



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 2

TO: MEMBERS OF THE STUDY COMMITTEE ON VOLUNTEER FIREFIGHTER AND EMERGENCY MEDICAL TECHNICIAN SHORTAGES

FROM: Margit Kelley, Senior Staff Attorney, and Andrea Brauer, Staff Attorney

RE: Options for Legislation Regarding Volunteer Recruitment and Retention, and Collaborative Organizations

DATE: October 6, 2016

This Memo summarizes options for legislation that may increase recruitment and retention of volunteer firefighter and emergency medical services (EMS) personnel. It also summarizes legislative options that authorize the sharing of resources within umbrella organizations or that create flexibility in collaboration among providers in order to help address volunteer shortages. These options were presented to the committee through testimony, committee discussion, and other correspondence with committee staff.

In certain instances, this Memo includes specific numbers, such as “300 hours at \$20 per hour;” the specific numbers are examples drawn from legislation offered in other states or in the U.S. House of Representatives. Also, the Memo includes policy items and suggestions to expand or create certain programs, but does not identify funding mechanisms that may be considered in the biennial budget process.

The Memo is intended to assist the committee’s continued discussion of possible legislative proposals and is not necessarily an exhaustive list of potential options.

VOLUNTEER RECRUITMENT AND RETENTION

The committee has been presented with multiple ideas for increasing volunteer recruitment and retention efforts, which are described below.

Length of Service Awards

Background: The Department of Administration (DOA) administers a service award program to recognize length of service by volunteer firefighters, first responders, and emergency medical technicians (EMTs). Any municipality that operates a volunteer fire department, contracts with a volunteer fire company, or authorizes first responders or volunteer EMTs to provide services is eligible to participate by adopting a resolution or ordinance to participate in the program.¹ Service awards are a tax-deferred benefit to the extent allowed by federal law. [s. 16.25 (2) and (3) (a) and (b), Stats.; s. Adm 95.04, Wis. Adm. Code.]

A participating municipality chooses the annual amount it contributes on behalf of its volunteers and DOA matches that contribution up to a maximum amount per volunteer, which is adjusted annually based on the Consumer Price Index. In 2015, that amount was \$353.77. The volunteer does not contribute to the account. Under the 2015-2017 Biennial Budget, the total amount appropriated for the program is \$2.5 million per fiscal year; if the funds are not sufficient, the awards must be prorated. [ss. 16.25 (3) (b) and (d), and 20.505 (4) (er), Stats.; s. Adm 95.05, Wis. Adm. Code.]

Vesting requirements apply to the service award program. Volunteers who reach age 60 and have served for 20 or more years are entitled to the full amount contributed on their behalf. Volunteers who reach age 60 and have served for more than 10 but less than 20 years are entitled to half of their account plus 5% of the value for each additional year above 10 that was served. [s. 16.25 (3) (f) to (h), Stats.; s. Adm 95.07, Wis. Adm. Code.]

Options: The committee has been presented with the following options regarding the service award program:

- Increase the annual matching amount paid by the state for each service award.
- Reduce the age or years of service required for vesting in the service award program. For example, permit vesting at a younger age, such as 50 or 55, for a volunteer who has served for a minimum number of years, such as 15 or more years.

Employment Flexibility

Background: Current law requires an employer to allow an employee to be late for or absent from work if: (1) the employee is responding to an emergency as a volunteer firefighter, EMT, first responder, or ambulance driver on behalf of a volunteer fire department, volunteer fire company, public agency, or nonprofit corporation; (2) the employee notified the employer in writing within 30 days of becoming an EMS or fire department member; (3) the employee attempts to notify the employer in advance of the absence; and (4) at the employer's request, the

¹ A list of participating municipalities as of January 2009 is available from DOA's website at: <http://doa.wi.gov/Divisions/Intergovernmental-Relations/Service-Award-Program/>.

employee submits a written statement from the fire chief or EMS service provider certifying that the employee was in fact responding to an emergency. [s. 103.88 (3), Stats.]

An employer may not discharge or discriminate against an employee for missing work if all of the above are satisfied. The employer is not, however, required to pay wages for such work absences. [s. 103.88 (2) and (4), Stats.]

Options: The committee has been presented with the following options regarding employment flexibility:

- Expand the protected absences from work to include responding to a declared state of emergency.
- Require employers to allow an employee to have a planned unpaid absence to obtain training or continuing education as a volunteer firefighter or EMS personnel. A maximum number of hours could be specified, such as 80 hours per calendar year.
- Create a tax credit for employers who permit volunteer firefighters and EMS personnel to leave work to respond to an emergency call.

Training Costs

Background: Volunteer firefighters are generally not required to pay tuition costs for training obtained through the technical colleges. Firefighter training is funded by the 2% fire dues program and other revenue sources. Students may be charged for books and materials. [s. 38.12 (9), Stats.]

Volunteer EMS personnel must pay tuition to receive EMS training. Financial assistance is available through the funding assistance program, administered by the Department of Health Services (DHS). These funds are available to ambulance service providers that are public agencies, volunteer fire departments, and nonprofit corporations, for qualifying expenses. [s. 256.12 (4) and (5), Stats.]

DHS distributes an identical base amount for each ambulance service provider and then adds a supplemental amount based on the population of the primary service area. For state fiscal year 2017, each service provider that applies receives a base amount of \$3,588 plus \$.03 per capita. Remaining funds are distributed according to call volume and whether the service has an EMT-basic on its service roster, and must be used for EMT-basic level training or continuing education. [DHS Numbered Memo 16-03, SFY 2017 Emergency Medical Services (EMS) Funding Assistance Program (Mar. 22, 2016).]

Options: The committee has been presented with the following options regarding training costs:

- Expand the types of training for which the EMT-basic portion of the funds may be used to include first responder level training and continuing education. [s. 256.12 (5), Stats.]

- Revise the formula used for the funding assistance program to be weighted in favor of distributing funds to volunteer EMS providers. [s. 256.12 (4), Stats.]
- Permit EMS services to use funding assistance program funds to pay for the National Registry of Emergency Medical Technicians (NREMT) initial and recertification fees.
- Defer EMS training tuition payments for students who are sponsored by a volunteer EMS provider. Allow the sponsoring provider or municipality to make quarterly payments on behalf of the sponsored student in lieu of the student's direct tuition payments to a technical college.
- Expand the Health Professions Loan Assistance Program to provide EMS training loan assistance for EMS personnel who agree to practice in rural areas or with volunteer EMS providers. Under this program, physicians, physician assistants, nurses, dentists, and dental hygienists may have educational loans repaid under given formulas if the person agrees to practice for three years in areas that are rural, are identified as having a practitioner shortage, or are tribal trust lands. A "rural" area is defined as a city, town, or village that has a population of less than 20,000 and is at least 15 miles from a municipality that has a population of at least 20,000. [ss. 36.60 and 36.61, Stats.]

Wisconsin Retirement System (WRS) Participation

Background: Volunteer firefighters and EMS personnel are not currently authorized to participate in the WRS, Wisconsin's state retirement program.

Current law limits WRS participation to employees of a county, city, village, town, school district, or other governmental unit that is a participating employer. The employee must work at least one-third or two-thirds of full time, depending on the date of initial employment. The term "employee" is defined to mean any person who receives salary or wages as payment for services. [ss. 40.02 (22), (26), and (28), 40.21, and 40.22 (1) and (2), Stats.]

Participating employers and employees must each make separate monthly WRS contributions. Contribution amounts vary and are based upon a percentage of the employee's salary. Except as otherwise provided in a collective bargaining agreement for a public safety employee² employed before July 1, 2011, employee contributions must come from a reduction in the employee's salary, and employers may not make the contribution on behalf of the employee. [ss. 40.05 and 111.70 (4) (mb) and (mc), Stats.]

Employee participants may receive a lifetime monthly retirement annuity or a money-purchase benefit upon retirement after a certain age. Firefighters, and certain EMTs whose employers classify them as "protective occupation participants," are first eligible for the benefit at age 50. Other EMS personnel are first eligible for the benefit at age 55. The amount of the

² For collective bargaining purposes, a "public safety employee" includes firefighters and EMS personnel employed by a local governmental unit. [s. 111.70 (1) (mm), Stats.]

benefit is based on a formula using the person's individual salary and years of service, and using actuarial tables in effect on the date of the retirement. [ss. 40.02 (48) (bm) and 40.23 (1), Stats.]

Option: The committee has been presented with the option of authorizing participating local employers to make contributions to the WRS on behalf of volunteer firefighters and EMTs.

Other Options for Increasing Volunteer Recruitment and Retention

The following additional ideas for increasing volunteer recruitment and retention efforts have been presented to the committee. None of the following exist under current law:

- Present a “years of service” citation award from the State to volunteer, or all, firefighters and EMTs who have served a certain number of years.
- Create a charitable tax credit for hours served by volunteer firefighters or EMS personnel and for course hours in training or continuing education. The credit could be specified as a fixed dollar amount, such as \$1,000, or be based upon the number of hours volunteered up to a certain number of hours per year at an imputed hourly rate, such as 300 hours of qualified service at \$20 per hour.
- Create a charitable tax credit for costs associated with volunteer duties. The credit could be limited to a certain dollar amount, such as \$400. Costs could include:
 - Out-of-pocket unreimbursed gear and equipment purchases;
 - Out-of-pocket unreimbursed mileage to obtain training and continuing education; or
 - Unreimbursed books and supplies purchased for training or continuing education.
- Allow active volunteer firefighters or EMS personnel to exempt one vehicle from the annual vehicle registration fee.
- Create an annual EMS commemoration day (compare, for example, Fire Prevention Week, s. 995.225, Stats.) or other recognition event for volunteer firefighters and EMS personnel.
- Direct the Department of Safety and Professional Services (DSPS) and DHS to create initiatives to promote volunteering with fire departments and EMS providers, including programs for high school students.
- Direct DHS to create a listserv that would provide a resource group for fire chiefs and EMS directors regarding leadership, regional cooperation, and other management issues for EMS providers.
- Specify that a fire department or EMS provider may not prohibit its employees from volunteering as a firefighter or EMT with a volunteer fire department or EMS

provider, and specify that this topic is a prohibited subject of bargaining in a collective bargaining agreement.

- Specify that volunteer firefighters and EMS personnel are eligible for BadgerCare Plus without having to meet the Medical Assistance program's financial eligibility requirements.
- Authorize EMT recruitment programs through local area health education centers (AHEC). AHECs are a special health education and outreach program of the University of Wisconsin System, to support community-based primary care training programs. [s. 36.25 (37), Stats.]

COLLABORATION AND FLEXIBILITY FOR ORGANIZATIONS THAT MAY ADDRESS VOLUNTEER SHORTAGES

The committee has been presented with multiple options that authorize the sharing of resources within umbrella organizations or that create flexibility in collaboration among providers in order to help address volunteer shortages.

Regional Organizations and Districts

Background: Some of the options presented to the committee focus on increasing cooperation between departments and promoting organizations for regional response. Current law authorizes fire departments and EMS providers to cooperate in multiple ways.³

Local governments generally may establish joint fire departments, enter into cooperative service agreements between municipalities for the provision of fire protection and EMS, and may contract with one another, or with private companies, for the provision of EMS. [ss. 59.03 (2) (a) and (b), 59.53 (19), 66.0301 (2), 60.55 (1) (a) 2., 61.65 (2) (a) 2., and 62.13 (2m), Stats.]

Local fire departments may also provide mutual assistance within each other's jurisdiction, upon request, for the provision of fire services. In addition, EMS providers are required to maintain mutual aid and coverage agreements with ambulance service providers operating within or adjacent to their primary service areas. Mutual aid is defined to mean EMS provided in another service area when the primary ambulance service provider has already committed its resources to other responses. [ss. 66.03125 and 256.15 (1) (iw), Stats.; s. DHS 110.34 (10), Wis. Adm. Code.]

Although not explicitly created by statute, fire and EMS districts may be created through voluntary written agreements between providers and local governments. A district is not a distinct local unit of government, and it may choose its own structure and functions. [DSPS, Wisconsin Fire Service Guidebook, 6th Ed., at page 7 (July 2014).]

³ For additional information about organizational options and statutory requirements, see Staff Brief 2016-02, Volunteer Firefighter and Emergency Medical Technician Shortages (July 13, 2016), available at: <https://docs.legis.wisconsin.gov/misc/lc/study/2016/1498>.

Option: The committee has been presented with the option to authorize the creation of fire and EMS districts as special purpose districts under state law, which serve as distinct local units of government, as bodies corporate and politic, if adopted by resolution of any two or more municipalities.

Primary Service Areas

Background: Under current law, an ambulance service provider is generally only authorized to conduct business within its primary service area, which is designated by DHS based on the agreement between the provider and the local government. Providers may cooperate across primary service areas through agreements for mutual aid and mutual assistance but are otherwise required to operate only within the primary service area. [ss. 66.0312, 66.03125, and 256.15 (1) (iw) and (5) (a), Stats.; s. DHS 110.34 (4) and (10), Wis. Adm. Code.]

Option: The committee has been presented with the option to modify the requirement that an ambulance service provider operate within a primary service area to authorize cooperative responses by multiple providers. For example, service areas could be based on the “health service areas” identified by the AHEC program.⁴ Under this system, 135 health service hubs are identified, based on municipal, hospital, and physician locations, urban and rural census data, transportation corridors, and topography. Each area is intended to have most of its population living within 30 minutes’ travel of its hub.

Service Credentialing

Background: Currently, EMS personnel must be credentialed by each EMS provider with which the person provides emergency medical care. To become credentialed, the individual must submit to DHS a written authorization from the service’s medical director. First responders and EMTs may be credentialed with more than one EMS provider. [ss. DHS 110.05 (1) and 110.52, Wis. Adm. Code.]

Options: The committee has been presented with the following options for changes to the credentialing requirement:

- Modify the EMS service credentialing requirement to allow greater fluidity of EMS personnel between EMS providers. For example, allow single credentialing within:
 - Health service areas identified by the AHEC program;
 - Healthcare Emergency Readiness Coalition (HERC) districts; or
 - Healthcare Coalition (HCC) regions.

⁴ Sugden, N., *Wisconsin Health Service Areas: Purpose, Description, Potential Applications*, Wis. AHEC Program (Feb. 23, 2015), available at: <https://ahec.wisc.edu/documents/Wisconsin-HSAs-2-23-15.pdf>.

- Allow EMS personnel to continue to accompany a patient when care has already begun, even if the individual is not credentialed with the service that sends the ambulance.
- Require mutual aid agreements to include cross-credentialing of all EMS personnel covered by an agreement.
- Direct DHS to create a staffing management program to utilize an existing database of all credentialed EMS personnel in the state, which can be sorted in multiple ways, including by training level or geographic area.

EMS Staffing Requirements

Background: Current law specifies EMS staffing requirements based on the level of service for which an ambulance service is licensed. Staffing requirements do not vary depending on the level of service provided at the scene. For example, an EMT-intermediate ambulance must always be staffed at an EMT-intermediate ambulance level, even if only EMT-basic level services are provided at the scene.

Ambulances must generally be staffed with at least one EMT at the same level as the ambulance service (for example, an EMT-intermediate ambulance must be staffed with at least one EMT-intermediate), and another EMT at any level. If licensed prior to January 1, 2000, an EMT-paramedic ambulance must be staffed with at least two EMT-paramedics. [s. 256.15 (4), Stats.; s. DHS 110.50, Wis. Adm. Code.]

2015 legislation modified staffing requirements in rural areas where all of the municipalities in the primary service area have a population of less than 10,000 or, if DHS has granted a waiver, a population of less than 20,000. If the provider meets the population or waiver requirements, the second staff person may be a first responder rather than an EMT. The new legislation does not, however, create an exception to staffing requirements for paramedic or critical care ambulances. [s. 256.15 (4), Stats.; s. DHS 110.50, Wis. Adm. Code; 2015 Wis. Act 113.]

An ambulance service provider may deviate from the staffing requirements if all 911 response ambulances are busy, it has an approved reserve ambulance vehicle, and one of the following applies: (1) the service provider obtains DHS approval and the reserve backup ambulance is stocked and equipped appropriately, or (2) in a two-paramedic system, if only one paramedic is available, the ambulance is operated at the next lower EMT level. [s. DHS 110.50 (3), Wis. Adm. Code.]

Options: The committee has been presented with the following options for modifying EMS staffing requirements:

- Authorize a higher level of staffing for a call response than an ambulance service's licensing level. For example, allow a service licensed at an EMT-basic level to provide EMT-intermediate level service in a call response if EMT-intermediate staffing requirements are met for the call.

- Authorize a dynamic licensing level for an ambulance service provider to provide one level of service during weekday business hours and a different level of service on nights and weekends.
- Authorize advanced EMTs or EMT-paramedics to be dispatched in non-transport vehicles (commonly referred to as “chase cars”) to work along with a first responder or ambulance at the location of the call.
- Authorize advanced EMTs or EMT-paramedics to be dispatched in non-transport vehicles to “intercept” and join a transporting vehicle.

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