



**SENATE SUBSTITUTE AMENDMENT 1,
TO 2009 SENATE BILL 429**

April 13, 2010 – Offered by Senator CARPENTER.

1 **AN ACT** *to renumber* 111.70 (4) (n); *to amend* 61.66 (2), 111.70 (1) (a) and 891.45
2 (2); and *to create* 111.70 (4) (n) 2., 111.91 (1) (ar) and 891.453 of the statutes;
3 **relating to:** establishing a presumption for employment–connected
4 communicable diseases for fire fighters, emergency medical service providers,
5 law enforcement officers, and certain correctional employees and making the
6 presumption a mandatory subject of collective bargaining for those employees.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 **SECTION 1.** 61.66 (2) of the statutes is amended to read:
8 61.66 (2) The governing body of a village acting under sub. (1) may designate
9 any person required to perform police protection and fire protection duties under sub.
10 (1) as primarily a police officer or fire fighter for purposes of s. 891.45, 891.453, or
11 891.455.

1 **SECTION 2.** 111.70 (1) (a) of the statutes, as affected by 2009 Wisconsin Acts 34
2 and 60, is amended to read:

3 111.70 **(1)** (a) “Collective bargaining” means the performance of the mutual
4 obligation of a municipal employer, through its officers and agents, and the
5 representative of its municipal employees in a collective bargaining unit, to meet and
6 confer at reasonable times, in good faith, with the intention of reaching an
7 agreement, or to resolve questions arising under such an agreement, with respect to
8 wages, hours, and conditions of employment, and with respect to a requirement of
9 the municipal employer for a municipal employee to perform law enforcement and
10 fire fighting services under s. 61.66, and for a school district with respect to any
11 matter under sub. (4) (n) 1. or (o), and for a school district with respect to any matter
12 under sub. (4) (n) and for municipal employees who are public safety workers, as
13 defined in s. 891.453 (1) (f), with respect to any matter under sub. (4) (n) 2., except
14 as provided in subs. (3m), (3p), and (4) (m) and (mc) and s. 40.81 (3) and except that
15 a municipal employer shall not meet and confer with respect to any proposal to
16 diminish or abridge the rights guaranteed to municipal employees under ch. 164.
17 The duty to bargain, however, does not compel either party to agree to a proposal or
18 require the making of a concession. Collective bargaining includes the reduction of
19 any agreement reached to a written and signed document. The municipal employer
20 shall not be required to bargain on subjects reserved to management and direction
21 of the governmental unit except insofar as the manner of exercise of such functions
22 affects the wages, hours, and conditions of employment of the municipal employees
23 in a collective bargaining unit. In creating this subchapter the legislature recognizes
24 that the municipal employer must exercise its powers and responsibilities to act for
25 the government and good order of the jurisdiction which it serves, its commercial

1 benefit and the health, safety and welfare of the public to assure orderly operations
2 and functions within its jurisdiction, subject to those rights secured to municipal
3 employees by the constitutions of this state and of the United States and by this
4 subchapter.

5 **SECTION 3.** 111.70 (4) (n) of the statutes, as created by 2009 Wisconsin Act 34,
6 is renumbered 111.70 (4) (n) 1.

7 **SECTION 4.** 111.70 (4) (n) 2. of the statutes is created to read:

8 111.70 (4) (n) 2. When bargaining collectively with a collective bargaining unit
9 that includes any public safety worker, as defined in s. 891.453 (1) (f), in addition to
10 any subject of bargaining on which the municipal employer is required to bargain
11 under sub. (1) (a), the municipal employer is required to bargain collectively with
12 respect to the inclusion in the collective bargaining agreement of the presumption
13 under s. 891.453 (2).

14 **SECTION 5.** 111.91 (1) (ar) of the statutes is created to read:

15 111.91 (1) (ar) In a collective bargaining unit that includes employees that are
16 public safety workers, as defined in s. 891.453 (1) (f), the presumption under s.
17 891.453 (2) shall be a subject of collective bargaining.

18 **SECTION 6.** 891.45 (2) of the statutes is amended to read:

19 891.45 (2) ~~In~~ Except as provided in s. 891.453, in any proceeding involving the
20 application by a state, county, or municipal fire fighter or his or her beneficiary for
21 disability or death benefits under s. 40.65 (2) or any pension or retirement system
22 applicable to fire fighters, where at the time of death or filing of application for
23 disability benefits the deceased or disabled fire fighter had served a total of 5 years
24 as a state, county, or municipal fire fighter and a qualifying medical examination
25 given prior to the time of his or her becoming a state, county, or municipal fire fighter

1 showed no evidence of heart or respiratory impairment or disease, and where the
2 disability or death is found to be caused by heart or respiratory impairment or
3 disease, such finding shall be presumptive evidence that such impairment or disease
4 was caused by such employment.

5 **SECTION 7.** 891.453 of the statutes is created to read:

6 **891.453 Presumption of employment–connected disease; infectious**
7 **disease. (1)** In this section:

8 (a) “Correctional officer” means any person employed by the state or by a county
9 or a municipality as a guard or officer whose principal duties are the supervision and
10 discipline of inmates.

11 (b) “Emergency medical service provider” means a person employed by the
12 state or by a county or municipality and who is an emergency medical technician
13 under s. 256.01 (5) or a first responder under s. 256.01 (9).

14 (c) “Fire fighter” means a state, county, or municipal fire fighter who is covered
15 under s. 891.45 and any person under s. 61.66 whose duties as a fire fighter took up
16 at least two–thirds of his or her working hours.

17 (d) “Infectious disease” includes the human immunodeficiency virus, acquired
18 immunodeficiency syndrome, tuberculosis, hepatitis A, hepatitis B, hepatitis C,
19 hepatitis D, diphtheria, meningococcal meningitis, methicillin–resistant
20 staphylococcus aureus, and severe acute respiratory syndrome.

21 (e) “Law enforcement officer” means any person employed by the state or by a
22 county or a municipality for the purpose of detecting and preventing crime and
23 enforcing laws or ordinances, who is authorized to make arrests for violations of the
24 laws or ordinances which he or she is employed to enforce. “Law enforcement officer”

1 includes a person under s. 61.66 whose duties as a police officer took up at least
2 two-thirds of his or her working hours.

3 (f) “Public safety worker” means a correctional officer, an emergency medical
4 service provider, a fire fighter, or a law enforcement officer.

5 (2) In any proceeding involving the application by a public safety worker or his
6 or her beneficiary for disability or death benefits under s. 40.65 (2) or any pension
7 or retirement system applicable to public safety workers, if a qualifying medical
8 examination given prior to the time of his or her becoming a public safety worker
9 showed no evidence of an infectious disease, and if the disability or death is found
10 to be caused by an infectious disease, the finding shall be presumptive evidence that
11 the infectious disease was caused by the employment if the collective bargaining
12 agreement covering the public safety worker includes the presumption under this
13 subsection.

14 **SECTION 8. Initial applicability.**

15 (1) The treatment of sections 111.70 (1) (a) and (4) (n) 2. and 111.91 (1) (ar) of
16 the statutes first applies to collective bargaining agreements entered into, extended,
17 modified, or renewed, whichever occurs first, on the effective date of this subsection.

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(END)