



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2003 Assembly Bill 42	Assembly Substitute Amendment 2
<i>Memo published:</i> February 18, 2003	
<i>Contact:</i> Pam Shannon, Senior Staff Attorney (266-2680)	

Current law specifies various groups of persons who are eligible for burial in a state veterans cemetery. One such group is persons who were Wisconsin residents at the time of their death or entry or reentry into service in the Wisconsin National Guard or a reserve component of the U.S. Armed Forces and who have 20 or more years of creditable military service for retirement pay in the Wisconsin National Guard or the reserves or who would have been entitled to that retirement pay except that the person was under age 60 when he or she died. Current law also permits burial of an eligible person's spouse, surviving spouse, and dependent children.

Assembly Bill 42 expands the eligibility of national guard veterans to include persons who served in the national guard of *any* state, so long as the person was a resident of Wisconsin either at the time of his or her death or at the time of entry or reentry into the national guard, and had 20 or more years of service in the guard.

Assembly Substitute Amendment 2 provides that a person (or his or her spouse, surviving spouse, or dependent child) is eligible for burial in a state veterans cemetery if the person: (1) was a resident of this state either at the time of entry or reentry into the national guard of any state or the reserves or for 12 consecutive months immediately preceding his or her death; *and* (2) is eligible for burial in a national cemetery under 38 U.S.C. s. 2402.

A person is "eligible for burial in a national cemetery" if he or she is "entitled to retired pay" or would have been entitled had the person not died before age 60. Guard members and reservists are "entitled to retired pay" after 20 years of service. The service may include cumulative periods of guard service and reserve service totaling 20 years. [Note that active duty service also counts toward retired pay and a person only has to serve 180 days on active duty to qualify for burial in a national cemetery. Similarly, Wisconsin law permits a person with 180 or more days of active duty service to be buried in a state veterans cemetery.]

The substitute amendment addresses two concerns raised by committee members about the original bill. First, by linking eligibility to the federal cemetery provision, it covers a person who has the requisite number of years of service through a combination of service types, including cumulative

service in the national guard and the reserves, as well as the person who has only national guard or only reserves service.

Second, by requiring residency for 12 consecutive months immediately preceding death if the person was not a Wisconsin resident prior to entering or reentering the service, it eliminates the possibility that a person could be buried in a Wisconsin veterans cemetery without ever having been a state resident until close to the time of death.

Legislative History

The Assembly Committee on Veterans and Military Affairs held a public hearing on Assembly Bill 42 on February 12, 2003, but took no executive action at that time. On February 14, 2003, Representatives Musser and Pettis introduced Assembly Substitute Amendment 2. In executive session on February 18, 2003, the committee voted to adopt Assembly Substitute Amendment 2 by a vote of Ayes, 14; and Noes, 0; and to recommend passage of the bill, as amended, by the same vote.

PS:jal;wu



**WISCONSIN LEGISLATIVE COUNCIL
ACT MEMO**

2003 Wisconsin Act 58 [2003 Assembly Bill 42]	Eligibility for Burial in State Veterans Cemeteries
2003 Acts: www.legis.state.wi.us/2003/data/acts/	Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

Wisconsin Act 58 expands the eligibility of members of the national guard and reserves for burial in a state veterans cemetery.

Background Information

Prior to enactment of Act 58, a member of the Wisconsin National Guard or a reserve component of the U.S. armed forces was eligible for burial in a state veterans cemetery if the person was a Wisconsin resident at the time of his or her death or entry or reentry into service and had 20 or more years of creditable military service for retirement pay, or would have had, except that the person was under age 60 at the time of death. Burial of specified family members of an eligible person was, and continues to be, permitted.

2003 Wisconsin Act 58

Act 58 changes the eligibility requirements to provide that a person (or family member) is eligible for burial in a state veterans cemetery if the person: (1) was a resident of this state either at the time of entry or reentry into the national guard of *any* state or the reserves *or* for 12 consecutive months immediately preceding his or her death; *and* (2) is eligible for burial in a national cemetery under 38 U.S.C. s. 2401.

A person is “eligible for burial in a national cemetery” if he or she is “entitled to retired pay” or would have been entitled had the person not died before age 60. Guard members and reservists are “entitled to retired pay” after 20 years of service. The service may include cumulative periods of guard service and reserves service totaling 20 years.

By linking eligibility to the federal cemetery provision, Act 58 covers a person who has the requisite number of years of service through a combination of service types, including cumulative

This memo provides a brief description of the Act. For more detailed information,
consult the text of the law and related legislative documents.

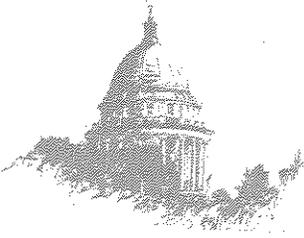
service in both the national guard and the reserves, as well as the person who has only national guard or only reserves service. Also, by requiring residency for 12 consecutive months immediately preceding death if the person was not a Wisconsin resident prior to entering or reentering the service, Act 58 eliminates the possibility that a person could be buried in a Wisconsin veterans cemetery without ever having been a state resident until close to the time of death.

Effective Date: This Act takes effect on October 31, 2003.

Prepared by: Pam Shannon, Senior Staff Attorney

November 3, 2003

PS:jal;rv



Mark Pettis
STATE REPRESENTATIVE

July 9, 2003
Testimony on Assembly Bill 42
State Representative Mark Pettis

Good Morning. Thank you for the opportunity to testify before you today on Assembly Bill 42.

Under current law, to be eligible to be buried in a veterans cemetery in Wisconsin, the veteran must have had served 20 years in the Wisconsin army national guard or the air national guard.

This bill as amended expands eligibility to a veteran of the army or National Guard of any state, as long as the veteran was a resident of Wisconsin for 12 consecutive months prior to his or her death. The amended bill also recognizes 20 years of combined service.

National Guard and Reserve members should qualify for burial in a veterans' cemetery regardless of the state they serve in.

Guardsmen and Reservists are trained to defend our country and should be granted the privilege of being buried along fellow veterans.

The burial vaults and pre-set crypts are financed 100 % by the federal government.

No fiscal effect.

Co-Chair:
Joint Committee on
Information Policy and
Technology

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