

## 2007 DRAFTING REQUEST

### Bill

Received: 11/01/2006

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: Barbara Toles (608) 266-5580

By/Representing: Denise

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Local Gov't - 1st class cities

Extra Copies:

Submit via email: YES

Requester's email: Rep.Toles@legis.wisconsin.gov

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Restrict the ability of fired Milwaukee police officers to receive pay after termination.

---

### Instructions:

Redraft 2005 AB 1032 (LRB -4310), but substitute the provisions in 2005 AB 599 (LRB -3253) for bill sections 3 and 4 of AB 1032.

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 11/01/2006	jdyer 11/02/2006		_____			S&L
/1			nmatzke 11/02/2006	_____	lparisi 11/02/2006		S&L
/2	mshovers 03/29/2007	kfollett 03/30/2007	rschluet 03/30/2007	_____	cduerst 03/30/2007	cduerst 04/13/2007	

FE Sent For:

*at  
intro*

<END>

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/?	mshovers 11/01/2006	jdye 11/02/2006		_____			S&L
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/2	mshovers 03/29/2007	kfollett 03/30/2007	rschluet 03/30/2007	_____	cduerst 03/30/2007		

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**<END>**

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### Instructions:

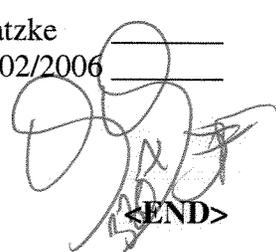
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/?	mshovers 11/01/2006	jdyer 11/02/2006		_____			S&L
/1		12/16/06 3/30	nmatzke 11/02/2006	_____	lparisi 11/02/2006		

FE Sent For:

  
<END>

**2007 DRAFTING REQUEST**

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Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Barbara Toles (608) 266-5580**

By/Representing: **Denise**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Local Gov't - 1st class cities**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Toles@legis.wisconsin.gov**

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/?	mshovers	1 11/1 jlw	nwn 11/2	nwn/jf 11/2			
11 NE 5 11/1/06							

FE Sent For:

<END>

-0630/1

stays

2007

2005 ASSEMBLY BILL 1032

SOON

LPS - PWF please

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 and the adjournment of a trial relating to charges brought against such an officer

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

INS ANL-1

**ASSEMBLY BILL 1032**

STET

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.

5

Currently, if the board receives a notice of appeal, it must schedule a trial within 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.

STET

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

**ASSEMBLY BILL 1032**

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 *Fix  
Component*

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.



INSERT  
4-57

1           62.50 (18) SALARY DURING SUSPENSION. No chief officer of either department or  
2 member of the fire department may be deprived of any salary or wages for the period  
3 of time suspended preceding an investigation or trial, unless the charge is sustained.  
4 No member of the police force may be suspended or discharged under sub. (11) or (13)  
5 without pay or benefits until the matter that is the subject of the suspension or  
6 discharge is disposed of by the board or the time for appeal under sub. (13) passes  
7 without an appeal being made.

8           **SECTION 2. Initial applicability.**

9           (1) This act first applies to any member of the police force who is covered by a  
10 collective bargaining agreement that contains provisions inconsistent with this act  
11 on the day on which the collective bargaining agreement expires or is extended,  
12 modified, or renewed, whichever occurs first. ✓

13           (END)

    (End insert 4-5)

## 2005 ASSEMBLY BILL 599

August 9, 2005 - Introduced by Representatives TOLES, COLON, RICHARDS, A. WILLIAMS, PARISI, GRIGSBY, FIELDS, BERCEAU, TOWNSEND, WOOD, JESKEWITZ and WASSERMAN, cosponsored by Senators COGGS, GROTHMAN and TAYLOR. Referred to Committee on Corrections and the Courts.

1  
2

AN ACT *to amend* 62.50 (18) of the statutes; **relating to:** payment of a 1st class city police officer's salary after 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 or the time for an appeal passes without an appeal being made. 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.

This bill removes the current law's provisions relating to the payment of the salary of police officers who are discharged. The bill does not affect current law provisions relating to reinstatement and back pay for ~~members~~ <sup>first class city</sup> if the board's decision is reversed. ~~such officers~~

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:*

3

SECTION 1. 62.50 (18) of the statutes is amended to read:

INS  
ANL-1

**Shovers, Marc**

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**From:** Monteagudo, Maria [MMONTE@milwaukee.gov]  
**Sent:** Wednesday, March 28, 2007 10:47 AM  
**To:** Shovers, Marc  
**Cc:** Fronk, Steve; Heard, David; Curley, Patrick; Gonda, Jennifer  
**Subject:** 62.50 language and automatic adjournments

Marc,

The City and the MPA have agreed (in principle) to the elimination of the automatic adjournment under 62.50 sub 16 and the granting of adjournments by the FPC Hearing Examiner for cause. An attempt to try to define "cause" under those circumstances may be counterproductive as there is no precedent established by the courts for such definition and it is unclear what, if any, language may be effective in terms of capturing all circumstances that could be presented when such requests are made. Having said that, adjournments are granted when there are circumstances that compromise the due process rights of individuals subject to trial or the case to be presented by either party due to availability (or lack thereof) of witnesses, exhibits, etc.... This calls for a case by case analysis of those circumstances. That is the current practice right now by the FPC Hearing Examiner after the automatic adjournment is exhausted. Furthermore, FPC Rule XV Section 5 sub (c) documents the Board's intent in exercising judgement when requests for adjournments are received:

*" Any subsequent request for adjournment of a scheduled trial from each party must be in writing, stating the specific reason(s) that a party will not be able to proceed on the scheduled date, and that the reason(s) for such inability are beyond the control of the party making such request. Failure to make all reasonable attempts to be prepared, or to ascertain the availability of prospective witnesses, will result in denial of the request absent a showing that such failure was beyond the control of the party requestor. Requests for adjournment which appear to be due to failure to prepare or merely for the purpose of delaying the trial shall be denied."*

We feel that the Commission rule, and not the statute, is the most effective vehicle to address this issue. Please feel free to call me if you have any questions.

Maria Monteagudo  
Employee Relations Director  
City of Milwaukee  
414 286-3335

{ MPA & city agree }  
 Union & city agree that stand should  
 be poor cause - -

Let the hearing examiner decide  
 if the "cause" is justified, but don't  
 limit it

don't define "cause" or "just cause"

hearing officer should make the decision - -  
 Stand: O P of officer can't be compromised

"for cause, as determined"

NOTES  
 from 3/27/07 conversation  
 w/ Maria  
 Monteleone  
 414-286-3335

↓  
RNR  
EJG

2007 BILL

SOON

reger

1 **AN ACT to amend** 62.50 (14), 62.50 (16) and 62.50 (18) of the statutes; **relating**  
2 **to:** payment of a 1st class city police officer's salary after discharge and the  
3 adjournment of a trial or investigation relating to charges brought against such  
4 an officer.

---

***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.

This bill removes the current law provisions relating to the payment of the salary of first class city police officers who are discharged. The bill does not affect current law provisions relating to reinstatement and back pay for such officers if the board's decision is reversed.

**BILL**

Currently, if the board receives a notice of appeal, it must schedule a trial within 5 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~~ <sup>the board may grant an adjournment for cause to either party</sup>

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

Once such a request is made, it is granted automatically.  
Under

90 120

***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~~ <sup>90</sup> days nor more  
5 than 15 ~~60~~ <sup>120</sup> 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~~  
17 ~~for the defense at the expense of the city. The accused may appear in person and by~~  
18 ~~attorney. The city in which the department is located may be represented by the city~~

INS  
2-3

**BILL**

1 attorney. All evidence shall be taken by a stenographic reporter who first shall be  
2 sworn to perform the duties of a stenographic reporter in taking evidence in the  
3 matter fully and fairly to the best of his or her ability.

4 **SECTION 3.** 62.50 (18) of the statutes is amended to read:

5 62.50 (18) SALARY DURING SUSPENSION. No chief officer of either department or  
6 member of the fire department may be deprived of any salary or wages for the period  
7 of time suspended preceding an investigation or trial, unless the charge is sustained.  
8 No member of the police force may be suspended ~~or discharged~~ under sub. (11) or (13)  
9 without pay or benefits until the matter that is the subject of the suspension ~~or~~  
10 ~~discharge~~ is disposed of by the board or the time for appeal under sub. (13) passes  
11 without an appeal being made.

12 **SECTION 4. Initial applicability.**

13 (1) This act first applies to any member of the police force who is covered by a  
14 collective bargaining agreement that contains provisions inconsistent with this act  
15 on the day on which the collective bargaining agreement expires or is extended,  
16 modified, or renewed, whichever occurs first.

17 (END)

INS 2-5

Section #. 62.50 (16) of the statutes is amended to read:

62.50 (16) TRIAL; ADJOURNMENT. The <sup>board may grant the</sup> accused ~~and the chief shall have the right to~~ an adjournment <sup>for cause or</sup> of the trial or investigation of the charges, not to exceed 15 days. In the course of any trial or investigation under this section each member of the fire and police commission may administer oaths, secure by its subpoenas both the attendance of witnesses and the production of records relevant to the trial and investigation, and compel witnesses to answer and may punish for contempt in the same manner provided by law in trials before municipal judges for failure to answer or to produce records necessary for the trial. The trial shall be public and all witnesses shall be under oath. The accused shall have full opportunity to be heard in defense and shall be entitled to secure the attendance of all witnesses necessary for the defense at the expense of the city. The accused may appear in person and by attorney. The city in which the department is located may be represented by the city attorney. All evidence shall be taken by a stenographic reporter who first shall be sworn to perform the duties of a stenographic reporter in taking evidence in the matter fully and fairly to the best of his or her ability.

History: 1977 c. 19, 20, 53, 151; 1977 c. 272 ss. 24 to 30, 92 to 95; 1979 c. 307, 351; 1979 c. 361 s. 113; 1981 c. 213, 380; 1981 c. 391 s. 211; 1983 a. 58, 179, 192, 219; 1989 a. 31; 1997 a. 237, 250; 1999 a. 9; 2001 a. 16.



State of Wisconsin  
LEGISLATIVE REFERENCE BUREAU

**RESEARCH APPENDIX -**  
**PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 04/06/2007 (Per: MES)



**Appendix A**

The 2007 drafting file for LRB-0630/2  
has been copied/added to the drafting file for  
**2007 LRB 07-2388**

Ⓜ The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as an appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

Ⓜ The cover sheet was added to rear of the original 2007 drafting file. The drafting file was then returned, intact, to its folder and filed.

**Basford, Sarah**

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**From:** Youngman, Lori  
**Sent:** Friday, April 13, 2007 10:37 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 07-0630/2 Topic: Restrict the ability of fired Milwaukee police officers to receive pay after termination.

Please Jacket LRB 07-0630/2 for the ASSEMBLY.