



2005 ASSEMBLY BILL 1032

February 20, 2006 - Introduced by Representatives TOLES, COLON, WASSERMAN, WOOD, RICHARDS, A WILLIAMS, GRIGSBY, FIELDS, PARISI, BERCEAU and JESKEWITZ, cosponsored by Senators GROTHMAN, COGGS and TAYLOR. Referred to Committee on Corrections and the Courts.

1 **AN ACT** *to renumber and amend* 62.50 (18); *to amend* 62.50 (14) and 62.50
2 (16); and *to create* 62.50 (18) (b) of the statutes; **relating to:** payment and
3 repayment of a 1st class city police officer's pay and benefits after suspension
4 or discharge.

Analysis by the Legislative Reference Bureau

Under current law, no member of the police force of a first class city (presently only Milwaukee) may be suspended or discharged without pay or benefits until the matter that is the subject of the suspension or discharge is disposed of by the Board of Fire and Police Commissioners (board) or the time for an appeal passes without an appeal being made. Currently, no member of a police force of a second, third, or fourth class city may be deprived of compensation while suspended, pending disposition of the charges.

Also under current law, if the board's decision upholding the discharge or suspension is reversed, the member must be reinstated to his or her former position in the department and is entitled to pay as if he or she was not suspended or discharged. Similar provisions apply to a second, third, or fourth class city police officer whose suspension or removal is reversed.

Under this bill, if a member of either the police or fire departments of a first class city is discharged, the member is not entitled to any salary, wages, or benefits from either department pending his or her appeal to the board if criminal charges, which arose out of the same conduct or incident that led to the discharge, are pending against the member. Also under the bill, if the charges against a police officer are

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sustained, including the officer's appeal, the officer is required to reimburse the city for any salary, pay, wages, or benefits he or she received, as a police officer, from the time that the charges were filed until the suspension or dismissal becomes final.

Currently, if the board receives a notice of appeal, it must schedule a trial within five and 15 days after service of the notice and copy of the complaint. This bill changes the time frame for scheduling a trial to between 30 and 60 days.

Currently, both the accused and the chief of a department have the right to request up to a 15-day adjournment of the trial or investigation of the charges. The bill repeals this provision.

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

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

1 **SECTION 1.** 62.50 (14) of the statutes is amended to read:

2 **62.50 (14) COMPLAINT.** The board, after receiving the notice of appeal shall,
3 within 5 days, serve the appellant with a copy of the complaint and a notice fixing
4 the time and place of trial, which time of trial may not be less than 5 30 days nor more
5 than 15 60 days after service of the notice and a copy of the complaint.

6 **SECTION 2.** 62.50 (16) of the statutes is amended to read:

7 **62.50 (16) TRIAL, ADJOURNMENT.** ~~The accused and the chief shall have the right~~
8 ~~to an adjournment of the trial or investigation of the charges, not to exceed 15 days.~~
9 In the course of any trial or investigation under this section each member of the fire
10 and police commission may administer oaths, secure by its subpoenas both the
11 attendance of witnesses and the production of records relevant to the trial and
12 investigation, and compel witnesses to answer and may punish for contempt in the
13 same manner provided by law in trials before municipal judges for failure to answer
14 or to produce records necessary for the trial. The trial shall be public and all
15 witnesses shall be under oath. The accused shall have full opportunity to be heard
16 in defense and shall be entitled to secure the attendance of all witnesses necessary

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1 for the defense at the expense of the city. The accused may appear in person and by
2 attorney. The city in which the department is located may be represented by the city
3 attorney. All evidence shall be taken by a stenographic reporter who first shall be
4 sworn to perform the duties of a stenographic reporter in taking evidence in the
5 matter fully and fairly to the best of his or her ability.

6 **SECTION 3.** 62.50 (18) of the statutes is renumbered 62.50 (18) (a) and amended
7 to read:

8 62.50 (18) (a) No chief officer of either department or member of the fire
9 department may be deprived of any salary ~~or, pay, wages, or benefits~~ for the period
10 of time suspended preceding an investigation or trial, unless the charge is sustained.
11 ~~No~~ Except as provided in par. (b), no member of the police force may be suspended
12 or discharged under sub. (11) or (13) without salary, pay, wages, or benefits until the
13 matter that is the subject of the suspension or discharge is disposed of by the board
14 or the time for appeal under sub. (13) passes without an appeal being made. If the
15 charges against a member of the police force are sustained, including the member's
16 appeal, the member shall reimburse the city for all salary, pay, wages, or benefits he
17 or she received as a member of the police force from the time that he or or she was
18 charged until the date that his or her suspension or discharge is final.

19 **SECTION 4.** 62.50 (18) (b) of the statutes is created to read:

20 62.50 (18) (b) Following a discharge under sub. (11) or (13), no member of either
21 department is entitled to any salary, pay, wages, or benefits from either department
22 pending an appeal of the discharge to the board of fire and police commissioners if
23 criminal charges are also pending against the member and such charges arose out
24 of the same conduct or incident that serves as the basis for the discharge.

25 **SECTION 5. Initial applicability.**

