2005 ASSEMBLY BILL 857


AN ACT to amend 111.70 (4) (cm) 6. am., 111.70 (4) (cm) 6. b. and 111.70 (4) (cm) 7. of the statutes; relating to: final offer limits under the Municipal Employment Relations Act.

Analysis by the Legislative Reference Bureau

The Municipal Employment Relations Act does not limit collective bargaining agreements to any specific maximum expenditures or increases in expenditures. This bill prohibits any final offer that is submitted to the Wisconsin Employment Relations Commission for interest arbitration from requiring the expenditure for compensation and fringe benefits per employee to be more than the amount spent under the previous agreement increased by the allowable percentage increase in expenditures or revenue if the employer is subject to limitations on expenditures or revenue under state law.

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:

SECTION 1. 111.70 (4) (cm) 6. am. of the statutes is amended to read:

111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the commission shall make an investigation, with or without a formal hearing, to
determine whether arbitration should be commenced. If in determining whether an
impasse exists the commission finds that the procedures set forth in this paragraph
have not been complied with and such compliance would tend to result in a
settlement, it may order such compliance before ordering arbitration. The validity
of any arbitration award or collective bargaining agreement shall not be affected by
failure to comply with such procedures. Prior to the close of the investigation each
party shall submit in writing to the commission its single final offer containing its
final proposals on all issues in dispute that are subject to interest arbitration under
this subdivision or under subd. 5s. in collective bargaining units to which subd. 5s.
applies. If, under state law, the municipal employer is subject to limitations on
expenditures or revenue, a final offer may not require the expenditure for
compensation and fringe benefits per employee to be more than the amount spent
under the previously negotiated contract for compensation and fringe benefits per
employee increased by the allowable percentage increase in expenditures or revenue
between the last year of the previously negotiated contract and the first year of the
contract that is being negotiated. If the commission determines that a final offer
requires greater expenditure, the commission shall return the offer to the party and
the party shall revise it before submitting it again. If a party fails to submit a single,
ultimate final offer, the commission shall close the investigation based on the last
written position of the party. If the last written position requires greater expenditure
than permitted under this subd. 6. am., the party is considered to have not submitted
an offer. The municipal employer may not submit a qualified economic offer under
subd. 5s. after the close of the investigation. Such final offers may include only
mandatory subjects of bargaining, except that a permissive subject of bargaining
may be included by a party if the other party does not object and shall then be treated
as a mandatory subject. No later than such time, the parties shall also submit to the
commission a stipulation, in writing, with respect to all matters which are agreed
upon for inclusion in the new or amended collective bargaining agreement. The
commission, after receiving a report from its investigator and determining that
arbitration should be commenced, shall issue an order requiring arbitration and
immediately submit to the parties a list of 7 arbitrators. Upon receipt of such list,
the parties shall alternately strike names until a single name is left, who shall be
appointed as arbitrator. The petitioning party shall notify the commission in writing
of the identity of the arbitrator selected. Upon receipt of such notice, the commission
shall formally appoint the arbitrator and submit to him or her the final offers of the
parties. The final offers shall be considered public documents and shall be available
from the commission. In lieu of a single arbitrator and upon request of both parties,
the commission shall appoint a tripartite arbitration panel consisting of one member
selected by each of the parties and a neutral person designated by the commission
who shall serve as a chairperson. An arbitration panel has the same powers and
duties as provided in this section for any other appointed arbitrator, and all
arbitration decisions by such panel shall be determined by majority vote. In lieu of
selection of the arbitrator by the parties and upon request of both parties, the
commission shall establish a procedure for randomly selecting names of arbitrators.
Under the procedure, the commission shall submit a list of 7 arbitrators to the
parties. Each party shall strike one name from the list. From the remaining 5
names, the commission shall randomly appoint an arbitrator. Unless both parties
to an arbitration proceeding otherwise agree in writing, every individual whose
name is submitted by the commission for appointment as an arbitrator shall be a
resident of this state at the time of submission and every individual who is
designated as an arbitration panel chairperson shall be a resident of this state at the
time of designation.

**SECTION 2.** 111.70 (4) (cm) 6. b. of the statutes is amended to read:

111.70 (4) (cm) 6. b. The arbitrator shall, within 10 days of his or her
appointment, establish a date and place for the conduct of the arbitration hearing.
Upon petition of at least 5 citizens of the jurisdiction served by the municipal
employer, filed within 10 days after the date on which the arbitrator is appointed, the
arbitrator shall hold a public hearing in the jurisdiction for the purpose of providing
the opportunity to both parties to explain or present supporting arguments for their
positions and to members of the public to offer their comments and suggestions. The
final offers of the parties, as transmitted by the commission to the arbitrator, shall
serve as the basis for continued negotiations, if any, between the parties with respect
to the issues in dispute. At any time prior to the arbitration hearing, either party,
with the consent of the other party, and subject to the expenditure limit in subd. 6.
am., may modify its final offer in writing.

**SECTION 3.** 111.70 (4) (cm) 7. of the statutes is amended to read:

111.70 (4) (cm) 7. ‘Factor Factors given greatest weight.’ In making any
decision under the arbitration procedures authorized by this paragraph, the
arbitrator or arbitration panel shall consider and shall give the greatest weight to
the expenditure limit in subd. 6. am. and any state law or directive lawfully issued
by a state legislative or administrative officer, body or agency which places
limitations on expenditures that may be made or revenues that may be collected by
a municipal employer. The arbitrator or arbitration panel shall give an accounting
of the consideration of this factor these factors in the arbitrator’s or panel’s decision.

**SECTION 4.** Initial applicability.
(1) The treatment of section 111.70 (4) (cm) 6. am. of the statutes first applies to petitions for arbitration that relate to collective bargaining agreements that cover periods beginning on or after July 1, 2006, and that are filed under section 111.70 (4) (cm) 6. of the statutes, as affected by this act, on the effective date of this subsection.

(END)