



State of Wisconsin  
2009 - 2010 LEGISLATURE

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**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.

18

(END)