Legislative Fiscal Bureau
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October 12, 2011

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Substitute Amendment 1 to Senate Bill 18: Health Care Insurance for Spouses and Dependant Children of Law Enforcement Officers that Died in the Line of Duty

Senate Bill 18 (SB 18) would provide health insurance premiums to the unremarried spouses and dependant children of municipal law enforcement officers. Senate Substitute Amendment 1 (SSA1) to SB 18 as amended by Senate Amendment 1 (the bill) would extend health insurance benefits to the unremarried spouses and dependant children of certain state and local law enforcement officers, correctional officers, and firefighters.

Senate Bill 18 was introduced on February 11, 2011, and referred to the Senate Committee on Insurance and Housing. On May 12, 2011, the Committee introduced SSA 1 to SB 18 and recommended adoption on a 6-0 vote. On May 17, 2011, SA 1 to SSA 1 to SB 18 was introduced in the Senate and adopted. The bill as so amended was adopted by the Senate 32-0 on May 17, 2011. The bill was referred to the Assembly Committee on Urban and Local Affairs on May 17, 2011. The Committee offered Assembly Amendment 1 (AA1) to the bill on September 13, 2011, and recommended passage of the bill as amended by AA1 on a vote of 9-0 on October 3, 2011. The bill was then referred to the Joint Committee on Finance on October 3, 2011.

This memorandum summarizes the bill as passed by the Senate and then summarizes the pending changes proposed under the Assembly amendment.

CURRENT LAW

The county and municipal aid program provides unrestricted state aid to each of the state's county and municipal governments. The program was begun in 2004 to replace payments formerly made under the shared revenue program. Since the creation of the program, payments to individual local governments have generally been based upon the amount received in the previous year, effectively freezing the old shared revenue distribution formulas. However, overall aid reductions were made in 2004 and 2010, resulting in aid reductions from the final, formula-based distribution. For calendar year 2011, payments will total $678.1 million for municipalities and $151.7 million for counties, for a combined total of $829.8 million. Under 2011 Wisconsin Act 32, additional payment reductions totaling $76.8 million were enacted, effective for 2012, and payments will total $630.4 million for municipalities and $122.6 million for counties, for a combined total of $753.0 million.

Also under current law, the spouses and dependant children of deceased state employees have the right to continue to pay for the insurance that was provided to the deceased state employee for the length of time that they would have been otherwise eligible (through age of 26 for children and in perpetuity for the spouse). The family may use the amounts available under the deceased state employees' sick leave conversion to pay for the health insurance. Local governments have the option of offering health insurance, and whether that insurance could be retained after the death of the employee is determined by each local government.

Under current law, a political subdivision (county, city, village or town) may provide health insurance to its employees and their families. If the political subdivision provides such insurance, it is required to continue to provide health insurance to the unremarried spouse (up to the age of 65) and dependant children (up to the age of 18 unless they are students, in which case they are eligible up to the age of 27) of firefighters who died in the line of duty.

BILL SUMMARY

The bill would generally provide for the payment of health insurance premiums for the unremarried spouse and dependants of firefighters and law enforcement officers who die in the line of duty. The bill uses the following definitions:

- *Dies in the line of duty* means a death that occurs, or occurred, as a direct and proximate result of at least one of the following, sustained by a law enforcement officer while he or she was engaged in a line-of-duty activity, or that arose out of and as a result of such an individual’s performance of a line-of-duty activity: (a) personal injury; (b) contraction of an infectious disease; or (c) exposure to hazardous materials or conditions.

- *Law enforcement officer* means any person employed by the state for the purpose of detecting and preventing crime and enforcing laws and who is authorized to make arrests for violations of the laws that the person is employed to enforce or any correctional officer. Senate Bill 18, as passed by the Senate, specifies that for local units of government jailers would be included in the definition.

- *Line of active duty* means employment–related action taken by a law enforcement officer that is required or authorized by law, rule, regulation, or condition of employment and for which compensation is provided by his or her employer or would have been eligible to have been provided by the employer if the law enforcement officer had been on duty when he or she took the action in question. For local units of government, the definition would include firefighters.

For the state, the bill would require the Department of Administration (DOA) to pay for the premiums for hospital, surgical, and other health insurance (health insurance) for the unremarried surviving spouse and dependant children of state law enforcement officers who die in the line of duty. The Department would make payments from a newly established GPR-sum sufficient appropriation either for reimbursement of premiums paid by the unremarried spouse or the dependant child, or as a direct payment to the Department of Employee Trust Funds, whichever is deemed appropriate by DOA. Premium payments would first be deducted from any unused sick-leave conversion credits that were available to the employee who died in the line of duty.

The premiums would be paid to an unremarried spouse until the age of 65. Dependant children would be eligible until the age of 18, unless the individual is enrolled as a full-time student at a secondary school or as a full- or part-time student at an accredited college, in which case the individual would be eligible until the age of 27.

For local units of government under the bill, political subdivisions would be newly required to provide continued health insurance to the unremarried spouses and dependant children of law enforcement officers (including jailers). [This benefit is currently applicable only to firefighters.] The bill would specify that DOA would reimburse the political subdivisions for the cost of health insurance premiums, not otherwise required to be paid under an employment-related benefit provided to the firefighter or law enforcement officer, for firefighters or law enforcement officers from the amounts currently available from the county and municipal aid program. The bill would specify that the current shared revenue appropriation for county and municipal aid could be newly used to make these health insurance premium payments or loans (discussed below) to the spouses of law enforcement personnel.

State payments to municipalities and counties for health insurance and loan payments they make for surviving spouses and dependant children would be funded by reducing payments under the county and municipal aid program. The aid payment to each municipality and county would be reduced on a pro rata basis. That is, the reduction for each local government would equal the percentage its aid payment represents of total aid payments multiplied by the total amount of health insurance loan payments that municipalities and counties make that year. If a local government's aid payment represents 1% of total county and municipal aid payments, that local government's aid reduction would equal 1% of the total health insurance and loan payments for that year. Under this mechanism, the cost of payments made by one local government would be shared by all municipalities and counties.

In addition to health insurance premium payments, the bill would require DOA to establish a loan program that would offer loans to surviving spouses of state or local firefighters and state law enforcement officers. The Department would be required to provide loans in an amount equal to the salary that would have been paid to the deceased spouse. The loan amount could not exceed the amount that the surviving spouse is eligible to receive from life insurance policies. The loan would have to be repaid upon receipt of the life insurance payment. Loans could not be issued once the life insurance proceeds have been paid.

The surviving spouse would have to do all the following to receive the loan: (a) apply for a loan on a form provided by DOA; (b) provide all documentation required by DOA to verify that his or her spouse was a law enforcement officer of who died in the line of duty; (c) provide all documentation required by DOA to verify the salary of the deceased spouse; and (d) enter into an agreement with DOA that any loan made will be secured by the proceeds of the life insurance policy.

Funds would be made available from a sum-sufficient GPR appropriation under DOA for state employees. For surviving spouses of political subdivision employees, loans would be funded from the total amounts made available for shared revenue payments. Repayment of loans would be deposited into the general fund.

The bill specifies that provisions would be effective for insurance premiums made after the effective date of the bill, but would retroactively include the unremarried spouses and dependant children of law enforcement officers who were killed in the line of duty.

ASSEMBLY AMENDMENT 1 TO SSA1 TO SB 18

Assembly Amendment 1 to SSA 1 to SB 18 does the following:

- Specifies that the unremarried spouses and dependant children of state-employed firefighters would also be eligible for both continued health insurance and the loan program.

- Defines firefighters, for the purpose of state employment, as any individual employed by the state, including forest rangers, foresters, and pilots, whose principal duties include fire fighting or forest fire control.

Under AA 1, surviving spouses and dependants of state firefighters killed in the line of duty would be eligible for the payment of health insurance premiums.

In 2011 Wisconsin Act 32, the Legislature made a number of modifications to the state statutes authorizing the county and municipal aid program, including some changes that do not take effect until 2012. As described above, SSA 1 would create a mechanism utilizing the county and municipal aid program to reimburse local governments for the cost of health insurance and loan payments covered under the bill. However, SSA 1 would amend obsolete provisions in the state statutes authorizing the county and municipal aid program. Assembly Amendment 1 would amend SSA 1 to reflect the modifications to the county and municipal aid statutes included in Act 32.

FISCAL EFFECT

The number of state and local employees that would be subject to the bill's provisions could be approximated by counting the number of individuals who are *protective occupation participants*. These individuals include any participant whose principal duties are determined by their employer to involve law enforcement or active fire suppression or prevention, provided the duties require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Based on this definition, 8,756 state employees and 14,115 local employees within the state retirement system and 3,319 in the city and county of Milwaukee retirement system are classified as protective occupation participants.

Currently, most state employees pay a portion of the cost of providing health insurance. For most employees with families the contribution rates for 2012 will vary between $78 to $412 per month for state patrol officers, and $201 to $548 for most other state employees, depending on whether the employee chooses a Tier 1, 2, or 3 health plan. The state would pay the remainder of the health insurance premium. Since, under the bill, the entire premium would be paid by the state, it could be assumed that eligible individuals would choose the plan that allows them the most options and have the broadest coverage. Under current options, this would be the Standard Plan for the state offered insurance. The total annual cost for the Standard Plan is $13,800 for an individual and $34,400 for a family. However, under provisions of SB 18, it is possible that the individual could choose a private plan. It would be the responsibility of DOA to determine whether the use of and the costs related to a private insurer would be appropriate. In addition, it should be noted that the surviving spouse and dependant children would be responsible for any copayments that were required under the specific plans.

Based on information provided by the Bureau of State Risk Management in DOA there has been approximately one incident every six years since 1980 in which a state-employed law enforcement officer or firefighter has been killed in the line of duty. The primary state fiscal effect of the bill would relate to the requirement that the state must pay the full cost of health insurance coverage for eligible surviving spouses and dependants of state law enforcement and fire fighting personnel killed in the line of duty. Under the bill, a surviving spouse or eligible dependant children of a law enforcement officer or fire fighter killed in the line of duty at any time prior to the effective date of the bill could qualify for the state payment of health insurance coverage. The state payment of health insurance costs would be made until the spouse remarries or reaches the age of 65, whichever occurs first. Dependant children could be covered up to the age limitations specified in current law (described above). Due to these limitations, spouses or dependant children of officers and firefighters killed many years ago are less likely to qualify for the health insurance payments.

The annual costs, under the bill, would depend on the number of qualifying spouses being covered, whether single or family coverage is required, and the plan selected by the spouse. According to memorial websites for police and fire personnel killed in the line of duty, there have been 41 law enforcement officers and 39 fire fighters killed in the line of duty in Wisconsin since 1990. Of these, four law enforcement officers and one fire fighter were employed by the state. It is not known if these fallen personnel were married, if surviving spouses have remarried or not, or if single or family coverage would be needed for qualifying spouses. However, it appears that, if enacted, the bill would likely require the state to cover the health insurance costs of a small number of families. Occasionally, a new spouse or family would be added for health insurance payments, while other spouses and dependants participating in the program would eventually cease to be eligible for payments.

The number of qualifying spouses cannot be specified at this time; however, if six family coverage plans are assumed at the 2012 Standard Plan rate, the annual cost would total $206,400 GPR.

The current law provision for firefighters covered at the local level specifies that political subdivisions that offer health insurance for their employees must continue to provide that insurance to the surviving spouse and dependant children of a firefighter who died in the line of duty. This same language would apply to law enforcement personnel under the bill. Therefore, the amounts expended by local units of government would be limited by the cost of the plans offered.

Relative to local government firefighter and law enforcement employees killed in the line of duty, the state would make payments to municipalities and counties as reimbursement for their payments for surviving spouses and dependant children. In addition, the state would reduce payments under the county and municipal aid program by a corresponding amount. Therefore, the state would experience no net change in GPR expenditures. In effect, the health insurance costs of those local political subdivisions affected by the provisions would be borne by all municipalities and counties through a reduction in overall state aids.

For municipalities and counties, SSA 1 would impose additional costs on some local governments, would increase revenues for some local governments, and would decrease revenues for all local governments. Those municipalities and counties required to extend health insurance benefits to surviving spouses and children of fallen law enforcement officers would experience expenditure increases and an offsetting revenue increase (in the form of a state reimbursement payment) estimated at $750,000 annually. Those municipalities and counties extending health insurance benefits to surviving spouses and children of fallen firefighters under current law provisions would experience a revenue increase estimated at $750,000 annually in the form of state reimbursement payments. Each of the state's 1,851 municipalities and 72 counties would collectively experience a revenue reduction estimated at $1.5 million annually in the form of lower county and municipal aid payments.

The bill's provision to establish a loan program for surviving spouses and dependant children of state and local law enforcement and fire fighting personnel killed in the line of duty would have no fiscal effect because the loans would be secured by the proceeds of any life insurance policy that covered the deceased spouse and would be repaid from such proceeds.

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