

2007 ASSEMBLY BILL 362

May 29, 2007 – Introduced by Representatives MUSSER, MOLEPSKE, TOWNSEND, SHERMAN, PETROWSKI, BOYLE, BIES, TURNER, HUBLER, PRIDEMORE, KREUSER, OWENS, RICHARDS, GUNDERSON, GRIGSBY, WOOD, ZEPNICK, ALBERS, HRAYCHUCK, MURTHA, FIELDS, HAHN, HEBL, KLEEFISCH, BERCEAU, BALLWEG, JORGENSEN, NASS, VAN AKKEREN, MURSAU, SEIDEL, JESKEWITZ, SHILLING, A. OTT, VRUWINK, HINES, SOLETSKI, NELSON, HIXSON, TRAVIS, SHERIDAN, SINICKI, STASKUNAS, KRUSICK, GARTHWAITE and HINTZ, cosponsored by Senators SULLIVAN, S. FITZGERALD, COGGS, CARPENTER, PLALE, ROESSLER, ERPENBACH, SCHULTZ, HANSEN, LASSA and VINEHOUT. Referred to Committee on Veterans and Military Affairs.

1 **AN ACT** *to amend* 20.566 (1) (hp); and *to create* 20.465 (2) (r), 21.22, 25.17 (1)
 2 (jx), 25.38 and 71.10 (5i) of the statutes; **relating to:** providing financial aid to
 3 military families, creating an individual income tax checkoff for the military
 4 family relief fund, providing an exemption from emergency rule procedures,
 5 granting rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, an individual income tax check-off procedure exists that allows an individual who files a return to designate any amount of additional payment or any amount of a refund due for the endangered resources program. Similar checkoffs exist to provide payments to several other programs, including a veterans trust fund, prostate cancer research, multiple sclerosis programs, a fire fighters memorial, and a breast cancer research program, and to provide a donation to a professional football stadium district. This bill creates a similar income tax checkoff for designations to the military family relief fund.

Under the bill, an individual who has an income tax liability, is due a refund, or is required to file a return may designate any amount of additional payment, or any amount of a refund due, to the military family relief fund on his or her income tax return. If an individual's designation exceeds the amount of his or her refund, he or she must include a check with his or her tax return for the difference between the amount of the designation and the amount of the refund. If an individual who makes a contribution has a tax liability or has no tax liability and is due no refund,

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he or she must include a check for the amount of the designation with his or her tax return.

The bill requires that an amount equal to the total amount of designations received, less the total cost of administering the income tax check-off procedure, be deposited in the military family relief fund. The bill requires the Department of Military Affairs (DMA) to use the money from the military family relief fund to provide financial aid to the immediate family of members of the national guard or reservists who are serving in active duty in the U.S. armed forces. DMA is required to promulgate rules establishing eligibility criteria and the amount of the financial aid.

For further information see the *state* 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.** 20.465 (2) (r) of the statutes is created to read:

2 20.465 **(2)** (r) *Military family relief.* All moneys received from the military
3 family relief fund for the payment of financial aid to military families under s. 21.22
4 and for all of the administrative costs that the department incurs in making those
5 payments.

6 **SECTION 2.** 20.566 (1) (hp) of the statutes is amended to read:

7 20.566 **(1)** (hp) *Administration of endangered resources; professional football*
8 *district; breast cancer research; fire fighters memorial; veterans trust fund; multiple*
9 *sclerosis programs; prostate cancer research income tax checkoff voluntary payments.*

10 The amounts in the schedule for the payment of all administrative costs, including
11 data processing costs, incurred in administering ss. 71.10 (5), (5e), (5f), (5fm), (5g),
12 (5h), (5i), and (5m), and 71.30 (10). All moneys specified for deposit in this
13 appropriation under ss. 71.10 (5) (h) 5., (5e) (h) 4., (5f) (i), (5fm) (i), (5g) (i), (5h) (i),
14 (5i) (i), and (5m) (i), and 71.30 (10) (i) and (11) (i) shall be credited to this
15 appropriation.

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1 **SECTION 3.** 21.22 of the statutes is created to read:

2 **21.22 Military family financial aid. (1)** In this section:

3 (a) “Immediate family” means the spouse and dependent children of a service
4 member who are residents of this state.

5 (b) “Service member” means a member of a reserve unit of the U.S. armed forces
6 or of the national guard who is a resident of this state and who is serving on active
7 duty in the U.S. armed forces.

8 **(2)** The department of military affairs shall provide financial aid to eligible
9 members of the immediate family of service members. The department of military
10 affairs shall promulgate rules establishing eligibility criteria and the amount of
11 financial aid.

12 **SECTION 4.** 25.17 (1) (jx) of the statutes is created to read:

13 25.17 **(1)** (jx) Military family relief fund (s. 25.38);

14 **SECTION 5.** 25.38 of the statutes is created to read:

15 **25.38 Military family relief fund.** There is established a separate
16 nonlapsible trust fund designated as the military family relief fund. The fund shall
17 consist of money deposited in the fund under s. 71.10 (5i) (i), together with all
18 donations, gifts, or bequests made to the fund.

19 **SECTION 6.** 71.10 (5i) of the statutes is created to read:

20 71.10 **(5i)** MILITARY FAMILY RELIEF FUND CHECKOFF. (a) *Definitions.* In this
21 subsection:

22 1. “Department” means the department of revenue.

23 2. “Military family relief fund” means the fund under s. 25.38.

24 (b) *Voluntary payments.* 1. ‘Designation on return.’ Every individual filing an
25 income tax return who has a tax liability or is entitled to a tax refund may designate

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1 on the return any amount of additional payment or any amount of a refund due that
2 individual for the military family relief fund.

3 2. 'Designation added to tax owed.' If the individual owes any tax, the
4 individual shall remit in full the tax due and the amount designated on the return
5 for the military family relief fund when the individual files a tax return.

6 3. 'Designation deducted from refund.' Except as provided in par. (d), if the
7 individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80
8 (3) and (3m), the department shall deduct the amount designated on the return for
9 the military family relief fund from the amount of the refund.

10 (c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails
11 to remit an amount equal to or in excess of the total of the actual tax due, after error
12 corrections, and the amount designated on the return for the military family relief
13 fund:

14 1. The department shall reduce the designation for the military family relief
15 fund to reflect the amount remitted in excess of the actual tax due, after error
16 corrections, if the individual remitted an amount in excess of the actual tax due, after
17 error corrections, but less than the total of the actual tax due, after error corrections,
18 and the amount originally designated on the return for the military family relief
19 fund.

20 2. The designation for the military family relief fund is void if the individual
21 remitted an amount equal to or less than the actual tax due, after error corrections.

22 (d) *Errors; insufficient refund.* If an individual is owed a refund that does not
23 equal or exceed the amount designated on the return for the military family relief
24 fund, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error
25 corrections, the department shall reduce the designation for the military family

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1 relief fund to reflect the actual amount of the refund that the individual is otherwise
2 owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error
3 corrections.

4 (e) *Conditions.* If an individual places any conditions on a designation for the
5 military family relief fund, the designation is void.

6 (f) *Void designation.* If a designation for the military family relief fund is void,
7 the department shall disregard the designation and determine amounts due, owed,
8 refunded, and received without regard to the void designation.

9 (g) *Tax return.* The secretary of revenue shall provide a place for the
10 designations under this subsection on the individual income tax return.

11 (h) *Certification of amounts.* Annually, on or before September 15, the
12 secretary of revenue shall certify to the department of military affairs, the
13 department of administration, and the state treasurer all of the following:

14 1. The total amount of the administrative costs, including data processing
15 costs, incurred by the department in administering this subsection during the
16 previous fiscal year.

17 2. The total amount received from all designations for the military family relief
18 fund made by taxpayers during the previous fiscal year.

19 3. The net amount remaining after the administrative costs, including data
20 processing costs, under subd. 1. are subtracted from the total received under subd.

21 2.

22 (i) *Appropriations.* From the moneys received from designations for the
23 military family relief fund, an amount equal to the sum of administrative expenses,
24 including data processing costs, certified under par. (h) 1. shall be deposited in the
25 general fund and credited to the appropriation account under s. 20.566 (1) (hp), and

1 the net amount remaining that is certified under par. (h) 3. shall be deposited in the
2 military family relief fund and credited to the appropriation under s. 20.465 (2) (r).

3 (j) *Amounts subject to refund.* Amounts designated for the military family relief
4 fund under this subsection are not subject to refund to the taxpayer unless the
5 taxpayer submits information to the satisfaction of the department, within 18
6 months after the date on which the taxes are due or the date on which the return is
7 filed, whichever is later, that the amount designated is clearly in error. Any refund
8 granted by the department under this paragraph shall be deducted from the moneys
9 received under this subsection in the fiscal year for which the refund is certified.

10 **SECTION 7. Nonstatutory provisions.**

11 (1) EMERGENCY RULE. Using the procedure under section 227.24 of the statutes,
12 the department of military affairs shall promulgate the rules described under section
13 21.22 (2) of the statutes, as created by this act, for the period before the permanent
14 rules become effective, but not to exceed the period authorized under section 227.24
15 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3)
16 of the statutes, the department of military affairs is not required to provide evidence
17 that promulgating a rule under this subsection as an emergency rule is necessary for
18 the preservation of the public peace, health, safety, or welfare and is not required to
19 provide a finding of emergency for the rules promulgated under this subsection.

20 **SECTION 8. Initial applicability.**

21 (1) The treatment of section 71.10 (5i) of the statutes first applies to taxable
22 years beginning on January 1 of the year in which this subsection takes effect, except
23 that if this subsection takes effect after July 31 the treatment of section 71.10 (5i) of

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1 the statutes first applies to taxable years beginning on January 1 of the year
2 following the year in which this subsection takes effect.

3 (END)