



## 1997 ASSEMBLY BILL 440

July 1, 1997 - Introduced by Representatives MEYER, MUSSER, PLOUFF, GRONEMUS, SYKORA, GOETSCH, KELSO, GUNDERSON and PORTER, cosponsored by Senators RUDE, FARROW and ROESSLER. Referred to Committee on Labor and Employment.

1     **AN ACT to amend** 102.07 (7) (a), 102.07 (7) (b), 102.475 (title), 102.475 (1) and  
2           102.475 (8) (b); and **to create** 102.475 (8) (am) and 102.475 (8) (dm) of the  
3           statutes; **relating to:** worker's compensation coverage of a member of a legally  
4           organized diving team.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a member of a volunteer fire department or legally organized rescue squad is considered to be an employe of that department or squad for purposes of worker's compensation coverage except that, if that department or squad has not insured its liability for worker's compensation to its employes, the county or municipality within which that department or squad is organized is liable for that worker's compensation. Current law also permits the department of workforce development (DWD) to issue an order permitting the county within which a volunteer fire department, legally organized rescue squad or ambulance service provider is organized to assume full liability for worker's compensation for all volunteer members of that department, squad or provider.

This bill provides that a member of a legally organized diving team is considered to be an employe of that team for purposes of worker's compensation coverage except that, if that team has not insured its liability for worker's compensation to its employes, the county or municipality within which that team is organized is liable for that worker's compensation. The bill also permits DWD to issue an order permitting the county within which a legally organized diving team

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is organized to assume full liability for worker's compensation for all volunteer members of that team.

Under current law, if a law enforcement officer, correctional officer, fire fighter, rescue squad member, national guard member, state defense force member or emergency management employe or volunteer dies as a result of an injury sustained while performing services growing out of and incidental to his or her employment or volunteer activity or dies while totally and permanently disabled as a result of such an injury, DWD must pay death benefits of not less than \$50,000 to the person's dependents.

This bill requires DWD to pay death benefits of not less than \$50,000 to the dependents of a diving team member who dies as a result of an injury sustained while performing services growing out of and incidental to his or her employment or volunteer activity or who dies while totally and permanently disabled as a result of such an injury.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 102.07 (7) (a) of the statutes is amended to read:

2           102.07 (7) (a) Every member of ~~any a~~ volunteer fire company or fire department  
3 organized under ch. 213 ~~or any, a~~ legally organized rescue squad ~~shall be deemed or~~  
4 a legally organized diving team is considered to be an employe of ~~such that~~ company,  
5 department ~~or, squad or team~~. Every ~~such~~ member of a company, department, squad  
6 or team described in this paragraph, while serving as an auxiliary police officer at  
7 an emergency, ~~shall also be deemed~~ is also considered to be an employe of ~~said that~~  
8 company, department ~~or, squad or team~~. If ~~such a~~ company, department ~~or, squad~~  
9 or team described in this paragraph has not insured its liability for compensation to  
10 its employes, the municipality or county within which ~~such that~~ company,  
11 department ~~or, squad or team~~ was organized shall be liable for ~~such that~~  
12 compensation.

13           **SECTION 2.** 102.07 (7) (b) of the statutes is amended to read:

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1           102.07 (7) (b) The department may issue an order under s. 102.31 (1) (b)  
2           permitting the county within which a volunteer fire company or fire department  
3           organized under ch. 213, a legally organized rescue squad ~~or~~, an ambulance service  
4           provider, as defined in s. 146.50 (1) (c), or a legally organized diving team is organized  
5           to assume full liability for the compensation provided under this chapter of all  
6           volunteer members of that company, department, squad ~~or~~, provider or team.

7           **SECTION 3.** 102.475 (title) of the statutes is amended to read:

8           **102.475 (title) Death benefit; law enforcement and correctional**  
9           **officers, fire fighters, rescue squad members, diving team members,**  
10          **national or state guard members and emergency management personnel.**

11          **SECTION 4.** 102.475 (1) of the statutes is amended to read:

12          102.475 (1) SPECIAL BENEFIT. If the deceased employe is a law enforcement  
13          officer, correctional officer, fire fighter, rescue squad member, diving team member,  
14          national guard member or state defense force member on state active duty as  
15          described in s. 102.07 (9) or if a deceased person is an employe or volunteer  
16          performing emergency management activities under ch. 166 during a state of  
17          emergency or a circumstance described in s. 166.04, who sustained an accidental  
18          injury while performing services growing out of and incidental to that employment  
19          or volunteer activity so that benefits are payable under s. 102.46 or 102.47 (1), the  
20          department shall voucher and pay from the appropriation under s. 20.445 (1) (aa) a  
21          sum equal to 75% of the primary death benefit as of the date of death, but not less  
22          than \$50,000 to the persons wholly dependent upon the deceased. For purposes of  
23          this subsection, dependency shall be determined under ss. 102.49 and 102.51.

24          **SECTION 5.** 102.475 (8) (am) of the statutes is created to read:

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1           102.475 (8) (am) “Diving team member” means a member of a legally organized  
2 diving team.

3           **SECTION 6.** 102.475 (8) (b) of the statutes is amended to read:

4           102.475 (8) (b) “Fire fighter” means any person employed by the state or any  
5 political subdivision as a member or officer of a fire department or a member of a  
6 volunteer department, including the state fire marshal and deputies ~~or a member of~~  
7 ~~a legally organized rescue squad.~~

8           **SECTION 7.** 102.475 (8) (dm) of the statutes is created to read:

9           102.475 (8) (dm) “Rescue squad member” means a member of a legally  
10 organized rescue squad.

11           **SECTION 8. Initial applicability.**

12           (1) The treatment of sections 102.07 (7) (a) and 102.475 (1) and (8) (dm) of the  
13 statutes first applies to injuries occurring on the effective date of this subsection.

14                                           **(END)**