



## 2009 SENATE BILL 429

December 15, 2009 - Introduced by Senators SULLIVAN, COGGS, WIRCH, LEHMAN, ROBSON, HANSEN and VINEHOUT, cosponsored by Representatives SINICKI, BERCEAU, VRUWINK, DANOU, MILROY, HRAYCHUCK, BIES, MASON, POCAN, VAN ROY, A. OTT, FRISKE, STEINBRINK, BERNARD SCHABER, SEIDEL, YOUNG, ZEPNICK, PARISI, SHERMAN and TURNER. Referred to Joint Survey Committee on Retirement Systems.

1     **AN ACT to amend** 61.66 (2) and 891.45 (2); and **to create** 891.453 of the statutes;  
2           **relating to:** establishing a presumption for employment-connected  
3           communicable diseases for fire fighters, emergency medical service providers,  
4           law enforcement officers, and certain correctional employees.

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### *Analysis by the Legislative Reference Bureau*

Under current law, in a proceeding regarding the benefits for a state, county, or municipal fire fighter who dies or is disabled as the result of a heart or respiratory impairment or disease or of cancer, there is a presumption that the impairment or disease was caused by the employment as a fire fighter if the fire fighter served a minimum term in that employment (five years for a heart or respiratory impairment or disease and ten years for cancer) and the qualifying medical examination given before his or her joining the fire department showed no evidence of the impairment or disease.

Under this bill, in a proceeding regarding benefits for a state, county, or municipal fire fighter, emergency medical service provider, law enforcement officer, or correctional officer who dies or is disabled as a result of certain infectious diseases, there is a presumption that the disease was caused by the person's employment as a fire fighter, an emergency medical service provider, a law enforcement officer, or a correctional officer if the person's qualifying medical examination showed no evidence of the disease. The bill does not require a minimum term of employment to qualify for the presumption.

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Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill.

For further information see the *state* 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.** 61.66 (2) of the statutes is amended to read:

2           61.66 (2) The governing body of a village acting under sub. (1) may designate  
3 any person required to perform police protection and fire protection duties under sub.  
4 (1) as primarily a police officer or fire fighter for purposes of s. 891.45, 891.453, or  
5 891.455.

6           **SECTION 2.** 891.45 (2) of the statutes is amended to read:

7           891.45 (2) ~~In~~ Except as provided in s. 891.453, in any proceeding involving the  
8 application by a state, county, or municipal fire fighter or his or her beneficiary for  
9 disability or death benefits under s. 40.65 (2) or any pension or retirement system  
10 applicable to fire fighters, where at the time of death or filing of application for  
11 disability benefits the deceased or disabled fire fighter had served a total of 5 years  
12 as a state, county, or municipal fire fighter and a qualifying medical examination  
13 given prior to the time of his or her becoming a state, county, or municipal fire fighter  
14 showed no evidence of heart or respiratory impairment or disease, and where the  
15 disability or death is found to be caused by heart or respiratory impairment or  
16 disease, such finding shall be presumptive evidence that such impairment or disease  
17 was caused by such employment.

18           **SECTION 3.** 891.453 of the statutes is created to read:

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1           **891.453 Presumption of employment-connected disease; infectious**  
2 **disease. (1)** In this section:

3           (a) “Correctional officer” means any person employed by the state or by a county  
4 or a municipality as a guard or officer whose principal duties are the supervision and  
5 discipline of inmates.

6           (b) “Emergency medical service provider” means a person employed by the  
7 state or by a county or municipality and who is an emergency medical technician  
8 under s. 256.01 (5) or a first responder under s. 256.01 (9).

9           (c) “Fire fighter” means a state, county, or municipal fire fighter who is covered  
10 under s. 891.45 and any person under s. 61.66 whose duties as a fire fighter took up  
11 at least two-thirds of his or her working hours.

12           (d) “Law enforcement officer” means any person employed by the state or by  
13 a county or a municipality for the purpose of detecting and preventing crime and  
14 enforcing laws or ordinances, who is authorized to make arrests for violations of the  
15 laws or ordinances which he or she is employed to enforce. “Law enforcement officer”  
16 includes a person under s. 61.66 whose duties as a police officer took up at least  
17 two-thirds of his or her working hours.

18           **(2)** (a) In this subsection, “infectious disease” includes the human  
19 immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis,  
20 hepatitis A, hepatitis B, hepatitis C, hepatitis D, diphtheria, meningococcal  
21 meningitis, methicillin-resistant staphylococcus aureus, and severe acute  
22 respiratory syndrome.

23           (b) In any proceeding involving the application by a correctional officer, an  
24 emergency medical service provider, a fire fighter, or a law enforcement officer or his  
25 or her beneficiary for disability or death benefits under s. 40.65 (2) or any pension

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1 or retirement system applicable to correctional officers, emergency medical service  
2 providers, fire fighters, or law enforcement officers, if a qualifying medical  
3 examination given prior to the time of his or her becoming a correctional officer, an  
4 emergency medical service provider, a fire fighter, or a law enforcement officer  
5 showed no evidence of an infectious disease, and if the disability or death is found  
6 to be caused by an infectious disease, the finding shall be presumptive evidence that  
7 the infectious disease was caused by the employment.

8 (END)