



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBs0107/1
MES&RPN;jld:nwn

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 362**

August 9, 2007 - Offered by Representatives MOLEPSKE and MUSSER.

1 **AN ACT** *to repeal* 45.40 (2m) (b); *to renumber* 45.40 (2m) (a); *to amend* 20.566
2 (1) (hp); and *to create* 20.465 (2) (r), 21.22, 25.17 (1) (jx), 25.38 and 71.10 (5i)
3 of the statutes; **relating to:** providing financial aid to military families,
4 creating an individual income tax checkoff for the military family relief fund,
5 providing an exemption from emergency rule procedures, granting
6 rule-making authority, and making an appropriation.

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

7 **SECTION 1.** 20.465 (2) (r) of the statutes is created to read:
8 20.465 (2) (r) *Military family relief.* All moneys received from the military
9 family relief fund for the payment of financial aid to military families under s. 21.22
10 and for all of the administrative costs that the department incurs in making those
11 payments.

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

2 20.566 (1) (hp) *Administration of endangered resources; professional football*
3 *district; breast cancer research; fire fighters memorial; veterans trust fund; multiple*
4 *sclerosis programs; prostate cancer research* income tax checkoff *voluntary payments.*

5 The amounts in the schedule for the payment of all administrative costs, including
6 data processing costs, incurred in administering ss. 71.10 (5), (5e), (5f), (5fm), (5g),
7 (5h), (5i), and (5m), and 71.30 (10). All moneys specified for deposit in this
8 appropriation under ss. 71.10 (5) (h) 5., (5e) (h) 4., (5f) (i), (5fm) (i), (5g) (i), (5h) (i),
9 (5i) (i), and (5m) (i), and 71.30 (10) (i) and (11) (i) shall be credited to this
10 appropriation.

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

12 **21.22 Military family financial aid. (1)** In this section:

13 (a) “Immediate family” means the spouse, unremarried surviving spouse, and
14 dependent children of a service member who are residents of this state.

15 (b) “Service member” means a member of the U.S. armed forces or of the
16 national guard who is a resident of this state and who is serving on active duty in the
17 U.S. armed forces, or a member of the U.S. armed forces or of the national guard who
18 died on active duty, or in the line of duty while on active or inactive duty for training
19 purposes.

20 **(2)** The department of military affairs shall provide financial aid to eligible
21 members of the immediate family of service members. The department of military
22 affairs shall promulgate rules establishing eligibility criteria and the amount of
23 financial aid. The rules shall specify that, if the immediate family receives payments
24 under s. 45.40, they may not receive aid under this subsection for the same purpose.

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

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

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

3 **25.38 Military family relief fund.** There is established a separate
4 nonlapsible trust fund designated as the military family relief fund. The fund shall
5 consist of money deposited in the fund under s. 71.10 (5i) (i), together with all
6 donations, gifts, or bequests made to the fund.

7 **SECTION 6.** 45.40 (2m) (a) of the statutes is renumbered 45.40 (2m).

8 **SECTION 7.** 45.40 (2m) (b) of the statutes is repealed.

9 **SECTION 8.** 71.10 (5i) of the statutes is created to read:

10 71.10 (5i) MILITARY FAMILY RELIEF FUND CHECKOFF. (a) *Definitions.* In this
11 subsection:

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

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

14 (b) *Voluntary payments.* 1. ‘Designation on return.’ Every individual filing an
15 income tax return who has a tax liability or is entitled to a tax refund may designate
16 on the return any amount of additional payment or any amount of a refund due that
17 individual for the military family relief fund.

18 2. ‘Designation added to tax owed.’ If the individual owes any tax, the
19 individual shall remit in full the tax due and the amount designated on the return
20 for the military family relief fund when the individual files a tax return.

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

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

5 1. The department shall reduce the designation for the military family relief
6 fund to reflect the amount remitted in excess of the actual tax due, after error
7 corrections, if the individual remitted an amount in excess of the actual tax due, after
8 error corrections, but less than the total of the actual tax due, after error corrections,
9 and the amount originally designated on the return for the military family relief
10 fund.

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

13 (d) *Errors; insufficient refund.* If an individual is owed a refund that does not
14 equal or exceed the amount designated on the return for the military family relief
15 fund, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error
16 corrections, the department shall reduce the designation for the military family
17 relief fund to reflect the actual amount of the refund that the individual is otherwise
18 owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error
19 corrections.

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

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

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

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

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

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

11 3. The net amount remaining after the administrative costs, including data
12 processing costs, under subd. 1. are subtracted from the total received under subd.
13 2.

14 (i) *Appropriations.* From the moneys received from designations for the
15 military family relief fund, an amount equal to the sum of administrative expenses,
16 including data processing costs, certified under par. (h) 1. shall be deposited in the
17 general fund and credited to the appropriation account under s. 20.566 (1) (hp), and
18 the net amount remaining that is certified under par. (h) 3. shall be deposited in the
19 military family relief fund and credited to the appropriation under s. 20.465 (2) (r).

20 (j) *Amounts subject to refund.* Amounts designated for the military family relief
21 fund under this subsection are not subject to refund to the taxpayer unless the
22 taxpayer submits information to the satisfaction of the department, within 18
23 months after the date on which the taxes are due or the date on which the return is
24 filed, whichever is later, that the amount designated is clearly in error. Any refund

1 granted by the department under this paragraph shall be deducted from the moneys
2 received under this subsection in the fiscal year for which the refund is certified.

3 **SECTION 9. Nonstatutory provisions.**

4 (1) EMERGENCY RULE. Using the procedure under section 227.24 of the statutes,
5 the department of military affairs shall promulgate the rules described under section
6 21.22 (2) of the statutes, as created by this act, for the period before the permanent
7 rules become effective, but not to exceed the period authorized under section 227.24
8 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3)
9 of the statutes, the department of military affairs is not required to provide evidence
10 that promulgating a rule under this subsection as an emergency rule is necessary for
11 the preservation of the public peace, health, safety, or welfare and is not required to
12 provide a finding of emergency for the rules promulgated under this subsection.

13 **SECTION 10. Fiscal changes.**

14 (1) There is transferred from the veterans trust fund to the military family
15 relief fund \$6,695 in fiscal year 2007–08.

16 **SECTION 11. Initial applicability.**

17 (1) The treatment of section 71.10 (5i) of the statutes first applies to taxable
18 years beginning on January 1 of the year in which this subsection takes effect, except
19 that if this subsection takes effect after August 31 the treatment of section 71.10 (5i)
20 of the statutes first applies to taxable years beginning on January 1 of the year
21 following the year in which this subsection takes effect.

22 (END)