal Rebholz</u> , WREA	INFORMATION
7.	<u>Mr. Howard Wilsmann</u> , WREA	INFORMATION

Senate Bill 142/Assembly Bill 48

(Agenda Items 3 and 4)

Senate Bill 142/Assembly Bill 48, relating to classifying county jailers as protective occupation participants for the purposes of the Wisconsin retirement system.

Co-Chair Wirch opened the meeting to public testimony on S.B. 142 and A.B. 48. Appearing before the Committee were:

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	<u>NAME</u>	<u>POSITION</u>
1.	<u>Rep. Steve Freese</u> , Author of A.B. 48	IN FAVOR
2.	<u>Mr. Terry Tuschen</u> , Sen. Moen's staff	IN FAVOR
3.	<u>Mr. David Geertsen</u> , Kenosha County	OPPOSED
4.	<u>Mr. Kurt Heuer</u> , Wood County Sheriff's Dept.	IN FAVOR
5.	<u>Mr. Bob Lyons</u> , AFSCME Council 40	IN FAVOR
6.	<u>Ms. Allison Kujawa</u> , Wisconsin Counties Assoc.	OPPOSED
7.	<u>Mr. Roy Kluss</u> , AFSCME	IN FAVOR
8.	<u>Mr. Dave Vanden Noven</u> , Rock County Sheriff's	IN FAVOR
9.	<u>Mr. Jeff Wiswell</u> , Wis. Sheriff's/Dep. Sheriff's	IN FAVOR
10.	<u>Mr. Carl Fleischman</u> , Wis. Sheriff's/Dep. Sheriff's	IN FAVOR
11.	<u>Mr. Milton Marquardt</u> , Wis. Sheriff's/Dept. Sheriff's	IN FAVOR
12.	<u>Mr. Darron Newton</u> , Kenosha County Sheriff's Dept.	IN FAVOR
13.	<u>Mr. Doug Johnson</u> , Washington County	OPPOSED
14.	<u>Mr. Tom Jolke</u> , Sheboygan Co. Sheriff's Dept.	IN FAVOR
15.	<u>Mr. Tom Corrao</u> , Kenosha County Sheriff's Dept.	IN FAVOR
16.	<u>Ms. Carol Gonzales</u> , Kenosha County Sheriff's Dept.	IN FAVOR
17.	<u>Mr. Jacob Goeldner</u> , Buffalo County Sheriff's Dept.	IN FAVOR
18.	<u>Mr. Paul Yakowenko</u> , Walworth County Sheriff's Dept.	IN FAVOR
19.	<u>Ms. Alice Nocek</u> , Walworth County Sheriff's Dept.	IN FAVOR
20.	<u>Mr. Delmond Horn</u> , Wis. Professional Police Assoc.	IN FAVOR
21.	<u>Mr. George Frye</u> , Brown County Sheriff's Dept.	IN FAVOR
22.	<u>Mr. Brian Langan</u> , Brown County Sheriff's Dept.	IN FAVOR
23.	<u>Mr. Michael Williquette</u> , Teamsters Local 75	IN FAVOR
24.	<u>Mr. Danny McGowan</u> , Teamsters Local 75	IN FAVOR
25.	<u>Mr. Hubert Lawson</u> , Oneida County Sheriff's Dept.	IN FAVOR
26.	<u>Ms. Emma Hoffman</u> , Marathon County Sheriff's Dept.	IN FAVOR
27.	<u>Mr. Lyle Clayton</u> , Winnebago County Sheriff's Dept.	IN FAVOR
28.	<u>Mr. Edward Konetchy</u> , LaCrosse County Sheriff's Assoc.	IN FAVOR
29.	<u>Mr. Dick Pukema</u> , Douglas County Sheriff's Dept.	IN FAVOR
30.	<u>Mr. Eugene Robinson</u> , Wisconsin County Police	IN FAVOR
31.	<u>Mr. Mark Strand</u> , Fond du Lac County Sheriff's Dept.	IN FAVOR
32.	<u>Mr. James Kroncke</u> , Outagamie County	IN FAVOR
33.	<u>Mr. Steve Werner</u> , Wis. Professional Police Assoc.	IN FAVOR
34.	<u>Ms. Linda Thieme</u> , Dodge County Sheriff's Dept.	IN FAVOR
35.	<u>Ms. Deb Jahns</u> , Dodge County Sheriff's Dept.	IN FAVOR
36.	<u>Mr. Michael Harmsen</u> , Dodge County Sheriff's Dept.	IN FAVOR
37.	<u>Mr. Mark Schwartz</u> , Dodge County Sheriff's Dept.	IN FAVOR

Hearing no further requests for testimony, Co-Chair Wirch closed the public hearing on S.B. 142 and A.B. 48.

Registering on S.B. 142 and A.B. 48 were:

	<u>NAME</u>	<u>POSITION</u>
1.	<u>Mr. Bill Fendel</u> , Wis. State Employees Union	IN FAVOR
2.	<u>Mr. Brian Jones</u> , Oneida County Sheriff's Dept.	IN FAVOR
3.	<u>Ms. Rebecca Hable</u> , Oneida County Sheriff's Dept.	IN FAVOR
4.	<u>Mr. Donald Markwardt</u> , Manitowoc County Board	OPPOSED
5.	<u>Mr. Michael Serpe</u> , Kenosha County	OPPOSED
6.	<u>Mr. David Krahn</u> , Waukesha County	OPPOSED
7.	<u>Ms. Maggie Merdler</u> , Wis. State Employees Union	IN FAVOR
8.	<u>Mr. Chris Myers</u> , Dodge County Sheriff's Dept.	IN FAVOR
9.	<u>Mr. Daniel Schreiner</u> , Trempealeau County Sheriff's	IN FAVOR
10.	<u>Mr. Tom Corcoran</u> , AFSCME	IN FAVOR
11.	<u>Ms. Joanne Ricca</u> , Wis. State AFL-CIO	IN FAVOR
12.	<u>Mr. Gary Pellowski</u> , Wis. Professional Police Assoc.	IN FAVOR
13.	<u>Mr. Dennis Boyer</u> , AFSCME	IN FAVOR
14.	<u>Mr. Thomas Crawley</u> , Marathon County	IN FAVOR
15.	<u>Mr. Dale Zander</u> , Marathon County Sheriff's Dept.	IN FAVOR
16.	<u>Mr. Steve Borroughs</u> , Shawano County	IN FAVOR
17.	<u>Ms. Joanna Richard</u> , Attorney Gen. Doyle's Office	IN FAVOR
18.	<u>Mr. Patrick Coraggio</u> , Labor Assoc. of Wis.	IN FAVOR
19.	<u>Mr. James Cardinal</u> , Wis. Sheriff's & Dep. Sheriff's	IN FAVOR
20.	<u>Mr. Dan Van Oss</u> , Calumet County Sheriff's	IN FAVOR
21.	<u>Mr. Forbes McIntosh</u> , Wis. County Police Assoc.	IN FAVOR
22.	<u>Mr. Gary Hemauer</u> , Calumet County Jail	IN FAVOR
23.	<u>Mr. Todd Konen</u> , Calumet County Jail	IN FAVOR
24.	<u>Ms. Mary Steberg</u> , Fond du Lac Co. Sheriff's Dept.	IN FAVOR
25.	<u>Ms. Jody Marcoe</u> , Fond du Lac Co. Sheriff's Dept.	IN FAVOR
26.	<u>Mr. Tom Abrams</u> , Sheboygan County Sheriff's Dept.	IN FAVOR
27.	<u>Mr. Michael Wayne Owens</u> , Dunn County Sheriff's Dept.	IN FAVOR
28.	<u>Ms. Bridget Griepentrog</u> , Outagamie County	IN FAVOR
29.	<u>Mr. Roy Fadcowski</u> , Outagamie County	IN FAVOR
30.	<u>Mr. Brian Wirtz</u> , Wis. Professional Police Assoc.	IN FAVOR
31.	<u>Ms. Fay Geenen</u> , Outagamie County	IN FAVOR
32.	<u>Ms. Christine Corbett</u> , Manitowoc County Sheriff's Dept.	IN FAVOR
33.	<u>Mr. Gerald Hoffman</u> , Marathon County Sheriff's Dept.	IN FAVOR
34.	<u>Mr. Jeff Zemke</u> , Kenosha County Sheriff's Dept.	IN FAVOR
35.	<u>Ms. Sharon Martin</u> , Kenosha County Sheriff's Dept.	IN FAVOR
36.	<u>Mr. Peter Ritger</u> , Washington County	IN FAVOR

	<u>NAME</u>	<u>POSITION</u>
37.	<u>Ms. Shirley Miller</u> , Washington County Sheriff's Dept.	IN FAVOR
38.	<u>Mr. Barry Granrath</u> , Washington County	IN FAVOR
39.	<u>Ms. Shirley Waddington</u> , Winnebago County Sheriff's	IN FAVOR
40.	<u>Mr. Roger Mueller</u> , Washington County Sheriff's Dept.	IN FAVOR
41.	<u>Mr. John Dobyms</u>	IN FAVOR
42.	<u>Mr. Martin Beil</u> , Wis. State Employees Union	IN FAVOR
43.	<u>Ms. Jill Davy</u>	IN FAVOR
44.	<u>Sheriff Terry Dryden</u> , Washburn County Sheriff's Dept.	IN FAVOR
45.	<u>Mr. Joel Harmelink</u> , Sheboygan County Sheriff's Dept.	IN FAVOR
46.	<u>Mr. Gene Kew</u>	IN FAVOR
47.	<u>Mr. Randy Stammen</u> , Sauk County Sheriff's Dept.	IN FAVOR
48.	<u>Senator Brian Burke</u>	IN FAVOR
49.	<u>Mr. Keith Bode</u> , Manitowoc County Sheriff's Dept.	IN FAVOR
50.	<u>Mr. Paul Proulx</u> , Lincoln County Sheriff	IN FAVOR
51.	<u>Mr. Ralph Weisenberger</u> , Trempealeau Co. Sheriff's	IN FAVOR
52.	<u>Sheriff Steve Liebe</u> , Waupaca County Sheriff's Dept.	IN FAVOR
53.	<u>Sheriff Stan Potocki</u> , Portage County Sheriff's Dept.	IN FAVOR
54.	<u>Mr. Paul Erlitz</u>	IN FAVOR
55.	<u>Ms. Jane Elmer</u> , WREA	INFORMATION
56.	<u>Ms. Eunice Berg</u> , WREA	INFORMATION
57.	<u>Mr. Blair Testin</u> , WREA	INFORMATION
58.	<u>Mr. Hal Rebholz</u> , WREA	INFORMATION
59.	<u>Mr. Howard Wilsmann</u> , WREA	INFORMATION

SENATE BILL 97

(Agenda Item 5)

Senate Bill 97, relating to increasing the membership of the employee trust funds board.

Co-Chair Vrakas opened the meeting to public testimony on S.B. 97. Appearing before the Committee were:

	<u>NAME</u>	<u>POSITION</u>
1.	<u>Senator Robert Wirch</u> , Author of the Bill	IN FAVOR
2.	<u>Mr. Ken Opin</u> , WRT and WEAC	IN FAVOR
3.	<u>Ms. Diane Jetzer</u> , WRT	IN FAVOR
4.	<u>Ms. Arlene Braden</u> , WEAC	IN FAVOR

Hearing no further requests for testimony, Co-Chair Vrakas closed the public hearing on S.B. 97.

Registering on S.B. 97 were:

	<u>NAME</u>	<u>POSITION</u>
1.	<u>Mr. Steven Werner</u> , Wis. Prof. Police Association	IN FAVOR
2.	<u>Mr. Bob Lyons</u> , AFSCME Council 40	IN FAVOR
3.	<u>Mr. Mel Sensenbrenner</u> , SEA	IN FAVOR
4.	<u>Mr. Paul Gabriel</u> , Wis. Tech. College's District Boards	IN FAVOR
5.	<u>Ms. Jane Elmer</u> , WREA	INFORMATION
6.	<u>Ms. Eunice Berg</u> , WREA	INFORMATION
7.	<u>Mr. Blair Testin</u> , WREA	INFORMATION
8.	<u>Mr. Hal Rebholz</u> , WREA	INFORMATION
9.	<u>Mr. Howard Wilsmann</u> , WREA	INFORMATION

ASSEMBLY BILL 245

(Agenda Item 6)

Assembly Bill 245, relating to duty disability benefits for protective occupation participants under the Wisconsin retirement system.

Co-Chair Wirch opened the meeting to public testimony on A.B. 245. Appearing before the Committee were:

	<u>NAME</u>	<u>POSITION</u>
1.	<u>Rep. Joan Wade Spillner</u> , Author of the Bill	IN FAVOR
2.	<u>Mr. Joe Strohl</u> , Professional Firefighters	OPPOSED
3.	<u>Mr. Steven Werner</u> , Wis. Prof. Police Assoc.	OPPOSED
4.	<u>Mr. Martin Beil</u> , Wis. State Employees Union	OPPOSED
5.	<u>Mr. Don Harmon</u>	IN FAVOR
6.	<u>Mr. Charles Crowe, Jr.</u>	OPPOSED

Hearing no further requests for testimony, Co-Chair Wirch closed the public hearing on A.B. 245.

Registering on A.B. 245 were:

	<u>NAME</u>	<u>POSITION</u>
1.	<u>Mr. Darron Newton</u> , Kenosha County Sheriff's Dept.	OPPOSED
2.	<u>Ms. Becky Stesniak</u> , Barron County Sheriff's Dept.	IN FAVOR
3.	<u>Mr. Dave Vander Noven</u> , RCSD Union 2489	OPPOSED
4.	<u>Mr. Mark Zeier</u> , Professional Firefighters of Wis.	OPPOSED
5.	<u>Mr. Rick Gale</u> , Professional Firefighters of Wis.	OPPOSED
6.	<u>Mr. John Gee</u> , Professional Firefighters of Wis.	OPPOSED
7.	<u>Mr. David Bosarilo</u> , Professional Firefighters of Wis.	OPPOSED
8.	<u>Mr. Dave Wenzel</u> , Professional Firefighters of Wis.	OPPOSED
9.	<u>Mr. Jeff Zemke</u> , Kenosha County Sheriff's Dept.	OPPOSED
10.	<u>Mr. Thomas Corrao</u> , Kenosha County Sheriff's Dept.	OPPOSED
11.	<u>Mr. Bob Lyons</u> , AFSCME Council 40	OPPOSED
12.	<u>Mr. Ronald Bentz</u> , Retired Prof. Firefighters of Wis.	OPPOSED
13.	<u>Mr. Tom Corcoran</u> , AFSCME Local 2748	OPPOSED
14.	<u>Mr. Dennis Boyer</u> , AFSCME	OPPOSED
15.	<u>Ms. Carol Gonzales</u> , Kenosha County Sheriff's Dept.	OPPOSED
16.	<u>Mr. Steve Williams</u> , Wis. Troopers Association	OPPOSED
17.	<u>Mr. Gary Vokovitch</u> , Wauwatosa Firefighters	OPPOSED
18.	<u>Mr. Dick Lipke</u> , Retired Prof. Firefighters of Wis.	OPPOSED
19.	<u>Mr. Eugene Robinson</u> , Wis. County Police Assoc.	OPPOSED
20.	<u>Ms. Sharon Martin</u> , Kenosha County Sheriff's Dept.	OPPOSED
21.	<u>Mr. David Bloom</u> , Wis. State Fire Chiefs Assoc.	OPPOSED
22.	<u>Mr. Patrick Coraggio</u> , Labor Association of Wis.	OPPOSED
23.	<u>Mr. Tom Eperanza</u> , Retired Prof. Firefighters of Wis.	OPPOSED
24.	<u>Mr. Mike Drury</u> , Merrill Firefighters	OPPOSED
25.	<u>Ms. Maggie Merdler</u> , WSEU/AFSCME	OPPOSED
26.	<u>Mr. Bill Fendel</u> , Wis. State Employees Union	OPPOSED
27.	<u>Mr. Tony Studt</u> , Waukesha County Municipal Executives	IN FAVOR
28.	<u>Ms. Sandy Burdick</u> , Wis. County Police Assoc.	IN FAVOR
29.	<u>Mr. Ed Huck</u> , Wisconsin Alliance of Cities	IN FAVOR
30.	<u>Ms. Allison Kujawa</u> , Wisconsin Counties Assoc.	IN FAVOR
31.	<u>Ms. Jane Elmer</u> , WREA	INFORMATION
32.	<u>Ms. Eunice Berg</u> , WREA	INFORMATION
33.	<u>Mr. Blair Testin</u> , WREA	INFORMATION
34.	<u>Mr. Hal Rebholz</u> , WREA	INFORMATION
35.	<u>Mr. Howard Wilsmann</u> , WREA	INFORMATION

SENATE BILL 326

(Agenda Item 8)

Representative Vrakas moved, seconded by Senator Wirch to recommend Senate Bill 326 as good public policy.

Roll call vote as follows:

Ayes: (8) Sen. Wirch, Rep. Vrakas, Sen. Erpenbach, Speaker Jensen,
Rep. Schneider, Mr. Stella, Mr. Heineck, Ms. Lattis*.

Noes: (0)

Absent: (2) Sen. Panzer, Mr. Scott.

Motion carried by roll call vote.**OTHER MATTERS**

(Agenda Item 9)

Co-Chair Vrakas acknowledged that Mr. Dave Heineck is retiring this week and today was his last meeting of the Joint Survey Committee on Retirement Systems. Mr. Heineck represented the Office of the Commissioner of Insurance on the Joint Survey Committee on Retirement Systems and the Retirement Research Committee for approximately 11 1/2 years.

ADJOURNMENT

(Agenda Item 10)

The meeting of the Joint Survey Committee on Retirement Systems adjourned at 6:55 p.m. The next meeting will be at the call of the Co-Chairs.

Debra Breggeman, Recording Secretary

FEB 29 2000

28 Feb. 2000

Dear Senator Wirch,

Today while I was rummaging through some old files I came across a portion of the correspondence and news articles pertaining to abuse of Duty Disability that I had forgotten about. I thought you might like to peruse them and share with your committee members. I also have a stack of over 50 faxes sent to DOA's Risk Management by my neighbor pertaining to tons of firewood delivered by one recipient abuser and photos of countless wood piles and stacks of logs.

I hope that these will prove that the problem is not limited to one or two individuals and also that the problem will not "go away", in fact it increases annually.

Senator Wirch, it is our hope that AB245 does not die a committee death, as before, but gets out to the legislators that we elect to represent us for reform. We don't mind paying our share of taxes but we would hope our taxes are spent wisely. Thank you for your time Sir.

Sincerely,

A handwritten signature in black ink, appearing to read "Terrell Morris". The signature is fluid and cursive, with a small mark above the final letter.

Terrell Morris
W5148 East Bush Road
Pardeeville, WI 53954-9443

CC: Rep. Joan Wade Spillner

**State of Wisconsin
State Employee Suggestion Program**

SESP 14 (R 11/88)
Wis Stat. 16.006

SUGGESTION FORM



Any state employe (LTE, part time, fulltime, classified, unclassified, project) can submit his/her suggestions for improvement in any area of state government operations.

Submit your idea on this form to the Employee Suggestion Program Coordinator in your agency to be considered for a cash award or a certificate of commendation in recognition of your ingenuity. If you do not know the name of your agency coordinator, contact your Agency Personnel Officer.

Note: Please be patient with the process. From the time you submit your suggestion to the time the Employee Suggestion Program Board makes a final determination, it could take as long as one year. Refer to the reverse of this form for a full flowchart of the system.

SESP Number
Agency Assigned Number

Name of Suggester(s) - (Legal Name(s)) Terrell L. Morris	Work Address: 202 South Thornton Ave.
	Agency: State Agency Service Division/Institution/Campus
Civil Service Title(s) Administrative Assistant 3 - Supervisor	Building: Central Printing
	Street: 202 South Thornton Ave.
Name of Supervisor: Gorden Kidd	City: Madison Zip Code: 53702
	Address of Supervisor if different from above:

State the Problem - Describe fully, be specific. If more space is needed, attach separate sheet.

The Department of Employee Trust Funds pays protective services personnel that become disabled, 80% of their base pay (tax free) for the rest of their lives. There isn't any statute on the books that allows E.T.F. to reduce or cancel these payments should the recipient's disability improve or if there is a total recovery. In other words if one of these former employes bench press 300 lbs or run the forty in 4.6 seconds, he / she would still receive her regular pay checks for ever. There is at least one documented case of such a person that is self employed as a firewood cutter that works VERY HARD that is receiving such payments. There are probably many more out there going unnoticed. This woodcutter has been video taped, gotten perfect health reports as being physically fit and sworn statements have been taken from numerous witnesses that have seen him in action. But his pay cannot be stopped.

Suggestion/solution - Attach pictures, charts, etc., as needed to illustrate and explain.

For two and a half years, I have been trying to get the legislation modified to give The Dept. of Employee Trust Funds the ability to reduce or cancel these benefits should a question arise or documentation be presented that proved these "Disabilities" to be fraudulent. If these acts were done in the private sector, it would be a felony insurance fraud. This amendment would be fairly simple and could result in savings for the taxpayers of thousands and thousands of dollars. It seems sometimes that for every person that actually benefits from these good intentions, there are several people that find ways to beat/abuse the system. Let's work together and stop some of this!

Advantages of Change - Describe any dollar savings, if known as well as improvements to safety, morale, service to state or public, conditions for patients, or increases in productivity.

This one case alone would result in savings in the six digit range over time, as he is only in his early fortys. I'm sure there are many more such cases out there resulting in savings of enormous amounts.

THE USE BY THE STATE OF WISCONSIN OF MY SUGGESTION SHALL NOT FORM THE BASIS OF A CLAIM AGAINST THE STATE OF WISCONSIN BY ME, MY HEIRS OR ASSIGNS.

Suggester's Signature <i>Terrell L. Morris</i>	Date 2-18-94	Business Phone - Area Code/Number (608) 266-3437
---	-----------------	---

OVER



TOMMY G. THOMPSON

**Governor
State of Wisconsin**

March 30, 1994

Terrell Morris
W5148 East Bush Road
Pardeeville, WI 53954

Dear Mr. Morris:

Thank you for your recent letter about the Duty Disability Benefit program. I appreciate the time you took to write.

Section 40.65 of the state statutes was enacted in 1981 as a successor to the s. 66.191, Stats., disability program. Although benefits and other administrative details of the s. 66.191 program were changed upon enactment of s. 40.65, the eligibility provisions and the lifetime nature of the benefit remained the same.

I understand your frustration at the length of time it takes to enact program changes. However, the program provides much needed benefits to many protective occupation participants who have become permanently disabled in the line of duty. Finding a way to eliminate abuse to the program without jeopardizing the benefits of the truly deserving can be a delicate undertaking. Nonetheless, the agencies involved and several interested legislators continue to seek program refinements.

Thank you again for your interest in this program and taking the time to write.

Sincerely,

A handwritten signature in black ink, appearing to read "Tommy G. Thompson".

TOMMY G. THOMPSON
Governor

TGT/tpc

April 8, 1994

State of Wisconsin
Office of the Governor
State Capitol
P.O. Box 7863
Madison, WI 53707-7863

Dear Governor Thompson,

Thank you Governor Thompson, sincerely, for your reply to my letter concerning the Duty Disability Benefit of protective services personnel. My neighbors and myself have put a great deal of effort into correcting this discredit to The State of Wisconsin and your response to our plight was nearly all the concern shown to us. Thank you again and you can count on my vote on your next election. Also, being a Vietnam Veteran, I would like to take this opportunity to thank you for all the good things that you have done for those that served.

I have been an employe of the Department of Administration for 24 years. I know that the wheels of change turn slowly. But the length of time to enact program change is only part of the problem in this particular incident. Since August of 1991, we have cooperated with DOA's Division of Finance and Program Management 100% to stop an individual from collecting pay for a disability, when in fact, I have never known a harder working man in my life. It was "never" my intention to cut off benefits to anyone that served and is now in need of help. The one charity that I contribute to on a regular basis is The Paralyzed Veterans of America. However, the person in question has systematically harassed my neighbors, my family, and myself during this past 3 year period. On Good Friday, my daughter was practicing her basketball, when this person pulled off on the shoulder of the road we live on and fired 3 shots with a 12 gauge shotgun into the air. I reported this to the Sheriff's Dept., but little will come of it. The bothersome thing of all this is that The State of Wisconsin is financially supporting this harassment and now it will be at least another year before this matter is brought up again. DOA has not even responded to our efforts by offering an excuse of why nothing has changed after all this time.

Please do not let this issue fall off the back burner. I have many friends that are on the police forces and fire departments that have seen first hand what this man is capable of and they do not support his receiving Duty Disability Benefits. Or others like him. It is difficult for me to explain to my daughter and friends why this is allowed to happen.

Thank you again Governor Thompson, you don't know how grateful I was to receive your letter and I hope you will continue to support us as we will you.

Sincerely,

Terrell L. Morris
W5148 East Bush Road
Pardeeville, WI 53954

Disability cheats cost \$1.4 billion

Agency fails to check recipients' health

By Jennifer Dixon

Associated Press

WASHINGTON — Thousands of Americans who are no longer disabled continue to receive federal benefits because Social Security fails to check their health, Congress was told Thursday.

Lawmakers said the Social Security Administration has ignored a 1980 law that requires the agency to conduct "continuing disability reviews" of the millions of people who collect a monthly disability check from the federal government.

Members of the House Ways and Means subcommittee on Social Security also attacked the agency for spending money Congress intended to be used for the disability program on pay raises instead, which Congress also required.

According to Rep. J.J. Pickle, D-Texas, 1 percent of all disability recipients give up their Social Security benefits because they have recovered.

"They get on the rolls and they ride into the sunset until their maker calls and they're laid to rest," Pickle said in a hearing on Social Security's decision to virtually abandon disability reviews.

According to the General Accounting Office, Social Security's failure to conduct the proper number of reviews from 1990 through 1993 will result in an accumulated loss to taxpayers of \$1.4 billion by 1997. At least 30,000 ineligible people may be on the rolls, said Jane Ross of the GAO, the congressional watchdog agency.

Under the law, Social Security is supposed to conduct 400,000 to 500,000 reviews every year of ill or injured workers who collect disability insurance.

Pickle said the agency has done fewer than 50,000 in each of the last three years. As many as 1.1 million recipients are due to have their cases reviewed, but Social Security is checking the health of 45,000.

The agency is also supposed to review disability cases on the rolls of Supplemental Security Income, a welfare program, but that requirement is not written into law.

Combined, the two programs provide \$50 billion a year in benefits to 7.5 million people.

To qualify for benefits, a person must have an illness or disabling condition expected to last at least a year or result in death. But some medical conditions improve over time.

Social Security's deputy commissioner, Lawrence Thompson, said the agency decided several years ago to focus on processing a flood of applications for disability benefits at the expense of the reviews.

Only 6 percent of all recipients reviewed are ultimately kicked off the rolls, Ross said. But the agency still saves \$6 for every \$1 spent.

Thompson said Social Security has mailed questionnaires to 92,000 recipients asking them about their health. Based on the responses, the agency will conduct full medical workups on about half the total.

Disability cheats at The Wisconsin State Government level, can't be removed from the payroll if they are protected by The Dept. of Employee Trust Fund's, Disability Retirement Fund, (Protective Services).

Lame excuses?

Report cites abuses of state's Duty Disability program

By Mike Flaherty
Legislative reporter

In 1988, a state corrections officer successfully filed for permanent disability benefits, claiming his back was hurt. When he also filed for workers' compensation three years later, insurance investigators checked into his case and

videotaped him cutting and hauling firewood for three straight hours.

A doctor found the officer (who can't be named because of state law) was completely healed and he was denied workers' compensation.

But the former corrections officer still receives \$1,800 a month in

permanent disability payments tax-free. And there's nothing the state can do about it.

In another case, a firefighter served five months of active duty in the Gulf War only 13 months after claiming she was disabled. She still receives benefits, too.

Citing the above examples, a state audit reported Wednesday

that the state's Duty Disability program is broken, its cost is exploding, and the Legislature needs to act.

Under Wisconsin's Duty Disability program, police, firefighters and some correctional officers can receive up to 80 percent of their

Disability

Continued from Page 1A

last year's salary tax-free if they're permanently disabled on the job. The program, financed by local taxpayers, cost \$12.7 million last year and covered 627 former workers who received average tax-free disability payments of \$31,388.

The idea behind the program is still sound, explained Don Bezruki, who led the audit team from the Legislative Audit Bureau that investigated the program. Workers who risk their lives to protect Wisconsin citizens need an extra level of insurance protection, he said.

But at the same time, auditors found the current program is rife with problems, including:

■ A third of the cases involve injuries that weren't received doing hazardous work. One firefighter is receiving payments after falling off a ladder while hanging Christmas decorations. Another firefighter twisted his knee while mopping a floor with soapy water.

■ The payments aren't adjusted for the circumstances of the injury. Benefits for the 28-year-old deputy sheriff shot in the neck and paralyzed from the neck down are calculated the same way as those for the 26-year-old State Patrol inspector who hurt her knee while bending to inspect a truck tire and the 51-year-old deputy sheriff who fell off a chair and hurt his shoulder while "horsing around" in the office.

■ In many cases the injuries aren't all that disabling, but the program forbids injured workers to be transferred to lighter work. For example, those claiming knee injuries average a 16 percent disability. But state law prevents them from being transferred to desk jobs or to anti-drug campaigns in schools as they are in other states. In fact, any attempt by police or fire supervisors to transfer in-

jured workers to lighter work automatically qualifies those workers for the permanent disability program.

■ Once someone is found "disabled," the case cannot be reopened. Unfortunately, many cases strain doctors' ability to define injuries as "permanent," Bezruki said. About three-fourths of those receiving permanent payments have disabilities of less than 20 percent. In some cases, it's impossible to know whether injuries will heal. Yet once they qualify for the program, most will stay in the rest of their lives.

■ Since 1982, when the state increased permanent disability benefits from 50 percent to 80 percent of a worker's final salary, the number of claims jumped fivefold and now averages about 50 claims per year. Local governments (and taxpayers) paid \$465,199 in premiums for the program in 1983. Last year they paid \$19.7 million in premiums. The lifetime cost of the benefits for the 627 former workers currently in the program is \$142 million, the audit said.

In some areas, the claims also appear out of proportion. In the city of Superior, with 103 workers covered by the program, there are 21 former workers receiving permanent disability benefits — the equivalent of 20 percent of the workforce. In Dane County, the 87 former workers receive benefits amounting to the equivalent of 7 percent of the workers covered by the program. (Statewide it's about 4 percent.)

■ The benefits are supposed to be scaled back or terminated if the former worker heals and returns to work. But nearly all (93.7 percent) of the workers with 20 percent disability or less reported no income outside of their benefits.

"There are many people in this program who richly deserve it — it's their means of economic support," said Tom Korpady, who runs the program, which is part of the Department of Employee Trust Funds.

At the same time, he said, the department endorses the Legislative Audit Bureau's suggestions to the Legislature for improving the program, including:

■ Allowing periodic reviews of cases and improving the application review process.

■ Permitting workers to be transferred to lighter work if their injury permits.

■ Structuring disability payments in some cases to compensate for lack of promotion opportunities or other obstacles to higher future pay.

■ Establishing incentives for returning to work, such as payment limits, worker retraining funds or tuition waivers for retraining.

WISCONSIN STATE JOURNAL

August 9, 1996

JOURNAL SENTINEL

SUNDAY, OCTOBER 27, 1996 — WISCONSIN EDITION



**CITY'S RAPPERS
ON ROAD
TOWARD FAME**

CUE



**NURSE BRIDGES
A GAP IN
RELIGIONS**

LIFESTYLE



**NOVEMBER
HOLIDAY
COUNTDOWN**

CUE CALENDAR

Duty disability cases pour in

As police requests grow, so does criticism of system

First of two parts

By **MIKE NICHOLS**
of the Journal Sentinel staff

Scores of Milwaukee police officers capable of performing desk jobs are claiming they should no longer be required to work and should instead receive disability checks that could easily cost taxpayers millions of dollars.

The dramatic leap in applications for so-called "duty disability" pay from members of the Police Department has come since a court decision last December relaxed the

rules under which such pensions are granted. Thirty-seven of the claims have been granted already this year by the City of Milwaukee Pension Board.

And as the numbers increase, so does criticism of the duty disability system itself. Concerns are being raised about everything from police staffing issues to the exorbitant costs of disability pensions to the propriety of some of the claims.

"These are individuals who are working right now, some of whom are filing (for disability

COMING MONDAY

◆ With a huge influx of duty disability claims, one woman's case raises the question of how well the city's medical leave system works for the cases already in effect.

ity pay) based on injuries that they received or that happened to them years ago," said Danae Davis Gordon, who recently left her job as director of the city Department of Employee Relations. "Everybody is lining up at the door."

A memo sent by former Police Chief Philip Arreola to the board of the Fire and Police Commission before he left predicted that if the trend continues, there could be as many as 60 duty disability retirements this year, compared with just three in 1995.

And while the numbers are likely to decrease in the future — after the newly eligible officers are processed this year — they are unlikely ever to return to the 1995 level.

Just how much the increase

Please see **CLAIMS** page 14

Police top list

A court decision relaxed rules for Milwaukee police officers trying to collect disability payments for on-the-job injuries.

Number of city employees collecting disability:

129

Police

121

Fire

47

City (General)

Through Sept. 27

Source: Milwaukee Pension Board office

Journal Sentinel

THE CALL OF

Claims/Requests pour in for duty disability pay

From page 1

will cost taxpayers is difficult to deduce, but one disabled officer alone, under some circumstances, could collect disability benefits worth well more than a million dollars over a lifetime, according to the Police Department's health and safety coordinator.

Depending on when they were hired and the extent of their disability, said John Karfonta, some officers going out on duty disability pay can receive it until the day they die.

"That's \$31,000 a year for a police officer," Karfonta said. "If he's 30 years old, he lives till 80, that's 50 times \$31,000. That's \$1.5 million, plus his health, life, dental and all the other things.

"And of course if you consider the (annual) escalation, it's actually going to turn out to be \$2 million in benefits."

For just one officer.

Because officers are examined yearly and because many do not stay on disability their entire life, many awards amount to much less.

At one point in the late 1980s, then-Chief Robert Ziarnik estimated the average cost of a disability pension to be about \$300,000. But even at that rate, 40 additional officers on duty disability this year alone would end up costing \$12 million over the years. The arithmetic of pension financing makes it difficult to de-

duce how much of that figure taxpayers would have to pick up, but depending on the outcome of some lawsuits unrelated to last December's decision, the tab could be substantial.

Lawsuit Opened Gates

The increase in claims is largely the result of a successful lawsuit filed by Police Officer Peggy A. Pikalek against the city and the city's Pension Board, which is an independent entity that administers disability benefits in Milwaukee.

But with taxpayers on the line for millions of dollars, some familiar with the system are concerned that, as the number of applications skyrockets, the current process is ripe for abuse.

Ald. Michael Murphy, who also sits on the Pension Board, says that he believes some applicants for disabilities may be committing fraud, and he called for an audit.

"I have no direct evidence to prove it at this point in time," he said. "But that's the reason I'm requesting the audit."

Bob Nehls, executive director of the Pension Board, differs.

"The procedure, any procedure, can be improved," Nehls said. "The problem is not with the procedure. The problem is with the Pikalek case."

Now 45, Pikalek joined the force in 1978 and suffered a variety of injuries in the 1980s to her back and her right hand. Two of

them happened, she says, while she was trying to arrest suspects, one while she was reaching over the seat of her squad car.

She worked full duty until her last injury in 1987, and then took a light duty desk position in the Criminal Investigation Bureau on the advice of her doctor.

"It was all shuffling the papers, doing basically paperwork," she says.

Because she could work light or limited, duty, the Pension Board turned down her disability claim based on a 1947 provision of the city charter that states such awards should be granted only to city employees "permanently and totally incapacitated for duty."

Pikalek, however, did not take no for an answer.

She argued that officers seeking disability pay were not forced to work light duty jobs until February 1987, about seven months before her last injury. And another portion of the charter adopted in 1972, Pikalek's attorney John Fuchs says, should have precluded the department from changing the rules.

Sides Drawn

Whether the rules really were changed became the central issue in a contentious legal battle with Pikalek on one side and the Pension Board and the city on the other.

Legal briefs filed in the case raised the possibility that no

DUTY DISABILITY



MICHAEL SEARS/STAFF PHOTOGRAPHER

Police Officer Peggy Pikalek successfully sued the city, arguing that officers seeking disability pay were not forced to work light duty jobs until months before her last injury. She now lives in northern Wisconsin and gets a monthly disability check worth \$2,952. Other officers have requested disability pay as a result of her case.

clear standard ever existed, but in August 1994 Milwaukee County Circuit Judge William Haese sided with Pikalek, and a state Appeals Court panel later upheld him. In December 1995, the state Supreme Court refused to review the case, so the Appeals Court decision stood.

A partially injured officer hired before August 1985 and capable of performing a desk job, the judges found in essence, can be considered "permanently and totally incapacitated for duty" —

and eligible for a tax-free disability check typically worth about 75% of what active officers receive. (The 1985 provision came because in that year, the Common Council passed an ordinance making duty disability rules stricter.)

"I guess right now a lot of people think, 'Sure, maybe the officers are scamming the system,'" said Pikalek, who has since moved to northern Wisconsin, is not working and collects a monthly gross disability

check worth \$2,952.

"But you know the one thing is that... everyone is injured."

Others have a different perspective.

"It is very distasteful for me as a physician and a taxpayer to look at an individual who, yes, cannot do that (full-duty) work anymore but is a very otherwise fit individual," said Ron Stark, a Wauwatosa hand surgeon who sometimes examines people

Please see CLAIMS page 15.

4

Claims/Partly injured officers now pushing for disability pay

From page 14

making claims for worker's compensation and is familiar with the process in Milwaukee.

"As a taxpayer in general," he added, "I don't really like to see fit individuals who could perform useful work for the city being off for the rest of their life essentially on pension."

Among the officers granted disability pensions since the Pikalek decision are some who suffered injuries 10 and even 20 years ago. They have worked limited duty jobs since then but can now no longer be forced to work in order to collect a check.

Various people familiar with the case and its impact have dramatically different perspectives.

Bradley DeBraska, president of the Milwaukee Police Association, says the Pikalek decision is actually good news because officers on light duty take up a spot on the roster that — when they leave — can be filled by a full-duty police officer.

"The department (leaders) won't admit that the Pikalek suit has been beneficial for themselves," he said. "They won't even admit it's good for the community because it has increased the number of full, able-bodied police officers protecting the community."

A lot of the light-duty jobs left vacant by the officers going on disability, he added, were "make-work" positions, anyway.

Joe Ellis, personnel administrator for the Milwaukee Police Department, disagrees.

"That, I think, is a smoke-screen and a red herring," he said. "The work performed by these limited-duty officers is vital and important to the department and necessary to the success of the department."



DeBraska

Disability claims jumped this year

The number of Milwaukee police officers applying for disability pay has jumped in the nine months since a court decision to relax the rules for which disability is granted.

Duty disability applications

of Milwaukee police officers



Source: Milwaukee Pension Board office

Journal Sentinel

Officers leaving limited-duty jobs to collect disability pay have to be replaced, he said, or there will be a reduction of service.

Concern About Cases

Others have a different concern and worry about the kind of claims now being filed — and granted — as a result of the Pikalek case.

Much of the frustration stems from the fact that officers who appear healthy now are starting to receive disability checks even though they can work, albeit in desk jobs. But there are other concerns as well.

Among those officers or for-

mer officers recently granted a disability pension, for example, is one who was fired in 1992 for allegedly being drunk on duty, living outside the city and committing theft by fraud in Waukesha County.

"We are so frustrated because the cost to the taxpayers is ever-escalating for a lot of reasons," said Davis Gordon, the former city employee relations director. "The Pikalek decision sure does not help us very much, because now everybody is standing in line to go out. But in light of that, shouldn't the Pension Board be concerned about this expense to the taxpayers and therefore want to look at their processes?"

Neighborhood feud: Stress leads to disability check

By MIKE NICHOLS
of the Journal Sentinel staff

For years, 34-year-old Matteo Norante has contended he is so stressed out by what happened to him shortly before Christmas 1993 that he can no longer do almost any of the things a police officer normally does — except collect a check.

Each and every month, although he has not worked for the Milwaukee Police Department in more than 2½ years, he grosses \$2,446 in disability pay.

More than \$29,000 a year, tax free.

Norante was not shot at, or beaten. He does not claim to have suffered any sort of physical injury at all. His disability — just one of myriad claims against the City of Milwaukee that can easily pay recipients hundreds of thousands of dollars each over time — has a different genesis.

"The union likes to portray these (officers as) martyrs shot in the line of duty," said John Karfonta, safety officer for the Milwaukee Police Department, "when in reality so many of these injuries are so questionable."

Norante's case is not one of the flood of police duty disability claims filed since December, when the Wisconsin Supreme Court let stand a court decision relaxing the rules for these cases.

But officials concerned about the huge increase in the applications point to Norante's case and others, and ask whether the system is capable of weeding out questionable claims.



Norante

Norante began working for the Milwaukee Police Department in November 1990 and for almost three years, from all appearances, was a stable, dependable, eager officer.

He lived in a neighborhood on the far south side of Milwaukee where there was, by most accounts, a fair amount of vandalism and teenage rowdiness. He himself had a truck window smashed and a bicycle stolen.

His attorney denies there was any sort of neighborhood feud, but one night in early August 1993, he and another officer issued a ticket to a teenager for illegally parking in the alley behind Norante's house.

It may not have seemed like a major deal. But to Karen Enk, a neighbor who shares the alley, it didn't seem right, either.

"I didn't think it was a very neighborly thing to do," said Enk, who ended up testifying at a worker's compensation hearing regarding Norante. "If there was a problem, I thought maybe they could have come up, said something to me personally."

As it turned out, one of Norante's supervisors agreed and dismissed the \$40 ticket, which was issued to a friend of one of Enk's sons.

Problem Escalates

The ill feelings were exacerbated a few months later when Enk's son Jason was attempting to jump-start a car that was stalled in front of their house in the 6400 block of S. 20th St.

In the middle of December, he pulled a van down the wrong side of the divided street, to run jumper cables from the van to the stalled car.

Norante gave him a ticket.

The next day, while the officer was at work, his wife heard a loud bang as she was drying her daughter's hair inside their house. Someone had blown something up in the Norantes' front yard.

The severity of the explosion is a point of contention.

In an application for worker's compensation — which differs from duty disability pay — Norante said his house had been

"firebombed."

According to the police report, the "bomb" was a common household liquid that, mixed with another well-known household item inside a large, sealed bottle, causes an expansion of gas. The device was placed within 8 feet of Norante's house when it exploded, according to the report, and sent glass from the bottle flying up to 50 feet.

Karfonta, the Police Department's health and safety coordinator, compares it to a childhood prank.

"As a kid, did you ever do that? Drop a firecracker in a bottle and watch the bottle blow up? Well, it's about the same effect," he said.

No one was hurt, and despite some suspicions, no one was arrested. Norante hurried home to find out what happened but returned to duty the next day. After that, he took three previously scheduled days off before returning again on Dec. 20.

NALS SENTINEL

MONDAY, OCTOBER 28, 1996 — STATE EDITION

Disability system lacks oversight

Doctors decide police
claims, but aren't always
clear on standards

Second of two parts

By MIKE NICHOLS
of the Journal Sentinel staff

The question is not whether Police Officer Bonnie Newell, who has collected more than \$16,000 since she went on duty disability pay in February, is injured.

Anyone who can read an X-ray knows that she is.

The question is when the injury occurred — and whether it is appropriate that doctors are

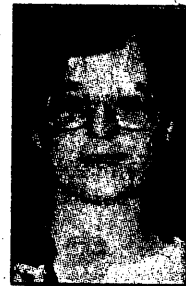
being given almost exclusive authority to make that high-stakes call.

"The doctors say it is a disability, we have to say it's a disability. If they say it's not, we have to say it's not," said Gary Brazgel, a member of the City of Milwaukee Pension Board. "It is my understanding, as advised by our city attorney, that we are a rubber stamp."

John Karfonta, health and safety coordinator for the Police Department, puts it another way.

The doctor "just says yes or no and he knows that no one is ever going to question him," Karfonta said.

That kind of carte blanche, say Karfonta and others, has fostered development of a system where doctors do not always clearly understand the standards for certifying disa-



Newell

Please see NEWELL page 7

bilities, but where there is insufficient scrutiny of claims by anyone else.

The number of duty disability applications from Milwaukee police officers is already skyrocketing — from five last year to 50 this year already — as a result of a lawsuit filed against the city and the Pension Board by Officer Peggy Pikalek. As that happens, critics fear flaws leave the system, and taxpayers, ripe for abuse.

Danae Davis Gordon, who recently left her position as head of the city's Department of Employee Relations, is concerned that there appears to be no forum in the system for close examination of questionable claims. She also wonders whether doctors clearly understand the standards used to certify claims — such as the fact that injuries must occur on duty.

The case of Bonnie Newell may be one example of what Gordon means.

Newell's Story

Newell, a police officer since the early 1980s, has a spinal disability that prevents her from working a full duty job and can be traced to a traffic accident.

The question is, "Which accident?"

She has been in two relevant ones, only one of which occurred while on duty and would entitle her to disability benefits from the City of Milwaukee Pension Board. The other, the first one, happened in 1987 when Newell — off duty — was driving west on W. Custer Ave. near N. 46th St. and was rear-ended.

Her car was totaled, she testified during a worker's compensation hearing last November, and she suffered whiplash, as well as injuries to her right arm, right leg, right shoulder and back.

Newell, who was not wearing a seat belt, received therapy for about five months but returned almost immediately to full duty.

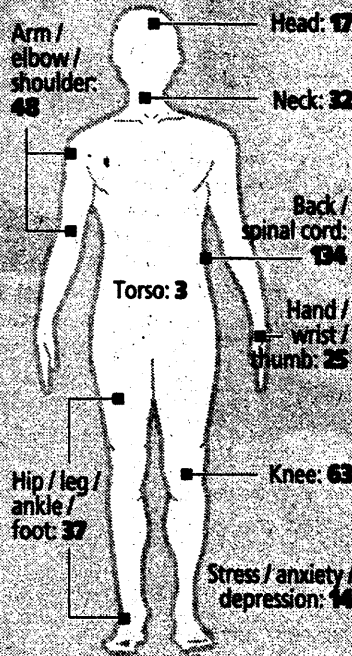
Four years later, in July 1991, she was in another accident, this time on duty while driving on Appleton Ave. After broad-siding a car that turned in front of her near the Silver Spring Drive entrance ramp, she was treated at St. Michael Hospital for pain and stiffness in her neck and, she testified, once again, whiplash

Most common injuries

Back and spinal cord injuries are the most common among city employees receiving disability retirement

Where injuries occurred

Some had more than one injury



Source: Milwaukee Pension Board office Journal Sentinel

injuries.

This time, she missed two days of work, worked light duty for a week or two, then returned to full duty for the next two years before moving to a so-called limited or light duty position.

There was no medical consensus regarding the cause of Newell's problems.

While there was some agreement that she had an injury before the on-duty accident in 1991, there was also a difference of opinion over whether the second accident caused an abnormal acceleration of the medical problems or just a temporary aggravation.

Non-medical authorities who reviewed the case, however, were far less ambivalent.

Based on a review of doctors' reports, a state administrative law judge found that Newell's permanent disability was not related to the on-duty accident, and three members of the Wis-

consin Labor and Industry Review Commission concurred.

That decision, however, applied only to a claim for worker's compensation, which was rejected. Newell, who declined to comment on the case, had other claims as well.

She successfully sued an insurance company for injuries suffered in the on-duty accident, and she applied for a duty disability pension from the Pension Board in Milwaukee.

Light Shed on System

What happened next, say some familiar with the process, is evidence that not all doctors making decisions about disability pensions are fully informed.

The city doctor who certified Newell for a disability pension, James Stiehl, testified during a deposition in a related court case that he usually did little to determine whether injuries occurred on duty, a prerequisite to receiving a duty disability pension.

"I would state that I don't usually take a great amount of effort in determining whether or not the accident in question was a primary cause or a partial cause, or even a very slight cause, because my challenge is to determine whether or not she could return to work at the time that I saw her, and return to a full duty status," he said.

Stiehl added in a recent interview that nobody from the pension system, which supplies information on the process to all of the doctors, ever asked him to determine whether the 1991 on-duty accident was the cause of the disability.

"It was not in the letter," he said. "It was not in the instructions. I had no idea that that could be an issue."

The information was on the certification form itself, he said, but it was "not explicit whatso-

ever."

The deposition prompted city Employee Benefits Manager Florence Dukes to send a letter to Robert Nehls, executive director of the Pension Board, alleging that Nehls' office had "helped to reinforce what was essentially a gross misunderstanding of the process."

What's more, she charged, Stiehl estimated in the same deposition that he had evaluated about 150 people for the city alone, and had done other evaluations for the fire and police unions.

"If Dr. Stiehl has evaluated over 150 individuals over the years," she wrote, "and has approved a number of those individuals for duty disability based on a misunderstanding created by the Employee's Retirement System, we question how many of the individuals presently on duty disability retirement should be receiving those benefits."

And she added that "it would appear that Dr. Stiehl may not be the only doctor who has had a misunderstanding with regard to what has to be medically established in order for a duty disability applicant to be found eligible for benefits."

The Police Department's Karfonta agrees.

"I don't think that they are fully cognizant or briefed on the standard," he said of doctors. "I don't think in a lot of cases they have complete information when they are assessing these people for duty disability."

Pension Director Responds

Nehls retorts that his office provides physicians with the proper information and that the disability certification form itself clearly alludes to a specific cause of injury.

It says that the individual must be "incapacitated for the

performance of duty as the natural and proximate result of an injury which occurred" at a specific place on a specific date "while in the actual performance of duty."

In Newell's case, because she was hired prior to 1985, the on-duty injury would not have to be completely disabling, just enough that it would prevent her from working a full-duty position.

Nehls added that he is not worried there are people out there receiving duty disability pensions who should not be.

"It is a two- or three-doctor panel," said Nehls, "and I know we supply this information to all the doctors, and I would hope this is an unusual situation."

Dukes says that Stiehl later communicated to her office that if he were to re-evaluate Newell, he would not be able to certify her for a disability retirement. And in an interview, Stiehl called the on-duty accident a "fender bender" and said that he "probably wouldn't" recertify.

That, in turn, raises questions about whether Bonnie Newell has inappropriately been receiving disability checks.

Newell, now Bonnie Lofquist, lives in Oxford.

"We've been trying to get them (the Pension Board) to re-examine her, and they have basically said the (annual) re-examination period is next February," said Davis Gordon, formerly with the city's Department of Employee Relations.

Ald. Michael Murphy, a member of the pension board, is concerned about disability issues and has called for an audit.

"I think greater vigilance needs to be spent by us... reviewing the whole situation with those physicians," he said. "It may ultimately have to take collective bargaining issues to do

that, which is not going to be an easy scenario for us. It may end up in another lawsuit."

Davis Gordon thinks it might not be quite so complicated.

"I would think they would want to review their processes, including their interaction with the doctors, and say, 'Hey, if we are going to have this (flood of new applicants), we better make sure that our processes ensure that we are held accountable for the doctors,'" she said.

"Why don't they want to do it? That's my question. Why not?"

Auditor: Disability program worthwhile, but has problems

By Mike Flaherty

Legislative reporter

The idea behind the "Duty Disability" program is still sound, the leader of the audit team said last year after a report was released by the Legislative Audit Bureau. Workers who risk their lives to protect Wisconsin citizens need an extra level of insurance protection, Don Bezruki said last year.

But at the same time, auditors found the current program is rife with problems, including:

■ A third of the cases involve injuries that weren't received doing hazardous work. One firefighter is receiving payments after falling off a ladder while hanging Christmas decorations. Another firefighter twisted his knee while mopping a floor with soapy water.

■ The payments aren't adjusted for the circumstances of the injury. Benefits for the 28-year-old deputy sheriff shot in the neck and paralyzed from the neck down are calculated the same way as those for the 26-year-old State Patrol inspector who hurt her knee while bending to inspect a truck tire and the 51-year-old deputy sheriff who fell off a chair and hurt his shoul-

der while "horsing around" in the office.

■ In many cases the injuries aren't all that disabling, but the program forbids injured workers to be transferred to lighter work. For example, those claiming knee injuries average a 16 percent disability. But state law prevents them from being transferred to desk jobs or to anti-drug campaigns in schools as they are in other states. In fact, any attempt by police or fire supervisors to transfer injured workers to lighter work automatically qualifies those workers for the permanent disability program.

■ Once someone is found "disabled," the case cannot be reopened. Unfortunately, many cases strain doctors' ability to define injuries as "permanent," Bezruki said. About three-fourths of those receiving permanent payments have disabilities of less than 20 percent. In some cases, it's impossible to know whether injuries will heal. Yet once they qualify for the program, most will stay in the rest of their lives. They cannot be ordered back to work — and if managers assign them to "light duty" they automatically qualify for the disability program.

■ Since 1982, when the state increased permanent disability benefits from 50 percent to 80 percent of a worker's final salary, the number of claims jumped fivefold and now averages about 50 claims per year. Local governments (and taxpayers) paid \$465,199 in premiums

for the program in 1983. Last year they paid \$19.7 million in premiums.

In some areas, the claims also appear out of proportion. In the city of Superior, with 103 workers covered by the program, there are 21 former workers receiving per-

manent disability benefits — the equivalent of 20 percent of the workforce. In Dane County, the 67 former workers receive benefits amounting to the equivalent of 7 percent of the workers covered by the program. (Statewide it's about 4 percent.)

■ The benefits are supposed to be scaled back or terminated if the former worker heals and starts working again for wages. But nearly all (93.7 percent) of the workers with 20 percent disability or less reported no income outside of their benefits.

Unions oppose change in disability program

State's audit said
most collecting benefits
were able to work

By Mike Flaherty

Legislative reporter

Despite a state investigation that revealed rampant abuse of the "duty disability" program, three unions said this week they don't think the program needs fixing.

An audit by the Legislative Audit Bureau last year indicated that nearly three-fourths of the people receiving disability payments are less than 20 percent disabled and could be gainfully employed.

Some of the injuries are crippling, the audit said.

But many are not, such the "completely disabled" firefighter who served in the Gulf War 13 months after she filed for disability — and still receives complete benefits. Or a state corrections of-

ficer who insurance investigators videotaped cutting and hauling wood for three straight hours — even though he receives \$1,800 a month for the rest of his life for a bad back.

Assembly leaders say they're determined to fix the problem, so they've asked unions and local government groups to come up with a plan.

But it now appears that unions representing firefighters, police, prison guards and state troopers aren't interested in major reforms.

"We are not now prepared to abandon or dismantle a program we believe provides necessary benefits to people who need them," the unions said in a letter to the Wisconsin Alliance of Cities, which, with the unions, is trying to develop proposed reforms.

Those who are disabled have been determined so by doctors — and the doctors "should be left to do their jobs," said the Profes-

Please see **DISABLED**, Page 6A

Disabled

Continued from Page 1A

sional Police Association, the Wisconsin Professional Firefighters Association and the AFSCME Council 24, which represents troopers and corrections officials.

Leaders of the three unions did not return telephone calls.

Advocates of changing the system said they were "disappointed" in the letter.

"I'm amazed," responded Ed Huck, director of the Wisconsin Alliance of Cities, which represents the state's 31 largest city governments. "This is a head-in-the-sand position."

If the program, which costs local and state taxpayers more than \$12 million a year, is broken, it should be fixed, Huck said. It's

in union workers' best interest to fix it so that it's around for people who really need it, he said. And it's in taxpayers' interest, he said.

As of last year, local taxpayers were paying 627 former workers an average annual payment of \$31,388 tax-free — or 80 percent of their last year's salary on the job, according to the audit.

A reform effort has been promised by Assembly Speaker Ben Brancel, R-Endeavor.

The abuses "put in jeopardy a program that benefits a lot of deserving people," Brancel said.

"The audit clearly revealed very serious problems," said Mary Lazich, R-New Berlin, who co-chairs the Audit Committee which released the report. "It requires bi-partisan changes to a bi-partisan problem."

Insurance fraud: Pay granted despite firing

It has now been more than 10 years since Granville Rodgers, on May 5, 1986, first claimed to have seriously injured his back while making an arrest near Custer High School.

It has been almost four years since he was fired from his limited-duty position in the Milwaukee Police Department, accused of drinking on the job, violating the city residency requirements and committing insurance fraud related to the 1986 injury.

And it has been three months since the City of Milwaukee Pension Board, after receiving an application from Rodgers citing the same May 5, 1986, injury date, granted the former officer a tax-free, duty disability pension worth \$2,952 a month.

Rodgers' pension award is one

of many resulting from the court case of former Officer Peggy Pikalek. It has left some observers shaking their heads and voicing concern about circumstances under which some officers are receiving disability checks.

Florence Dukes, the city's employee benefits manager, wonders whether there was any discussion at all the day in July when the Pension Board granted the disability pension to Rodgers.

"It would appear," she charges in an Aug. 5 letter to the executive director of the Pension Board, "that the Pension Board may in fact be rubber-stamping certifications" made by doctors.

Pension Board members do not deny it.

Rather, they insist that when the doctors certify a disability, the board must grant a disability pension. In the meantime, they demonstrate little familiarity with the details of Rodgers' claim, his background or his 1993 fraud conviction.

Rodgers' fraud case centered on an insurance policy that required a private insurer, Combined Insurance Co. of America, to make van payments for him if he became disabled.

Believing that there was indeed a disability, based on a Wauwatosa doctor's apparent signature on a series of insurance forms, the company made payments between June 1991 and May 1992.

Rodgers was charged — and convicted — after questions arose about whether the doctor actually had signed the forms.

Essentially, said Waukesha County prosecutor Dennis Krueger during the trial, Rodgers lied to the insurance company about whether or not he could get a doctor to verify his disability.

Rodgers was sentenced to three years of probation, 300 hours of community service and some restitution.

Other than hinting that he had not given up on so-far unsuccessful appeals of the fraud

conviction, Rodgers declined to comment recently.

John Fuchs, who in addition to representing Pikalek in her duty disability suit also represented Rodgers in his disability application, said he does not try to justify anything that Rodgers may have done.

But Fuchs adds, "He had a job. He got an injury. He qualified and he was wrongfully denied. Later on, because he stayed in the (limited duty) job, he did something that got him canned. But he should have already been on the pension."

According to Robert Nehls, executive director of the Pension Board, before being granted a disability pension an officer must be certified disabled by two doctors, usually one named by the police union and one appointed by the city.

If the doctors certify a disability, according to Nehls, the Pension Board in the city of Milwaukee must grant the pension.

— Mike Nichols



1997 ASSEMBLY BILL 706

January 13, 1998 - Introduced by Representatives REYNOLDS, R. YOUNG, RYBA, GROTHMAN, GOETSCH and BOYLE, cosponsored by Senator WEEDEN. Referred to Joint survey committee on Retirement Systems.

- 1 **AN ACT to renumber and amend 40.65 (3); and to create 40.65 (3) (b) and (c)**
2 **of the statutes; relating to: duty disability benefits for protective occupation**
3 **participants under the Wisconsin retirement system.**

Analysis by the Legislative Reference Bureau

Under current law, an employe participating in the Wisconsin retirement system (WRS) who is a protective occupation participant — a category that consists of certain employes whose duties involve active law enforcement or active fire suppression, frequent exposure to a high degree of danger or peril and requiring a high degree of physical conditioning — is entitled to duty disability benefits under the WRS if all of the following occur: 1) the employe is injured while performing his or her duty or contracts a disease due to his or her occupation; 2) the disability is likely to be permanent; and 3) the disability causes the employe to retire from his or her job, the employe's pay or position is reduced or he or she is assigned to light duty or the employe's promotional opportunities within the service are adversely affected if state or local employer rules, ordinances, policies or written agreements specifically prohibit promotion because of the disability. Under current law, a protective occupation participant who qualifies for a duty disability benefit is not subject to any additional or subsequent medical examinations to determine if the employe remains eligible for the benefit.

This bill requires that every person who receives a duty disability benefit be examined by a licensed and practicing physician, designated or approved by the employe trust funds board, every year during the first 5 years that the person

ASSEMBLY BILL 706

receives the benefit and then once every 3 years thereafter. The monthly benefits under the program must be terminated if the examination by the physician determines that the person is no longer permanently disabled or the person refuses to submit to the physical examination. The bill provides that any person who is terminated because the person is no longer permanently disabled must immediately be offered reinstatement by the employer with whom the person was last employed before receiving the duty disability benefit in the position that the person occupied before terminating employment.

This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this 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:

1 **SECTION 1.** 40.65 (3) of the statutes is renumbered 40.65 (3) (a) and amended
2 to read:

3 40.65 (3) (a) The Wisconsin retirement board shall determine the amount of
4 each monthly benefit payable under this section and its effective date. The board
5 shall periodically review the dollar amount of each monthly benefit and adjust it to
6 conform with the provisions of this section. The board may request any income or
7 benefit information, or any information concerning a person's marital status, which
8 it considers to be necessary to implement this subsection paragraph and shall
9 require a participant to submit a certified copy of his or her most recent state or
10 federal income tax return. The board may terminate the monthly benefit of any
11 person who refuses to submit information requested by the board or who submits
12 false information to the board.

13 **SECTION 2.** 40.65 (3) (b) and (c) of the statutes are created to read:

14 40.65 (3) (b) The Wisconsin retirement board shall require that any person who
15 receives a monthly benefit under this section be examined by at least one licensed

ASSEMBLY BILL 706

1 and practicing physician, designated or approved by the board, in each of the first
2 5 years that the person receives a monthly benefit under this section and once every
3 3 years thereafter. A written report of the examination in a form approved by the
4 department, which shall indicate whether the person is still disabled as specified in
5 sub. (4) (b), shall be filed with the department. The department shall pay the cost
6 of any examination conducted under this paragraph.

7 (c) The monthly benefit payable under this section shall be terminated and no
8 payment shall be payable after the first of the month in which a determination is
9 made by the department that any of the following occurs:

10 1. The written physician's report required in par. (b) indicates that the person
11 has recovered from the disability so the person is no longer disabled to the extent
12 required under sub. (4) (b).

13 2. The person refuses to submit to an examination under par. (b).

14 (d) If the department terminates a monthly benefit under par. (c) 1., the
15 employer with whom the person was last employed before receiving the monthly
16 benefit shall offer to reinstate the person in the position that the person occupied
17 before terminating employment.

18

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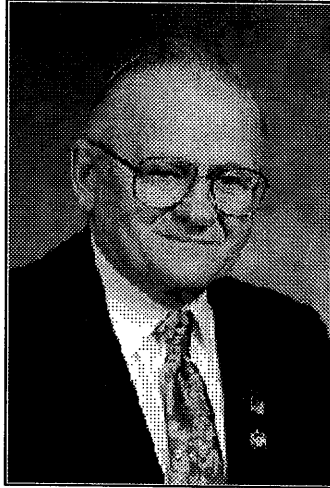
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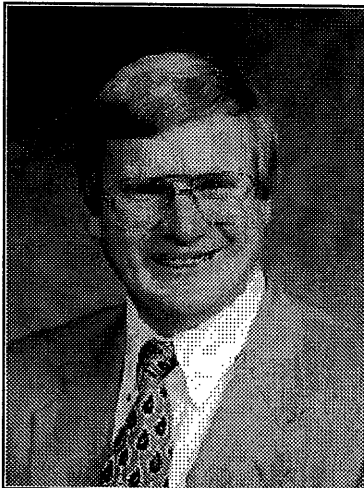
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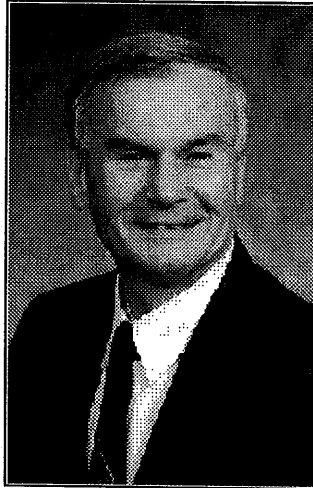
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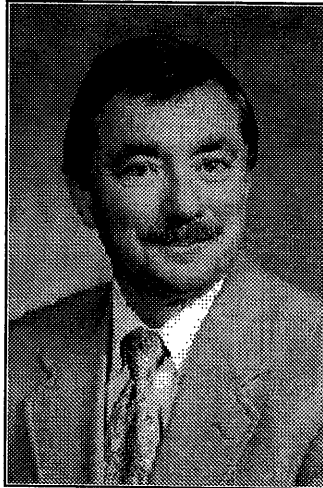
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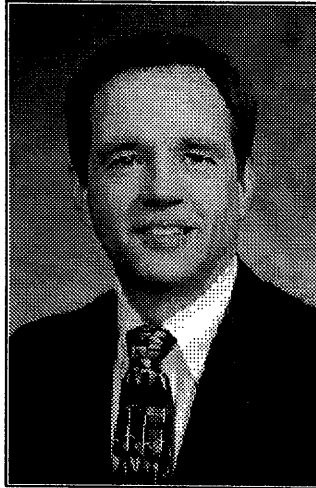
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BILLS OF IMMEDIATE INTEREST

A.B. 9 -- Pension Credit for Service in the Peace Corps, VISTA, etc.

Data has been requested from the Peace Corps to enable estimation of this bill's cost. A source for VISTA data is being sought. We will also need to identify other federal programs that might also be covered by this bill. The cost estimate will be easy to make once we have the data, and basic data in summarized form should be sufficient.

A.B. 309 -- Excluding Part-Time, Seasonal and Contractual Employees from Social Security

-Plate -Shibilsky

The general effect of this would be to save the State 7.65% of the payroll for employees currently covered by Social Security who elect the alternative money purchase plan to be provided for them in lieu of Social Security coverage.

There are two questions to be answered in order to estimate the cost savings to the State under this bill:

1. **The Data Question:** How many employees and how much payroll would be affected? We may also have to get some idea of their relative ages, as explained below.
2. **The Election Question:** What percentage of employees at different pay levels would be likely to decline Social Security in favor of the private retirement plan offered to them?

I would think that older low paid employees would be inclined to prefer Social Security over the 7.5% money purchase plan, if they realized that Social Security uses a front-loaded benefit formula that greatly favors the lower paid. Also, Social Security benefits are not (yet) fully taxable, while pension benefits are. Younger employees with more years to go until retirement would seem likelier to choose the money purchase plan. Also, younger people seem to have little faith in the survival of Social Security.

Ideally, we would like to get data on election rates from another state that has already implemented this. If we cannot get data this way, then we will have to try to get age information and make some educated guesses as to rates of election of the alternate plan.

We have "absolute coverage" agreement w/ feds

S.B. 119 -- Joint & Survivor Death Benefit Beneficiary No Longer Must Be a Dependent

Information needed to estimate the cost of this bill can probably all be obtained from ETF. I would need some information about the election of lump sums by those eligible for the J&S benefit, and also it might help to have the active life data that ETF gave the actuaries for the 1998 valuation. With this, it would require from 1 to 3 days of work (2 to 6 working days) for me to prepare the fiscal estimate -- depending on whether I could find a way to estimate it by hand, or had to adapt spreadsheets that I developed for the ORP study.

A.B. 245 -- Physical Examinations Required for Duty Disability

There are three conditions for a protective participant to be eligible for duty disability:

1. Injured or sickened in the line of duty, and
2. The disability is likely to be permanent, and
3. It causes him/her to retire, to be given light duty, or to lose chance of advancement.

This bill would require periodic medical examinations to determine whether the disability has continued. If not, then the disability benefit would be terminated. It might be helpful to define more carefully to what degree the disability must have persisted -- e.g., if the doctor no longer thinks that it seems likely to be a permanent condition, then has the disablement ended?

Note that the final paragraph of the bill is not enforceable against the former employer. There is no way to assure that an employee who has recovered from disability will get his or her former job back -- or for that matter, that the individual will be able to secure a similar job anywhere. If the recovered employee cannot secure a similar job, then he or she might have to accept a new line of work in order to find employment.

For such employees, this legislation would, in effect, be imposing *after the fact* the same strict definition of disability as non-protective employees are subjected to by 40.63(1)(b) *before the fact* (i.e., before they are granted disability benefits) -- namely, that the ability to perform any substantial gainful activity is enough to disqualify them from disabled status.

From here it is only a small step of logic to ask why the law should not be changed to apply to protective participants the stricter 40.63(1)(b) definition of disability in the first place. If this seems too harsh a policy to apply to police, etc., then a smaller partial duty disability benefit could be defined to fill the gap. Other police plans have this. (Just a thought.)

Employer contribution rates for the Section 40.65 disability insurance program are now about 3.3% of protectives' \$710 million payroll. Therefore, the full cost for duty disability is running at about \$23.5 million annually. If, for example, one in four future disabilities would be terminated under this bill, then the ultimate savings (in current dollars) would be somewhat less than one-fourth of the full \$23.5 million now being spent -- that is, somewhat less than 0.8% of payroll or \$6 million annually.

It would not be a full one-fourth of the total disability cost because (1) ETF would bear some expense for the medical examinations, and (2) each person disqualified for benefits would have drawn some benefits before being disqualified. For this example we can roughly estimate that the actual cost savings to the employers from this bill would be about 75% of the potential savings, which is about 0.62% of payroll or \$4,400,000 annually (in current dollars).

This much savings would not be realized immediately, but would be the limit of a pattern of increased savings each year over a period of time. This is because much of the current 3.3% of payroll contribution is needed to pay for those currently disabled, who are less likely to lose their benefits under this bill than are those who will become disabled in the future.

The assumption that one in four disabilities might be terminated under this bill is for purposes of example only. Further research would have to be done to learn what level of recovery might indeed be expected. "One in four" is a subjective impression that I have based on my previous experience with the West Virginia State Police, and it may or may not be a good assumption to use for a WRS estimate.

NOTES ON OTHER BILLS

A.B. 48 & S.B. 142 – Protective Status for County Jailers

Fiscal note has been sent out.

A.B. 124 / S.B. 88 – Allows Pre-1974 Military Service & "Double-Dipping"

I have the necessary data for costing out the addition of pre-1974 military service. The "double-dipping" part of the bill may prove to be more problematical. It will take a couple of working days to estimate the former. I should have a better idea of the latter once I've done the former.

S.B. 88 also allows "double-dipping", so it will be estimated along with A.B. 124.

A.B. 145 – Pension Credit for Public Health Service Work

I should have the fiscal note done in a couple of days. Very minimal cost to WRS.

A.B. 916 – Social Security/Part-Time Employees

This is similar to A.B. 309. *SS admin. won't want to do this (ETF has concerns also)*

S.B. 105 – Corrections Teachers Getting Protective Status

We will send this fiscal note out today or tomorrow. Pension cost is about \$300,000. These teachers don't satisfy the physical part of the definition for protectives, according to someone over at Corrections.

S.B. 127 – Retroactive Death Benefits to 1/1/97

Should not be too hard to estimate, but this is a bad idea. Why draw the line at 1/1/97?

Scott's calendar:

May 18: Coalition of Annuitants meeting
May 19: DER class
May 20: DER class
May 26: DER class
May 27: DER class
June 17-July 5: Vacation
Jul 8: Dental appointment
Jul 26: Dental appointment

Debra Breggeman's bad days (when she can't stay late):

June 2, June 9, June 16.

Other considerations:

Norm should have the variable annuity study done around June 15 thru the end of June.

As soon as we get into the new fiscal year he can begin his study of benefit increase bill(s) [A.B. 260, A.B. 323, S.B. 131, maybe others?].