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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Judiciary, Corrections and Privacy...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (July 2012)

Senate

Record of Committee Proceedings

Committee on Judiciary, Corrections and Privacy

Senate Bill 132

Relating to: payment of litigation expenses of emergency medical services personnel, fire fighters, first responders, and law enforcement or correctional officers.

By Senators Kanavas, Kedzie, Stepp, Brown, Roessler and Coggs; cosponsored by Representatives Davis, Montgomery, Hahn, Ainsworth, Bies, Gunderson, Gundrum, Jensen, Townsend, Ott, Vos, Rhoades, Hines, Van Roy, Jeskewitz, Friske, Gronemus and Musser.

March 23, 2005 Referred to Committee on Judiciary, Corrections and Privacy.

June 9, 2005 **PUBLIC HEARING HELD**

Present: (4) Senators Zien, Roessler, Grothman and Risser.
Absent: (1) Senator Taylor.

Appearances For

- Gordon McQuillen, Madison — Wisconsin Professional Police Association
- Bob Johannik, Waukesha — Waukesha Sheriff's office
- Mike Richards, Madison — Senator Kanavas' Office

Appearances Against

- None.

Appearances for Information Only

- Edward Bailey, Milwaukee — Captain, Milwaukee County Sheriff's Office

Registrations For

- Jim Palmer, Madison — Wisconsin Professional Police Association
- Brett Davis, Madison — Representative

Registrations Against

- David Krahn, Waukesha — Waukesha County
- Mike Serpe, Kenosha — Kenosha County
- Mark Wadjum, Appleton — Outagamie County
- Jayme Sellen, Madison — Wisconsin Counties Association
- Jason Johns, Madison — Wisconsin Alliance of Cities

September 13, 2005 **EXECUTIVE SESSION HELD**

Present: (4) Senators Zien, Roessler, Grothman and Risser.
Absent: (1) Senator Taylor.

Moved by Senator Roessler, seconded by Senator Zien that **Senate Amendment LRB0189** be recommended for adoption.

Ayes: (5) Senators Zien, Roessler, Grothman, Taylor
and Risser.

Noes: (0) None.

**ADOPTION OF SENATE AMENDMENT LRB0189
RECOMMENDED, Ayes 5, Noes 0**

Moved by Senator Roessler, seconded by Senator Zien that **Senate Bill 132** be recommended for passage as amended.

Ayes: (5) Senators Zien, Roessler, Grothman, Taylor
and Risser.

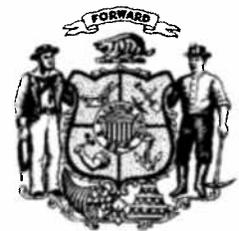
Noes: (0) None.

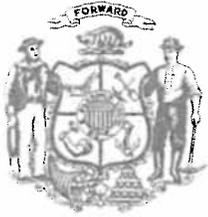
PASSAGE AS AMENDED RECOMMENDED, Ayes 5, Noes 0

Brian Deschane
Committee Clerk



WISCONSIN STATE LEGISLATURE





TED KANAVAS

STATE SENATOR

Date: Thursday, June 9, 2005

To: Members of the Senate Committee on Judiciary, Corrections and Privacy

From: Senator Kanavas

Re: Testimony in support of SB 132 - payment of litigation expenses of emergency medical services personnel, fire fighters, and law enforcement or correctional officers.

Good afternoon Chairman Zien and Committee members, thank you for allowing me the opportunity to submit testimony in support of Senate Bill 132 (SB 132).

Representative Brett Davis and I co-authored, SB 132, which will require municipalities to pay the litigation expenses of emergency medical services personnel, fire fighters and law enforcement and correctional officers.

This bill originally came at the request of the Waukesha Sheriff's Department. A couple years ago, a Waukesha County police officer used deadly force to defend himself and other officers during a stand off with a suicidal subject. As a result of this action, an investigation took place by the Department and the Waukesha County DA's Office.

As the investigation proceeded, the Department became aware that the officer may not be entitled to legal representation by his employer, the municipality. Wisconsin State Statutes 895.35 and 895.46 were found to be potentially applicable, however s. 895.35 indicates the municipality *may* pay for reasonable expenses. Hence, the municipality was not required to pay for legal expenses.

To clarify the statutes, the bill says that if an emergency services technician, first responder, firefighter or police officer is sued for actions done doing his or her job, the municipality will be required to pay for their legal expenses. However, there is a stipulation that if the officer is terminated for cause or resigns before any expenses are incurred, the municipality is not required to pay for his or her legal expenses.

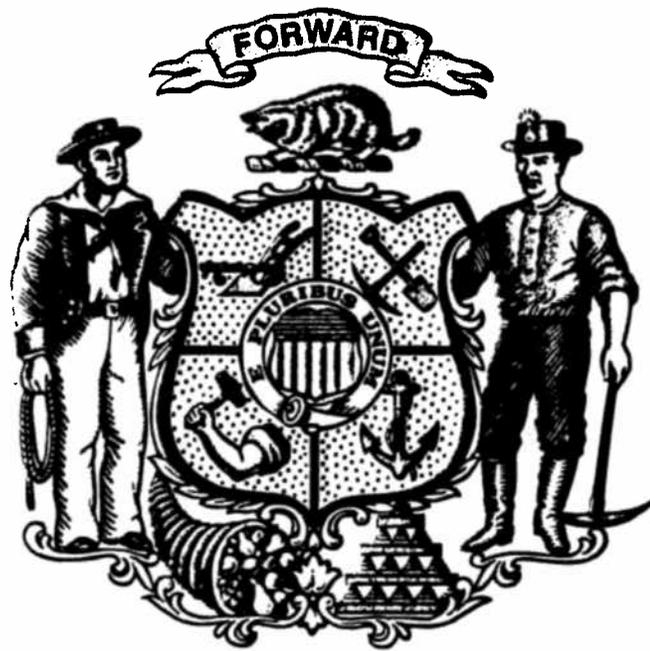
This bill is simple. If the employee is found guilty of wrongdoing while on the job, and is terminated for cause, the bill says the municipality does not have to pay. If the employee is accused of wrongdoing while on the job and is not terminated for cause, I believe their litigation expenses should be paid.

In light of the dangerous, live-saving work that our protective service people do for all of us, we should make them feel secure knowing their employer will stand behind them for doing their duty.

I thank you for your time and attention and ask you to support SB 132.

STATE CAPITOL

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MEMORANDUM

TO: Honorable Members of the Senate Committee on Judiciary, Corrections and Privacy

FROM: Jayme Sellen, Legislative Associate 

DATE: June 9, 2005

SUBJECT: Senate Bill 132

The Wisconsin Counties Association (WCA) opposes Senate Bill (SB 132), mandating that a municipality (a city, town, village, school district, technical college district, or county) pay the legal defense costs incurred by an emergency medical services technician, a first responder, a law enforcement agent or a correctional officer in disciplinary and other actions that do not lead to a judgment for money damages.

WCA opposes SB 132 because it changes the voluntary indemnification statute, Sec. 895.35, to a mandatory indemnification requirement for public safety employees. Section 895.35 currently allows a municipal governing body to choose to reimburse municipal employees and officers for fees, legal costs and even forfeitures in actions that do not lead to a judgment for money damages.

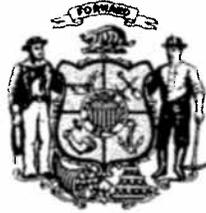
WCA believes that this should remain discretionary. If it is mandatory rather than discretionary, the cost will be borne by Wisconsin property taxpayers.

WCA respectfully requests that you oppose SB 132.

Thank you for considering our comments.

If you have any questions, please do not hesitate to contact the WCA office.





Wisconsin State Legislature

Friday, September 2, 2005

Dear Legislative Colleagues:

We write to respectfully ask for your support of the proposed substitute amendment to Assembly Bill 263 and Senate Bill 132.

The substitute amendment is truly a compromise amendment. After the public hearings on the legislation, we used the feedback we received and worked with all interested parties to address those concerns.

For starters, we changed the instances by which an emergency services employee could recoup legal fees from the municipality. The previous draft would have allowed officers to obtain legal fees for disciplinary hearings in front of the police and fire commission. Since our intent was to never allow for disciplinary hearings to be covered, we now specify that attorney fees may only be provided by the municipality in inquest hearings as well as criminal trials.

However, it should be noted that we do maintain the safeguards for municipalities in the bill. If an officer is found guilty of a crime, demoted without pay, or is forced to resign before legal bills are incurred, then the municipality would not be forced to pay the legal bills for the employee. We have mentioned a few instances when the municipality does not have to pay for the legal expenses, but to see the entire list of the exceptions please see Section 2 (1) (a-e) of the substitute draft.

We also state in the substitute that legal bills would have to be paid by the municipality only when the conduct was when the officer was arising "in the performance of official duties." In our discussions we wanted to ensure that the payment of legal bills should be paid for actions in the line of duty. Since the phrase "in the line of duty" is not defined in statute, we did not the courts to stray away from our true intent. It is our belief that the phrase, "in the performance of official duties," will cover in the line of duty actions. After consulting with Legislative Council, we believe that our bill as amended will not require payment of legal bills for those that act outside of the scope for their respective employment.

Furthermore, we added a clause to the bill that allows a collective bargaining agreement to define reasonable attorney fees instead of the court. Since employees, such as volunteer fire fighters, do not have binding collective bargaining agreements, the court will in turn determine what is reasonable in relation to attorney fees.

STATE CAPITOL

P.O. Box 7882 • Madison, Wisconsin 53707-7882

We appreciate your consideration of the legislation, which, as amended, provides a good compromise between a municipality and those that serve as our first line of defense in our communities.

Thank you again for your consideration of this legislation. Please contact our offices if you have any questions regarding the drafted substitute amendment.

Sincerely,



TED KANAVAS
State Senator
33rd Senate District



BRETT DAVIS
State Representative
80th Assembly District