



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Assembly Bill 87

**Assembly Substitute
Amendment 1**

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Under *current law*, a student enrolled in the University of Wisconsin System is exempt from paying nonresident tuition if the student is an adult dependent, for federal tax purposes, of his or her parents and one or both of the parents have been bona fide Wisconsin residents for at least 12 months before the student enrolled.

The bill addresses residency for a dependent of a Wisconsin resident who temporarily left Wisconsin to serve in the armed forces and has returned to Wisconsin following their service, but has not been back in Wisconsin for the 12 months necessary to meet the residency requirement. The bill would grant in-state tuition to the dependent of a member of the armed forces if certain requirements are met. However, after the public hearing on the bill it was determined that the cross-references to federal law contained in the bill did not achieve the author's intent.

Under *the bill*, the definition of "dependent" would be that set forth in 26 U.S.C. s. 152 (a), which provides as follows:

(a) General definition For purposes of this subtitle, the term "dependent" means any of the following individuals over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under subsection (c) or (e) as received from the taxpayer):

- (1) A son or daughter of the taxpayer, or a descendant of either,
- (2) A stepson or stepdaughter of the taxpayer,
- (3) A brother, sister, stepbrother, or stepsister of the taxpayer,
- (4) The father or mother of the taxpayer, or an ancestor of either,

- (5) A stepfather or stepmother of the taxpayer,
- (6) A son or daughter of a brother or sister of the taxpayer,
- (7) A brother or sister of the father or mother of the taxpayer,
- (8) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer, or
- (9) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

Under *Assembly Substitute Amendment 1*, only the following persons related to the armed forces member are eligible for in-state tuition if all requirements are met:

- 1. The spouse or surviving spouse.
- 2. A child under 18 years of age.
- 3. A child of any age if he or she is incapable of self-support because of a mental or physical disability.
- 4. A child under the age of 26 years if he or she attends a UW institution as a full-time student.

Under *the bill*, a dependent of a member of the armed forces is eligible for in-state tuition if the member is serving in active duty and meets the conditions of s. 45.001 (4) (a) 2., which provides as follows:

45.001 (4) (a) (intro.) Except as used in s. 45.358 or 45.37 or subch. II or unless otherwise modified, and except as provided in par. (b), "veteran" means any person who has served on active duty under honorable conditions in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces, except service on active duty for training purposes, and who meets all of the following conditions:

.....

- 2. (intro.) Except as provided in par. (c), is a resident of and living in this state at the time of making application or is deceased, and meets one of the following conditions:
 - a. His or her selective service local board, if any, and home of record at the time of entry or reentry into active service as shown on the veteran's report of separation from the U.S. armed forces for a qualifying period were in this state.

- b. Was a resident of this state at the time of entry or reentry into active duty.
- c. Has been a resident of this state for any consecutive 12-month period after entry or reentry into service and before the date of his or her application or death. If a person applying for a benefit under this subchapter meets that residency requirement of 12 consecutive months, the department may not require the person to reestablish that he or she meets that residency requirement when he or she later applies for any other benefit under this chapter that requires that residency.

Under *Assembly Substitute Amendment 1*, the spouse, surviving spouse, or child of an armed forces member who entered into the armed forces while he or she was a Wisconsin resident is entitled to in-state tuition under either of the following circumstances:

1. The armed forces member served on active duty under honorable conditions, other than active duty for training purposes, returned to live in Wisconsin within 12 months after his or her discharge from that service, and has continued living in Wisconsin at the time the spouse or child registers at an institution.
2. The armed forces member died while serving on active duty and the surviving spouse or child returned to live in Wisconsin within 12 months after the armed forces member's death and has continued living in Wisconsin at the time the surviving spouse or child registers at an institution.

Legislative History

Assembly Substitute Amendment 1 was offered by Representative Krawczyk on May 24, 2005. On May 31, 2005, the Assembly Committee on Colleges and Universities voted to recommend adoption of Assembly Substitute Amendment 1 on a vote of Ayes, 10; Noes, 0, and to recommend passage of the bill, as amended, on a vote of Ayes, 10; Noes, 0.

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