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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2005-06

(session year)

### Senate

(Assembly, Senate or Joint)

## Committee on Labor and Election Process Reform...

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

## Senate

### Record of Committee Proceedings

#### **Committee on Labor and Election Process Reform**

##### **Assembly Bill 268**

Relating to: mandatory and permissive subjects of collective bargaining under the Municipal Employment Relations Act.

By Representatives Gottlieb, Nass, Hundertmark, Albers, Ballweg, Bies, Gard, Gielow, Hahn, Honadel, Jensen, Jeskewitz, Kerkman, LeMahieu, Lothian, Meyer, Mursau, Musser, Nischke, Ott, Owens, Pridemore, Strachota, Stone, Towns, Van Roy, Vos, Vrakas, Wieckert, Wood and Ainsworth; cosponsored by Senators Brown, Darling, Kanavas and Lazich.

February 03, 2006      Referred to Committee on Labor and Election Process Reform.

March 1, 2006          **PUBLIC HEARING HELD**

Present:    (4)      Senators Reynolds, Lazich, Hansen and Carpenter.  
Absent:    (1)      Senator Kanavas.

##### Appearances For

- Denise Solie — Office of Rep. Mark Gottlieb
- Sheri Krause — WI Assn of School Boards
- Ed Huck, Madison — WI Alliance of Cities

##### Appearances Against

- Bob Chybowski, Madison — AFSME Council 40
- John Grabel, Madison — AFSCME
- Don Garner-Gerhardt, Wausau — Wisconsin Teamsters-Joint Council 39

##### Appearances for Information Only

- None.

##### Registrations For

- Alberta Darling — Senator
- Jeff Schoepke — WMC
- Ron Brown — Senator, 31st Senate District
- Mark Wadium, Appleton — Outagamie County
- Joseph Murray, Greendale — Village of Greendale
- Curt Witynski, Madison — League of WI Municipalities
- Anthony Fiori, Lemont — Teamsters

##### Registrations Against

- Susan McMurray — AFSCME

- Shirley Haidinger, Madison
- Joanne Ricca, Milwaukee — WI State AFL-CIO
- Deb Sybell — WEAC

March 1, 2006

EXECUTIVE SESSION - POLLING

Moved by Senator Reynolds, seconded by Senator Lazich that **Assembly Bill 268** be recommended for concurrence.

Ayes: (3) Senators Reynolds, Lazich and Kanavas.

Noes: (2) Senators Hansen and Carpenter.

CONCURRENCE RECOMMENDED, Ayes 3, Noes 2

Patrick Henneger  
Committee Clerk

SENATE COMMITTEE ON LABOR AND ELECTION PROCESS  
REFORM

Paper Ballot: Senator Carpenter

Please return your vote via ballot to Senator Reynolds' office (306 South) by 10:00 a.m., Thursday, March 2<sup>nd</sup>, 2006.

Any questions on the attached amendments can be directed to Russ Whitesel, Legislative Council for the committee. His direct line is 6-0922.

Thank you.

MOTION

Recommend confirmation of **Sue Bauman** of Madison, as a member of the Wisconsin Employment Relations Commission, to serve for the term ending March 1, 2011.

Aye ✓                      Nay \_\_\_\_\_

MOTION

Recommend confirmation of **Kathryn Daley** of Green Bay, as a member of the Auctioneer Board, to serve for the term ending May 1, 2007.

Aye ✓                      Nay \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Bill 268** relating to mandatory and permissive subjects of collective bargaining under the Municipal Employment Relations Act.

Aye \_\_\_\_\_                      Nay ✓

MOTION

Recommend concurrence of **Assembly Bill 736** relating to drug and alcohol testing of employees who are required to be paid the prevailing wage rate for work performed on projects of public works, other than state highway projects, and providing a penalty..

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Bill 857** relating to final offer limits under the Municipal Employment Relations Act.

Aye \_\_\_\_\_ Nay  \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Joint Resolution 36** relating to requiring a photographic identification to vote, or register to vote, at the polls on election day (first consideration).

Aye \_\_\_\_\_ Nay  \_\_\_\_\_

MOTION

Recommend introduction and adoption of LRB a2564/1 (copy attached) to **Senate Bill 564** relating to the number of ballots authorized to be printed at an election.

Aye \_\_\_\_\_ Nay  \_\_\_\_\_

MOTION (Answer both alternatives)

Recommend **Senate Bill 564** for passage as amended (if amendment passes)

Aye \_\_\_\_\_ Nay ✓

Recommend **Senate Bill 564** for passage (if amendment fails)

Aye \_\_\_\_\_ Nay ✓

MOTION

Recommend adoption of **Senate Amendment 1** (attached) to **Senate Bill 612** relating to administration of elections; providing exemptions from and extending the time limit for emergency rule procedures; granting rule-making authority; and providing penalties.

Aye ✓ Nay \_\_\_\_\_

MOTION

Recommend introduction and adoption of LRB a2489/1 (copy attached) to **Senate Bill 612**

Aye \_\_\_\_\_ Nay ✓ ← *Changed to Aye per the Senator's request*  
*3-6-06*

MOTION (Answer all alternatives)

Recommend **Senate Bill 612** for passage as amended (if both SA 1 and LRB a2489 pass)

Aye \_\_\_\_\_ Nay ✓

Recommend **Senate Bill 612** for passage as amended (if SA 1 passes but LRB a2489 fails)

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

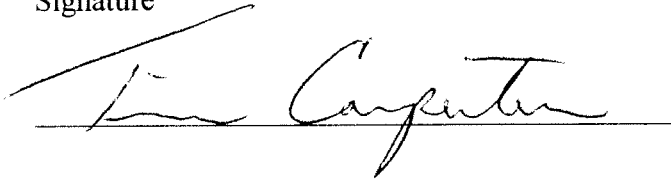
Recommend **Senate Bill 612** for passage as amended (if LRB a2489 passes but SA 1 fails)

Aye \_\_\_\_\_ Nay  \_\_\_\_\_

Recommend **Senate Bill 612** for passage (if both SA1 and LRB a2489 fail)

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

Signature

  
\_\_\_\_\_

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SENATE COMMITTEE ON LABOR AND ELECTION PROCESS  
REFORM

Paper Ballot: Senator Hansen

Please return your vote via ballot to Senator Reynolds' office (306 South) by 10:00 a.m., Thursday, March 2<sup>nd</sup>, 2006.

Any questions on the attached amendments can be directed to Russ Whitesel, Legislative Council for the committee. His direct line is 6-0922.

Thank you.

MOTION

Recommend confirmation of **Sue Bauman** of Madison, as a member of the Wisconsin Employment Relations Commission, to serve for the term ending March 1, 2011.

Aye   X              Nay \_\_\_\_\_

MOTION

Recommend confirmation of **Kathryn Daley** of Green Bay, as a member of the Auctioneer Board, to serve for the term ending May 1, 2007.

Aye   X              Nay \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Bill 268** relating to mandatory and permissive subjects of collective bargaining under the Municipal Employment Relations Act.

Aye \_\_\_\_\_            Nay   X

MOTION

Recommend concurrence of **Assembly Bill 736** relating to drug and alcohol testing of employees who are required to be paid the prevailing wage rate for work performed on projects of public works, other than state highway projects, and providing a penalty..

Aye X                      Nay \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Bill 857** relating to final offer limits under the Municipal Employment Relations Act.

Aye \_\_\_\_\_                      Nay X

MOTION

Recommend concurrence of **Assembly Joint Resolution 36** relating to requiring a photographic identification to vote, or register to vote, at the polls on election day (first consideration).

Aye \_\_\_\_\_                      Nay X

MOTION

Recommend introduction and adoption of LRB a2564/1 (copy attached) to **Senate Bill 564** relating to the number of ballots authorized to be printed at an election.

Aye X                      Nay \_\_\_\_\_

MOTION (Answer both alternatives)

Recommend **Senate Bill 564** for passage as amended (if amendment passes)

Aye \_\_\_\_\_ Nay X

Recommend **Senate Bill 564** for passage (if amendment fails)

Aye \_\_\_\_\_ Nay X

MOTION

Recommend adoption of **Senate Amendment 1** (attached) to **Senate Bill 612** relating to administration of elections; providing exemptions from and extending the time limit for emergency rule procedures; granting rule-making authority; and providing penalties.

Aye X \_\_\_\_\_ Nay \_\_\_\_\_

MOTION

Recommend introduction and adoption of LRB a2489/1 (copy attached) to **Senate Bill 612**

Aye \_\_\_\_\_ Nay X

MOTION (Answer all alternatives)

Recommend **Senate Bill 612** for passage as amended (if both SA 1 and LRB a2489 pass)

Aye X \_\_\_\_\_ Nay \_\_\_\_\_

Recommend **Senate Bill 612** for passage as amended (if SA 1 passes but LRB a2489 fails)

Aye   X        Nay           

Recommend **Senate Bill 612** for passage as amended (if LRB a2489 passes but SA 1 fails)

Aye   X        Nay           

Recommend **Senate Bill 612** for passage (if both SA1 and LRB a2489 fail)

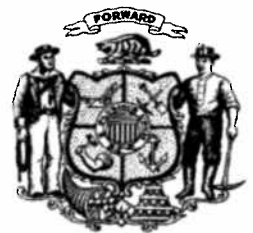
Aye   X        Nay           

Signature  
  Dave Hansen  

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# WISCONSIN STATE LEGISLATURE



SENATE COMMITTEE ON LABOR AND ELECTION PROCESS  
REFORM

Paper Ballot: Senator Kanavas

Please return your vote via ballot to Senator Reynolds' office (306 South) by 10:00 a.m., Thursday, March 2<sup>nd</sup>, 2006.

Any questions on the attached amendments can be directed to Russ Whitesel, Legislative Council for the committee. His direct line is 6-0922.

Thank you.

MOTION

Recommend confirmation of **Sue Bauman** of Madison, as a member of the Wisconsin Employment Relations Commission, to serve for the term ending March 1, 2011.

Aye ✓                      Nay \_\_\_\_\_

MOTION

Recommend confirmation of **Kathryn Daley** of Green Bay, as a member of the Auctioneer Board, to serve for the term ending May 1, 2007.

Aye ✓                      Nay \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Bill 268** relating to mandatory and permissive subjects of collective bargaining under the Municipal Employment Relations Act.

Aye ✓                      Nay \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Bill 736** relating to drug and alcohol testing of employees who are required to be paid the prevailing wage rate for work performed on projects of public works, other than state highway projects, and providing a penalty..

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Bill 857** relating to final offer limits under the Municipal Employment Relations Act.

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Joint Resolution 36** relating to requiring a photographic identification to vote, or register to vote, at the polls on election day (first consideration).

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

MOTION

Recommend introduction and adoption of LRB a2564/1 (copy attached) to **Senate Bill 564** relating to the number of ballots authorized to be printed at an election.

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

MOTION (Answer both alternatives)

Recommend **Senate Bill 564** for passage as amended (if amendment passes)

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

Recommend **Senate Bill 564** for passage (if amendment fails)

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

MOTION

Recommend adoption of **Senate Amendment 1** (attached) to **Senate Bill 612** relating to administration of elections; providing exemptions from and extending the time limit for emergency rule procedures; granting rule-making authority; and providing penalties.

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

MOTION

Recommend introduction and adoption of LRB a2489/1 (copy attached) to **Senate Bill 612**

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

MOTION (Answer all alternatives)

Recommend **Senate Bill 612** for passage as amended (if both SA 1 and LRB a2489 pass)

Aye  \_\_\_\_\_ Nay \_\_\_\_\_



Recommend **Senate Bill 612** for passage as amended (if SA 1 passes but LRB a2489 fails)

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

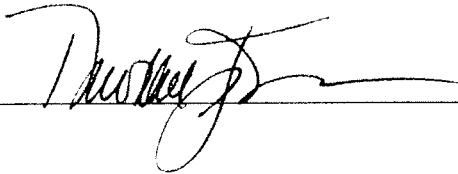
Recommend **Senate Bill 612** for passage as amended (if LRB a2489 passes but SA 1 fails)

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

Recommend **Senate Bill 612** for passage (if both SA1 and LRB a2489 fail)

Aye \_\_\_\_\_ Nay  \_\_\_\_\_

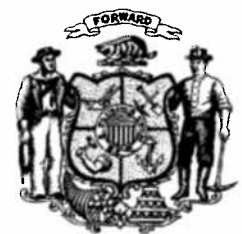
Signature

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# WISCONSIN STATE LEGISLATURE



SENATE COMMITTEE ON LABOR AND ELECTION PROCESS  
REFORM

Paper Ballot: Senator Lazich

Please return your vote via ballot to Senator Reynolds' office (306 South) by 10:00 a.m., Thursday, March 2<sup>nd</sup>, 2006.

Any questions on the attached amendments can be directed to Russ Whitesel, Legislative Council for the committee. His direct line is 6-0922.

Thank you.

MOTION

Recommend confirmation of **Sue Bauman** of Madison, as a member of the Wisconsin Employment Relations Commission, to serve for the term ending March 1, 2011.

Aye   X              Nay \_\_\_\_\_

MOTION

Recommend confirmation of **Kathryn Daley** of Green Bay, as a member of the Auctioneer Board, to serve for the term ending May 1, 2007.

Aye   X              Nay \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Bill 268** relating to mandatory and permissive subjects of collective bargaining under the Municipal Employment Relations Act.

Aye   X              Nay \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Bill 736** relating to drug and alcohol testing of employees who are required to be paid the prevailing wage rate for work performed on projects of public works, other than state highway projects, and providing a penalty..

Aye   X              Nay \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Bill 857** relating to final offer limits under the Municipal Employment Relations Act.

Aye   X              Nay \_\_\_\_\_

MOTION

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Aye   X              Nay \_\_\_\_\_

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MOTION (Answer both alternatives)

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Aye   X              Nay \_\_\_\_\_

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Aye   X              Nay \_\_\_\_\_

MOTION

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Aye   X              Nay \_\_\_\_\_

MOTION

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Aye   X              Nay \_\_\_\_\_

MOTION (Answer all alternatives)

Recommend **Senate Bill 612** for passage as amended (if both SA 1 and LRB a2489 pass)

Aye   X              Nay \_\_\_\_\_

Recommend **Senate Bill 612** for passage as amended (if SA 1 passes but LRB a2489 fails)

Aye   X        Nay       

Recommend **Senate Bill 612** for passage as amended (if LRB a2489 passes but SA 1 fails)

Aye   X        Nay       

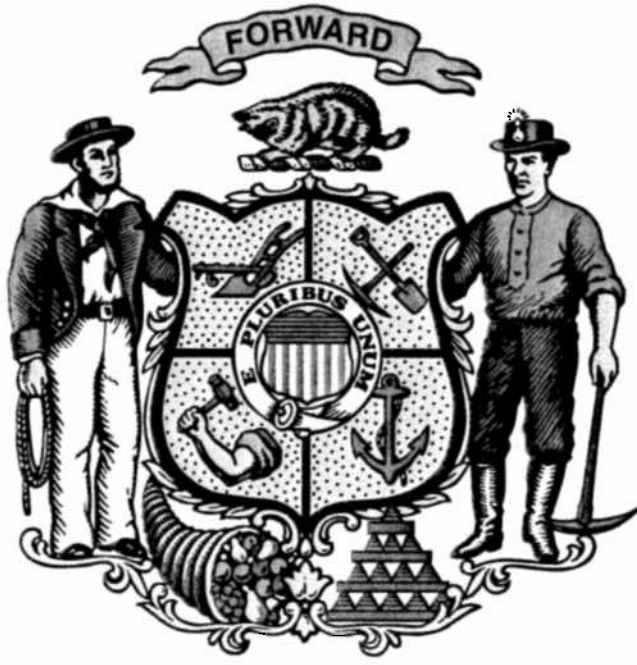
Recommend **Senate Bill 612** for passage (if both SA1 and LRB a2489 fail)

Aye   X        Nay       

Signature

  Mary H. Hays  

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SENATE COMMITTEE ON LABOR AND ELECTION PROCESS  
REFORM

Paper Ballot: Senator Reynolds

Please return your vote via ballot to Senator Reynolds' office (306 South) by 10:00 a.m., Thursday, March 2<sup>nd</sup>, 2006.

Any questions on the attached amendments can be directed to Russ Whitesel, Legislative Council for the committee. His direct line is 6-0922.

Thank you.

MOTION

Recommend confirmation of **Sue Bauman** of Madison, as a member of the Wisconsin Employment Relations Commission, to serve for the term ending March 1, 2011.

Aye                   Nay \_\_\_\_\_

MOTION

Recommend confirmation of **Kathryn Daley** of Green Bay, as a member of the Auctioneer Board, to serve for the term ending May 1, 2007.

Aye                   Nay \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Bill 268** relating to mandatory and permissive subjects of collective bargaining under the Municipal Employment Relations Act.

Aye                   Nay \_\_\_\_\_



MOTION

Recommend concurrence of **Assembly Bill 736** relating to drug and alcohol testing of employees who are required to be paid the prevailing wage rate for work performed on projects of public works, other than state highway projects, and providing a penalty..

Aye ~~\_\_\_\_\_~~      Nay \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Bill 857** relating to final offer limits under the Municipal Employment Relations Act.

Aye ~~\_\_\_\_\_~~      Nay \_\_\_\_\_

MOTION

Recommend concurrence of **Assembly Joint Resolution 36** relating to requiring a photographic identification to vote, or register to vote, at the polls on election day (first consideration).

Aye ~~\_\_\_\_\_~~      Nay \_\_\_\_\_

MOTION

Recommend introduction and adoption of LRB a2564/1 (copy attached) to **Senate Bill 564** relating to the number of ballots authorized to be printed at an election.

Aye ~~\_\_\_\_\_~~      Nay \_\_\_\_\_

MOTION (Answer both alternatives)

Recommend **Senate Bill 564** for passage as amended (if amendment passes)

Aye       Nay \_\_\_\_\_

Recommend **Senate Bill 564** for passage (if amendment fails)

Aye \_\_\_\_\_      Nay \_\_\_\_\_

MOTION

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Aye       Nay \_\_\_\_\_

MOTION

Recommend introduction and adoption of LRB a2489/1 (copy attached) to **Senate Bill 612**

Aye       Nay \_\_\_\_\_

MOTION (Answer all alternatives)

Recommend **Senate Bill 612** for passage as amended (if both SA 1 and LRB a2489 pass)

Aye       Nay \_\_\_\_\_

Recommend **Senate Bill 612** for passage as amended (if SA 1 passes but LRB a2489 fails)

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

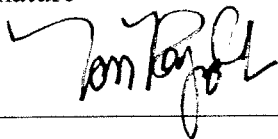
Recommend **Senate Bill 612** for passage as amended (if LRB a2489 passes but SA 1 fails)

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

Recommend **Senate Bill 612** for passage (if both SA1 and LRB a2489 fail)

Aye  \_\_\_\_\_ Nay \_\_\_\_\_

Signature

  
\_\_\_\_\_

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**Testimony on AB 268**  
**Senate Committee on Labor and Election Process Reform**  
**February 15, 2006**

Chairman Reynolds and committee members, thank you for holding a public hearing today on Assembly Bill (AB) 268, modifying the Municipal Employment Relations Act (MERA). I apologize that I am unable to join you at the public hearing today, but wanted to share my support for this legislation.

Assembly Bill 268 is before you today because current law makes it difficult for local officials to provide the services taxpayers want in the most effective manner possible. They simply don't have the tools they need to control their costs, in part because current law requires them to negotiate any type of alternative methods of service delivery. This ties their hands and effectively prevents consideration of alternatives.

Last session, Representative Gottlieb and I sponsored legislation putting the discretion for services where it belongs – in the hands of the elected officials who answer to taxpayers. However, this proposal was vetoed, and local governments are still locked into a system where their hands are tied when it comes to considering alternative services. Given the new challenges of a property tax freeze, we must continue to look for ways to reform our current system

That's why I was pleased to join Rep. Gottlieb in sponsoring AB 268. AB 268 establishes a process under which contracting may become a permissive subject of bargaining in situations where the cost savings are significant. Specifically, the bill:

- Requires municipalities to notify employees that it intends to solicit bids.
- Requires municipalities to conduct an internal study to determine the total cost of a given service provided by municipal employees, called the *current internal cost*.
- Requires municipalities to calculate the *labor cost ratio* by determining the percentage of those costs attributable to employee wages and benefits.
- Allows municipalities to solicit *preliminary external bids* to perform the service.
- Within 30 days of receiving these bids the employer must select the bid it considers most advantageous. The cost of this bid plus the municipal employer's cost to administer the contract are called the *selected external cost*.
- The *selected external cost* is then subtracted from 90% of the *current internal cost* and the result is multiplied by the *labor cost ratio*. The product is the *required labor savings*.
  - If the *required labor savings* are zero or less than zero, the municipality must collectively bargain the decision to contract for services.

- If the *required labor savings* are an amount greater than zero, the employer is not required to bargain a decision to contract for services unless the bargaining unit agrees to participate in nonbinding arbitration.
- In nonbinding arbitration, each party must submit a proposal to reduce the *current internal cost* by an amount that equals or exceeds the *required labor savings*.
  - Arbitrators may select items from either proposal to reduce the *current internal cost* by an amount that equals or exceeds the *required labor savings*.
    - If the arbitrator's proposal is rejected by labor, the employer is not required to bargain its decision to contract.
    - If the arbitrator's proposal is rejected by the local government, it must collectively bargain a decision to contract for services.
    - If neither party objects to the arbitrator's proposal, it becomes final and binding and must be incorporated into the labor agreement.
      - If incorporated into the contract, the employer may not bid out for the covered services for at least three years.

Taxpayers reward public employees' performance to the extent they are able to do so, but budgets are tight and taxpayers are concerned that costs are rising faster than their ability to pay for them. AB 268 provides a mechanism to give taxpayers the most effective service delivery possible. Public employees who provide efficient and effective services are recognized and rewarded through the system established under the bill.

I encourage you to support AB 268, which creates a new mechanism for maintaining fair treatment of local employees while providing the best value for the dollar for Wisconsin taxpayers.





# AFSCME®

WISCONSIN OFFICE • 8033 Excelsior Drive, Suite A • Madison, Wisconsin 53717-1903 • Telephone 608/836-6666

To: Members of the Senate Labor and Election Process Reform Committee  
From: John Grabel  
Re: AFSCME Testimony in Opposition to AB 268  
Date: February 16, 2006

Chairman Reynolds, members of the committee, thank you for the opportunity to speak before you today. My name is John Grabel, I am one of two lobbyists for AFSCME Council 11. Council 11 works on behalf of the three AFSCME Council's in Wisconsin. They are Council 24, which represents state employees, Council 48, representing county and municipal employees in Milwaukee County, and Council 40 representing county and municipal employees in the remaining 71 counties throughout Wisconsin.

**AFSCME urges all members of the Senate Labor and Election Process Reform Committee to oppose AB 268.** AB 268 makes significant changes to Wisconsin's Municipal Employment Relations Act (MERA) undermining a law that has been instrumental in keeping labor peace in Wisconsin for nearly three decades.

Since 1978 Wisconsin has enjoyed labor peace between public employees and local governments. In the eight years prior to interest arbitration becoming law there were 110 work stoppages related to unresolved disputes between labor and local governments. Since passage of interest arbitration there has not been one instance of local public service interruption due to contract negotiations in Wisconsin. In exchange for a prohibition on strikes, public employees and local governments were provided a fair and equitable system for resolving labor disputes, which over time, has proven to be a better and less costly process to local governments and taxpayers.

Over the past 27 years, 1,029 different contracts have gone to interest arbitration. Of those contracts the arbitrator has ruled in favor of the local government 544 times, or 53% of the cases. Since 1995, when the legislature passed into law the greatest weight factor, local governments have been awarded 59% of the 258 cases that have gone before interest arbitration.

These numbers demonstrate that claims about the strain interest arbitration places on local governments are unfounded. The interest arbitration process takes all factors into consideration before rendering a decision, including limits on local government's ability to raise revenue or the cost of contracting out versus providing services with public employees, among many others. There is no demonstrable need for changes in a law that has proven to be effective in keeping labor peace, continues to provide quality public services and protects taxpayer interests.

AB 268 creates an unnecessary imbalance towards the employer in the interest arbitration process. By providing the employer with the ability to contract out for public services without a requirement that these decisions be collectively bargained, employers will be encouraged to privatize services for a short term gain at the expense of long term stability and cost effectiveness.

***in the public service***

American Federation of State, County and Municipal Employees, AFL-CIO





AB 268 will encourage the initial under bidding of public services to secure a contract. Once that contract is secure there will no longer be public sector employees providing the service, thus eliminating the ability to continue conducting cost-benefit comparisons between public and private costs. AFSCME strongly believes that this practice will result in both an erosion in the quality of public services and an increase in their costs over time.

**Again, AFSCME urges all members of the Senate Labor and Election Process Reform Committee oppose AB 268.** Thank you for your consideration, and I will be happy to answer any questions you may have.



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# WISCONSIN EDUCATION ASSOCIATION COUNCIL

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Affiliated with the National Education Association

*Every kid  
deserves a  
Great School!*

## MEMO

**TO:** Members of the Senate Committee on Labor and Election Process Reform  
**FR:** Greg Spring, Negotiations Specialist  
**DA:** February 16, 2006  
**RE:** Opposition to AB 268 (Making Subcontracting a Non-mandatory Subject of Collective Bargaining)

The Wisconsin Education Association Council (WEAC) urges you to oppose AB 268. WEAC represents over 90,000 public servants - many of whom will be severely affected by this bill if it is passed into law.

Assembly Bill 268 is just another attempt to cripple public sector unions. The bill proposes to make subcontracting a non-mandatory subject of bargaining unless labor organizations agree to ratchet down the wages and benefits of employees they represent. This bill undermines the very foundation of collective bargaining. What good is negotiating and signing a contract, if all of the jobs covered by that agreement can be subcontracted?

The bill is predicated on the misconception that collective bargaining is bad. The opposite is true. Through collective bargaining, union workers have gained decent wages and benefits that translate into strong communities. Union workers buy homes in the community, shop at the local grocery stores, send their children to local schools, and pay large portions of their incomes in taxes. Through collective bargaining, unions have brought dignity and respect to working men and women.

It is curious that while this bill seeks to make the public sector act more like the private sector, it strips public sector unions of a right every private sector union has – the right to bargain regarding subcontracting. And, at the same time, it subjects public services to the disruptions of strikes and lockouts.

Assembly Bill 268 is also predicated on the misconception that privatization is good. Although subcontracting may be a very good deal for companies who stand to benefit from it, subcontracting is often a very bad deal for the rest of us. Those of us who pay taxes, depend on public services - those of us who want a strong local economy.

Private subcontractors are motivated by one goal – to make a profit. If they fail to make a profit, they will soon fail to exist. The public sector, being freed from the necessity to make a profit at all cost, provides services based on the needs and desires of communities.

It is no secret that subcontractors often “low ball” their bids, only to raise their prices once their hands are in the pockets of us taxpayers. And while costs are going up, quality of service is going down. Driven by their desire for profits, the subcontractors cut costs by cutting corners. They hire inexperienced workers at low wages; workers over whom the local governments have no control, because after all, these workers are no longer their employees. In our schools, subcontracting will lessen the school district’s ability to screen, train, and manage quality employees who will be working with our children.

And the profits? Well, the money slips away out of the community, away from those public employees who were buying local products and paying local taxes.

In summation, Assembly Bill 268 is bad public policy. WEAC urges you to oppose AB 268.

*If you have any questions, contact Deb Sybell, WEAC Legislative Program Coordinator, at (608) 298-2327*

Stan Johnson, President  
Dan Burkhalter, Executive Director







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To: Senate Labor and Election Process Reform

From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Date: February 16, 2006

**Re: Support for AB 268, Inserting Managerial Flexibility Into the Municipal Employment Relations Act**

The League of Wisconsin Municipalities supports AB 268, establishing a process under which a municipality's decision to contract out the provision of municipal services becomes a permissive rather than mandatory subject of bargaining. The League appreciates Rep. Gottlieb and Senator Brown's efforts to provide local governments with more flexibility in the area of collective bargaining. We welcome their focus on providing municipal governing bodies the right to decide how best to provide public services to their constituents in the most cost-effective and efficient way possible.

Under current law, a local government cannot privately contract for a service without negotiating both the decision to do so and its economic impact on current public employees. This can make it difficult for local governments to save taxpayer dollars or increase efficiency through contracting with private parties or even other local governments for the provision of services.

Determining the means and methods of how to provide a service is typically a management right. When contracting is clearly the best option, employee unions should not have a virtual veto power over those decisions. This bill creates a reasonable and fair process for determining whether contracting out makes sense and provides an opportunity for the union to match any bids submitted by private parties to perform the work.

For these reasons we urge you to recommend passage of AB 268. Thank you for considering our comments on this important bill.



A QUALITY  
EDUCATION  
FOR  
EVERY  
CHILD



## State of Wisconsin Department of Public Instruction

Elizabeth Burmaster, State Superintendent

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March 1, 2006

The Honorable Tom Reynolds  
Chair, Senate Committee on Labor and Election Process Reform  
P.O. Box 7882  
Madison, WI 53707

Dear Senator Reynolds:

I am writing to express my concerns with 2005 Assembly Bill 268, relating to the state's collective bargaining laws. I fear this bill, if passed as introduced, could damage labor relationships in our school districts and further erode our ability to recruit, hire, and retain quality teachers and support staff in all our state's schools.

Wisconsin has the highest percentage of qualified teachers, which has led to outstanding student performance. Yet, Wisconsin teacher salaries have slipped below the national average. This is not sustainable, and I believe this bill is another blow to the teachers and other educators in our public schools, when salaries and fringe benefits have already been restricted under the Qualified Economic Offer law and revenue caps. To subject educators to even more restrictive collective bargaining criteria flies directly in the face of our need to encourage the best and brightest of our citizens to enter and stay in education.

Simply put, Wisconsin's public school teachers and educators need our enhanced respect and support in these difficult financial times, not an erosion of that respect and support. I believe AB 268 would have that kind of negative effect on our state's teachers and the labor-management relationship in our school districts.

Please contact me if you have any questions.

Sincerely,

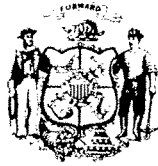
A handwritten signature in cursive script, appearing to read 'Elizabeth Burmaster', is written over a light-colored background.

Elizabeth Burmaster  
State Superintendent

cc: Senator Ron Brown







# MARK GOTTLIEB

STATE REPRESENTATIVE • 60TH DISTRICT

Co-Chair • Joint Committee for Review of Administrative Rules  
Vice-Chair • Assembly Republican Caucus

**Testimony of Rep. Mark Gottlieb  
Assembly Bill 268  
Senate Committee on Labor and Election Process Reform  
March 1, 2006**

Chairperson Reynolds and senators:

Thank you for holding this public hearing on Assembly Bill 268, which would give local government greater flexibility in the delivery of public services through the use of competitive contracting.

As local governments begin the process of adopting budgets that comply with the property tax freeze, they need flexibility and mandate relief from the state. Without this relief, some municipalities will find it necessary to eliminate or reduce services and employees in order to remain within state-imposed levy limits.

Under current law, the decision to contract for a service is a **mandatory** subject of collective bargaining. State law requires local governments to bargain the effect on their employees of a decision to contract privately for a service. However, the only subject to be bargained is the effect that this decision would have on current employees. There is no consideration given to potential cost savings to the taxpayers from changing the method of service delivery.

Assembly Bill 268 does the following:

- Creates a framework for comparing the costs of alternative methods of service delivery.
- If significant savings from contracting out can be documented, provides a method for employees to compete to continue to perform the service.
- If savings cannot be documented, protects the right of employees to mandatory bargaining.
- Only in the event that a negotiated way cannot be found to provide the service internally, the contracting decision becomes permissive.

The decision becomes permissive only if:

- The employer chooses to invoke the provision, and
- At least 10 per cent savings can be shown by contracting out, and
- The employees refuse to negotiate for labor savings, or
- The required labor savings can't be realized.

I've included a flow chart and step-by-step outline that describes in detail how competitive contracting would work in practice. Under the provisions of the bill, the employees are always given the opportunity to negotiate contract changes that will protect their ability to perform the service in question. Furthermore, the bill only requires them to negotiate for savings on the labor component of the service. The negotiated reduction in costs must therefore come from a combination of labor and management changes. If a successful negotiation with the public employees is completed, the employer is prohibited for a set period of time from considering contracting for the service. As a further safeguard, the employer can only consider competitive contracting if they have demonstrated that savings will be in excess of 10 percent.

The use of competitive contracting is optional to the municipal employer. If they choose to continue to bargain the ability to enter into private contracts, as some local employers have done, they are free to continue to do so.

This bill does not encourage or discourage contracting. It introduces competition into the delivery of public services. This will give local government employers a tool they need to provide services as efficiently as possible, while still protecting the right of public employees to perform those services if they can do so at a reasonably competitive cost.

## **AB 268**

### **Competitive Contracting Process**

Step 1 – Employer notifies employees of intent to solicit bids.

Step 2 – Employer conducts study to determine the current cost of providing the service with municipal employees. (Current Internal Cost)

Step 3 – Employer determines the percentage of the current cost that is attributable to the wages and benefits of the represented employees (Labor Cost Ratio)

Step 4 – Employer solicits bids, and selects the bid that it considers the best.

Step 5 – Add the cost to administer the outside contract to the bid price to obtain the “selected external cost.”

Step 6a – If the selected external cost exceeds 90 percent of the current internal cost, the decision to contract remains a mandatory subject of bargaining, and the process stops.

Step 6b – If the selected external cost is less than 90 percent of the current internal cost, the required labor savings is 90 percent of the internal cost minus the external cost, multiplied by the labor cost ratio, and the process continues to Step 7.

Step 7a – If the employees do not agree to participate in a non-binding arbitration process, the employer is not required to bargain the decision to contract.

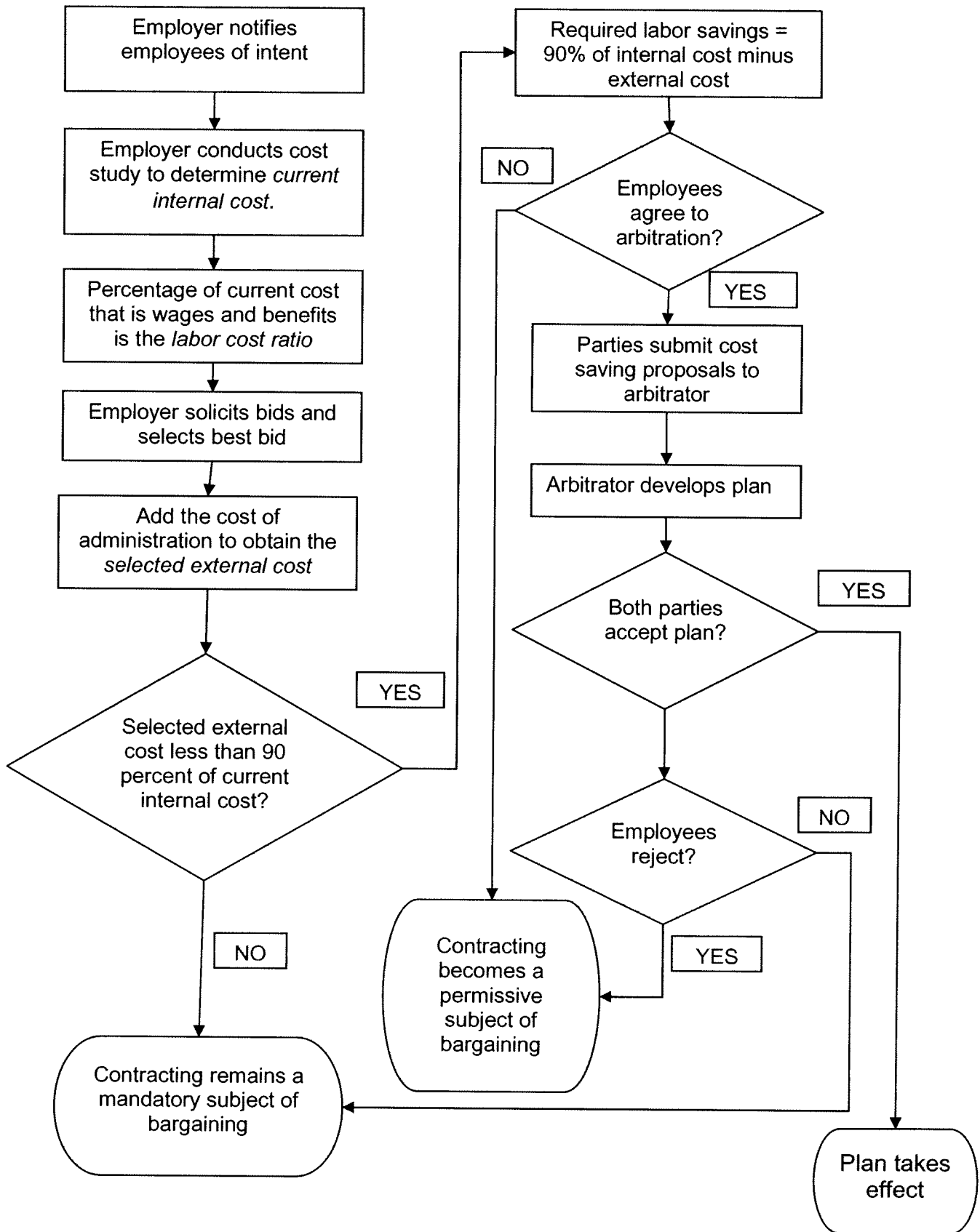
Step 7b – If the employees agree to participate, each party submits a proposal to save an amount of money equal to the required labor savings.

Step 8 – The arbitrator may select items from either proposal to reduce costs by the amount of the required labor savings.

Step 9a – If the employees and employer accept the arbitrator's plan, the contract changes are made and the employer is prohibited from considering contracting out the service for a period of 3 years.

Step 9b – If the employees reject the arbitrator's plan, or if the arbitrator is unable to develop a plan, the employer is not required to bargain the decision to contract.

Step 9c – If the employer rejects the arbitrator's plan, the decision to contract remains a mandatory subject of bargaining.







# AFSCME®

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To: Members of the Senate Committee on Labor and Election Process Reform

From: John Grabel

Re: AFSCME opposition to AB 268 and AB 857

Date: March 1, 2006

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**AFSCME urges all members of the Senate Committee on Labor and Election Process Reform to oppose AB 268 and AB 857.** AB 268 and AB 857 make significant changes to Wisconsin's Municipal Employment Relations Act (MERA) undermining a law that has been instrumental in keeping labor peace in Wisconsin for nearly three decades.

### **AB 268**

Since 1978 Wisconsin has enjoyed labor peace between public employees and local governments. In the eight years prior to interest arbitration becoming law there were 110 work stoppages related to unresolved disputes between labor and local governments. Since passage of interest arbitration there has not been one instance of local public service interruption due to contract negotiations in Wisconsin. In exchange for a prohibition on strikes public employees and local governments were provided a fair and equitable system for resolving labor disputes, which over time, has proven to be a better and less costly process to local governments and taxpayers.

Over the past 27 years, 1,029 different contracts have gone to interest arbitration. Of those contracts the arbitrator has ruled in favor of the local government 544 times, or 53% of the cases. Since 1995, when the legislature passed into law the greatest weight factor, local governments have been awarded 59% of the 258 cases that have gone before interest arbitration.

These numbers demonstrate that claims about the strain interest arbitration places on local governments are unfounded. The interest arbitration process takes all factors into consideration before rendering a decision, including limits on local government's ability to raise revenue or the cost of contracting out versus providing services with public employees, among many others. There is no demonstrable need for changes in a law that has proven to be effective in keeping labor peace, continues to provide quality public services and protects taxpayer interests.

### **AB 857**

This legislation amounts to a QEO on all public employees. If this bill were to become law it would cap the financial portion of final offers submitted to an arbitrator under MERA by both the employer and the employee to a percent increase equal to or less than any revenue limits placed on the employer by Wisconsin state law (ie, property tax freeze or TABOR). Basically if the state places a revenue limit on a local government which equates to a 2% increase in revenue for the local government, then its employees may only ask for a combined increase in wages and benefits that are equal to or less than 2%. Given the

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***in the public service***

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American Federation of State, County and Municipal Employees, AFL-CIO



rising costs of health care it is easy to imagine a scenario in which public employees are required to take a cut in wages to maintain their coverage in health care plans. Wages and benefits should be determined at the bargaining table, using the same formula that has kept labor peace for nearly three decades.

**Again, AFSCME urges all members of the Senate Committee on Labor and Election Process Reform to oppose AB 268 and AB 857.** Thank you for your consideration, and please contact me (608-279-9093) if you have any questions or concerns.







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